**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :

:

v. : R-2012-2290597

:

Petition of PPL Electric Utilities Corporation :

**SCHEDULING ORDER**

Second Prehearing Order

On March 30, 2012, PPL Electric Utilities Corporation (PPL Electric or Company) filed Supplement No. 118 to Tariff Electric – Pa. PUC No. 201, containing proposed changes in rates, rules, and regulations calculated to produce approximately $104.6 million in additional annual revenues. This proposed rate change represents an average increase in the Company's distribution rates of approximately 13%, which equates to an average increase in total rates (distribution, transmission, and generation charges) of approximately 2.9%. Supplement No. 118 was proposed to take effect on June 1, 2012. The filing was suspended by Commission Order entered May 24, 2012.

Formal complaints against this proposed tariff have been filed by: the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), PP&L Industrial Customer Alliance (PPLICA), William Andrews, Eric Joseph Epstein, Dave A. Kenney, Roberta Kurrell, Donald Leventry, John G. Lucas, and Helen Schwika. Petitions to intervene were filed by the Commission on Economic Opportunity (CEO), Direct Energy Services LLC (Direct Energy), Dominion Retail, Inc. d/b/a Dominion Energy Solutions (DR), Granger Energy of Honey Brook LLC and Granger Energy of Morgantown LLC (collectively Granger or Granger Energy), the International Brotherhood of Electrical Workers, Local 1600 (IBEW), and the Sustainable Energy Fund (SEF). The Commission's Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance.

On May 17, 2012, a Notice was issued which scheduled the prehearing conference for Thursday, May 31, 2012. A prehearing conference order[[1]](#footnote-1) (First Prehearing Order) was also issued on May 17, 2012, which directed the litigating parties to file and serve their prehearing memos on or before Friday, May 25, 2012. Prehearing memos were filed by the following: PPL Electric, OCA, OSBA, I&E, PPLICA, CEO, SEF, IBEW, DR, Granger, Direct Energy, and Mr. Epstein.

The prehearing conference was held as scheduled on May 31, 2012. The following attended: John H. Isom, Jr., Esq., Paul E. Russell, Esq., and Christopher T. Wright, Esq., for PPL Electric; Darryl Lawrence, Esq., and Candis Tunilo, Esq., for OCA; Regina L. Matz, Esq., for I&E; Steven C. Gray, Esq., for OSBA; William E. Lehman, Esq., for DR; Joseph Vullo, Esq., for CEO; Adeolu Bakare, Esq., for PPLICA; Kenneth L. Mickens, Esq., for SEF; Scott J. Rubin, Esq., for IBEW; Carl Shultz, Esq., for Granger Energy and Direct Energy; and Mr. Epstein appeared pro se.

**Schedule**

The public advocates and the Company had agreed upon a proposed schedule, including the number of public input hearings and their prospective locations. Only one change is made to accommodate the letter request of Representative Phyllis Mundy, 120th District, for a public input hearing to be held in her district. Accordingly, a public input hearing will be held in Wilkes-Barre. Otherwise, the schedule adopted here is what the parties agreed to at the prehearing conference.

**Hearings and participation**

The Company's service territory spans twenty-two counties in the Commonwealth. Therefore, in addition to the formal evidentiary hearings to be held in Harrisburg in August, there are five public input hearings scheduled to hear testimony of those persons who wish to provide evidence.

Anyone can testify at a public input hearing. The case has a number of formal pro se (unrepresented) complainants, who are informed of the following options:

**(1) Participate in a public input hearing**. Public input hearings will be held in those locations listed in the ordering paragraphs of this Order. The purpose of a public input hearing is to give citizens who do not wish to participate in the formal litigation an opportunity to express their opinions regarding the Company’s proposal. You need only show up and sign in. No advance registration is required.

You may remain a party of record and receive the filings and orders, but if attending a public input hearing satisfies your desire to participate, and you do *not* wish to remain on the service list for pleadings, filings, discovery requests or orders and decisions in this matter, you must inform me in writing. You can either remain a party of record for purposes of receiving orders or decisions issued by the presiding officer and Commission but have the parties of record remove you from their service list, or you may withdraw your formal complaint, which will remove you from the service list for every purpose and end your involvement in the litigation.

**(3) Participate in the formal evidentiary hearing as a party of record**. As a party of record, you will be served with all of the pleadings, filings, discovery requests, written testimony and orders and decisions served and issued in this proceeding. These documents will be voluminous. Your *rights* as a party of record include the ability to present your own testimony and to cross-examine other witnesses at the formal hearings, and to file exceptions to the presiding officer’s recommended decision. Your *duties* as a party of record are that you must answer all discovery requests served upon you in accordance with the rules. You will be required to serve a copy of anything that you *file* upon the presiding officer and each party appearing on the service list, as it appears attached to this Scheduling Order and as modified as the case progresses, regardless of the cost of postage (service may be electronic to those parties who have agreed to accept electronic service).

Note that your participation as a party of record may be limited to appearing at a public input hearing, which requires no special preparation. However, if you intend to present evidence at the formal evidentiary hearings, you will be required to submit your testimony in writing in advance, in accordance with the schedule to set by this Scheduling Order, and to provide a copy of your written prepared testimony to each party on the service list and the presiding officer by the designated date. Although service of the prepared testimony may be electronic to those parties who agree to accept electronic service, you must provide hard copies to the court reporter at the evidentiary hearing to have your testimony accepted into the official record.

You will be expected to participate in accordance with the rules of Commission practice appearing in Title 52 of the Pennsylvania Code Chapters 1, 3 and 5. **The Pennsylvania Code is available on-line** at [www.pacode.com](http://www.pacode.com). Although a natural person or a sole proprietor may appear on his or her own behalf, if you are any entity other than a natural person or a sole proprietor, (e.g., a corporation, partnership, municipality, etc.), you will be required to have an attorney represent you in accordance with the laws of Pennsylvania. *See Ordering Paragraph 8, below.*

**Discovery**

A few modifications are made to the Commission's discovery regulations according to the unopposed requests of the OCA and I&E. Of note, the OCA has requested that this Order direct that parties providing prepared testimony either include the electronic workpapers, cited studies and other documents relied on or provide them within two business days of the testimony due date to all parties of record. The OCA reasons that the other parties routinely ask for these documents following the testimony's service through normal discovery channels, and that this method will streamline the process. No party objected, and the request will be granted.

**Electronic contact information**

Upon occasion, the presiding officer may need to contact the litigating parties quickly and may use email to effect this communication. Interim orders such as this one may be sent by email in addition to first class mail. Any pro se complainant who wishes to be included in this list must provide an email address to the presiding officer. The following list of e-mails will be used to contact the litigating parties electronically during the proceeding:

PPL Electric: [jisom@postschell.com](mailto:jisom@postschell.com); [cwright@postschell.com](mailto:cwright@postschell.com); [dmacgregor@postschell.com](mailto:dmacgregor@postschell.com);

[perussell@pplweb.com](mailto:perussell@pplweb.com)

OCA: [DLawrence@paoca.org](mailto:DLawrence@paoca.org); ctunilo@paoca.org

OSBA: [sgray@pa.](mailto:sgray@pa.)gov

DR: [tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com); welehman@hmslegal.com

Epstein: [lechambon@comcast.net](mailto:lechambon@comcast.net)

CEO: [jlvullo@aol.com](mailto:jlvullo@aol.com)

PPLICA: [ppolacek@mwn.com](mailto:ppolacek@mwn.com); [abakare@mwn.com](mailto:abakare@mwn.com)

I&E: [rmatz@pa.gov](mailto:rmatz@pa.gov)

SEF: [kmickens11@verizon.net](mailto:kmickens11@verizon.net)

IBEW: [Scott.J.Rubin@gmail.com](mailto:Scott.J.Rubin@gmail.com)

Granger: [cshultz@eckertseamans.com](mailto:cshultz@eckertseamans.com); dclearfield@eckertseamans.com

Direct Energy: [dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)

Donald Leventry: thelev7@msn.com

The parties are encouraged to check this list and let the presiding officer know as soon as possible if there are corrections.

THEREFORE,

IT IS ORDERED:

1. That the following petitions to intervene are granted as unopposed: Commission on Economic Opportunity, Direct Energy Services LLC, Dominion Retail, Inc. d/b/a Dominion Energy Solutions, Granger Energy of Honey Brook LLC and Granger Energy of Morgantown LLC, the International Brotherhood of Electrical Workers, Local 1600, and the Sustainable Energy Fund.

2. That the following litigation schedule is adopted:

Public input hearings June 18 2:00 pm Scranton

June 18 6:00 pm Wilkes-Barre

June 20, 2012 2:00 pm Bethlehem

June 20, 2012 6:00 pm Allentown

June 21, 2012 6:00 pm Harrisburg

Direct testimony of other parties June 22, 2012

Rebuttal testimony July 16, 2012

Surrebuttal testimony August 1, 2012

Evidentiary hearings August 6, 7, 9, 10, 2012

Close of record August 10, 2012

Main briefs August 29, 2012

Reply briefs September 14, 2012

3. That PPL Electric Utility Corporation shall publish notice of each public input hearing at least once per week for two consecutive weeks prior to the public input hearings in a publication of general circulation in the local service territory and shall file proof of publication with the Commission’s Secretary, copy to the presiding officer. The correct addresses are as follows:

June 18, 2012 2:00 pm Scranton State Office Building

100 Lackawanna Avenue, Room 318

Scranton PA 18503

June 18, 2012 6:00 pm Kings College, Burke Auditorium

133 North River Street

Wilkes-Barre PA 18711

June 20, 2012 2:00 pm Northampton College

Gates Center, Alumni Hall Room ABCD

3825 Green Pond Road

Bethlehem PA 18020

June 20, 2012 6:00 pm Muhlenburg College

Seeger Union, Event Space

2400 Chew Street

Allentown PA 18104-5586

June 21, 2012 6:00 pm Commonwealth Keystone Building

400 North Street

Hearing Room 1

Harrisburg PA 17120

4. That the Commission’s regulations regarding discovery at 52 Pa. Code

§ 5.342(d) are modified for the purposes of this proceeding to provide that objections to discovery are in lieu of answers, and not in addition to answers.

5. That the Commission’s regulations regarding discovery at 52 Pa. Code

§ 5.342 are modified as follows:

a. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service. Discovery and discovery-related pleadings propounded after 12:00 noon on a Friday or after 12:00 noon on any business day immediately preceding a state holiday will be deemed served on the next business day for purposes of determining the due date of the responses and responsive pleadings.

b. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of the interrogatories. Objections to interrogatories served on a Friday shall be communicated orally within four (4) calendar days, and unresolved objections shall be served to the ALJ in writing within six (6) days of service of the interrogatories.

c. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.

d. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

e. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days.

f. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

8. Testimony shall be premarked with numerical, sequential statement numbers. All statements must list on the cover sheet the issues addressed in the statement. The Company shall provide a separate list for the testimony which was already served by the date of the filing’s suspension.

6. Testimony shall be served but not filed.

7. Parties serving prepared testimony which cites workpapers, studies or other documents shall provide an electronic copy of the relied-upon document, in workable format to all parties within two business days of the testimony service date.

8. For formal complainants appearing without attorney representation, written prepared testimony shall be substantially in compliance with the Commission’s regulations, located at 52 Pa. Code Chapters 1, 3 and 5, available at [www.pacode.com](http://www.pacode.com), in particular 52 Pa. Code § 5.412(e). This means that the statement of Complainant shall have a cover sheet which contains the following: “Direct Testimony of J. Q. Complainant, R-2012-2290597 Statement No. 1.” The document shall contain the direct testimony of the formal Complainant in double-spaced text with numbered lines on the left side of each numbered page. Exhibits, if any, shall be attached and shall be labeled as “J.Q. Complainant Exhibit 1,” “J.Q. Complainant Exhibit 2,” etc. This document must be served on the litigating parties of record in accordance with the schedule set forth in Ordering Paragraph 2.

9. If you are an individual, you may either represent yourself or have an attorney licensed to practice law in the Commonwealth of Pennsylvania represent you. **However, if you are a partnership, corporation, trust, association, joint venture, other business organization, trust, trustee, legal representative, receiver, agency, governmental entity, municipality or other political subdivision, you must have an attorney licensed to practice law in the Commonwealth of Pennsylvania represent you in this proceeding.**  Unless you are an attorney, you may not represent someone else. Attorneys shall comply with the Commission’s appearance requirements. 52 Pa. Code § 1.24(b).

10. One week prior to the start of the evidentiary hearings, the Company shall provide a completed daily witness listing and cross-examination grid to the presiding officer. Parties shall complete the daily witness listing and cross-examination grid as developed by the Company in a cooperative and timely fashion.

11. All parties are directed to comply with the provisions of 52 Pa. Code

§ 5.243(e) which prohibits the introduction of evidence during rebuttal or surrebuttal which should have been included in the case-in-chief or which substantially varies from the case-in-chief, unless the evidence is introduced in support of a proposed settlement.

12. Briefs must comply with 52 Pa. Code §§ 5.501 and 5.502, and shall comply with the standard directions attached to this Order as Appendix A.

13. Failure to file a reply brief will result in the assumption that the party does not dispute the assertions, contentions, arguments, etc. made by the other parties in their main briefs. In lieu of repeating a particular argument or discussion which appears in the main brief, the reply brief should note where the responsive argument is located in the main brief and how it responds to the other parties’ assertions, contentions, arguments, etc.

Dated: June 1, 2012 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Susan D. Colwell

Administrative Law Judge

**APPENDIX A**

**INSTRUCTIONS FOR BRIEFS**

Each brief shall follow the general organization shown herein.

Adjustments contained in each brief shall:

a. Be based on a specific test year, to be selected before the close of record;

b. be complete and self-contained;

c. include accurate reference to the appropriate record sources;

d. be on a before-income-tax basis;

e. be detailed to demonstrate the step-by-step calculation of that adjustment together with appropriate accurate record references;

f. include concomitant rate base, revenue, expense, depreciation, expense, and tax adjustments set forth, together with the details of their calculation;

g. include with the brief those calculations which are the basis for proposed adjustments but which are incomplete on the record.

Tables showing all proposed rate base and income adjustments shall be submitted with each brief which includes such adjustment.

**STANDARD FORMAT**

I. Introduction

II. Summary of Argument

III. Rate Base

A. Fair Value

B. Plant in Service

C. Depreciation Reserve

D. Additions to Rate Base

E. Deductions from Rate Base

F. Conclusion

IV. Revenues

V. Expenses

VI. Taxes

VII. Rate of Return

VIII. Miscellaneous Issues(s)

IX. Rate Structure

A. Cost of Service

B. Revenue Allocation

C. Tariff Structure

D. Summary and Alternatives

X. Conclusion

**R-2012-2290597 - PA PUBLIC UTILITY COMMISSION v. PPL ELECTRIC UTILITIES*REVISED 6/4/12***

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1. I note that the Order sent to the parties of record at the date of issuance displayed an incorrect docket number. This was corrected in the copy that was posted to the Commission's website. [↑](#footnote-ref-1)