PENNSYLVANIA

PUBLIC UTILITY COMMISSION

Harrisburg, PA 17105-3265

Public Meeting held July 19, 2012

Commissioners Present:

 Robert F. Powelson, Chairman

 John F. Coleman, Jr., Vice Chairman

 Wayne E. Gardner

 James H. Cawley

 Pamela A. Witmer

Petition of PPL Electric Utilities Corporation P-2011-2256365

For Approval to Implement a Reconciliation

Rider for Default Supply Service

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**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Recommended Decision (R.D.) of Administrative Law Judge (ALJ) Susan D. Colwell, issued on April 4, 2012, regarding the above-captioned proceeding, and the Exceptions and Replies filed with respect thereto.

 Exceptions to the Recommended Decision were filed by PPL Electric Utilities Corporation (PPL or Company), the Bureau of Investigation and Enforcement (I&E), the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), the Retail Energy Supply Association (RESA), Dominion Retail, Inc. (Dominion) and the PP&L Industrial Customer Alliance (PPLICA) on April 24, 2012.

 PPL, the OCA, the OSBA, RESA, Dominion, PPLICA and Wal-Mart Stores East, LP and Sam’s East, Inc. (Wal-Mart) filed Replies to Exceptions on May 4, 2012.

I. History of the Proceeding**[[1]](#footnote-1)**

 On August 3, 2011, PPL filed a Petition for Approval to Implement a Reconciliation Rider and Competitive Transition Rider for Default Supply Service (Petition). On August 25, 2011, PPL filed an Amended Petition for Approval to Implement a Reconciliation Rider (RR) and Competitive Transition Rider (CTR) for Default Supply Service.

 Petitions to intervene were filed by the following entities on the specified dates: Richards Energy Group, Inc. (REG) on September 1, 2011; RESA on September 14, 2011; Dominion on September 15, 2011 and Wal-Mart on September 23, 2011.[[2]](#footnote-2)

 Answers to the Petition were filed by PPLICA on August 24, 2011, and to the Amended Petition on September 19, 2011; by the OSBA on September 14, 2011; by Dominion on August 12, 2011, and to the Amended Petition on September 14, 2011; and by RESA on August 23, 2011.

The OSBA filed its Notice of intervention, Answer, Verification, Public Statement and Notice of Appearance on August 18, 2011. The OCA filed its Notice of Intervention and Public Statement on August 23, 2011.

 The ALJ issued a Scheduling Order on October 5, 2011, which granted the Petitions to Intervene of RESA, REG, PPLICA, Dominion and Wal-Mart as unopposed.

 On December 5, 2011, the ALJ conducted an evidentiary hearing in this proceeding. Main Briefs were filed on or before January 9, 2012, and Reply Briefs were filed on or before January 23, 2012.

 Transcripts of the proceeding containing a total of 172 pages were generated, and the record closed upon the receipt of Reply Briefs on January 23, 2012.

 ALJ Colwell’s Recommended Decision was issued on April 4, 2012. In her Recommended Decision, the ALJ recommended that the request of PPL to implement the Reconciliation Rider (RR) be granted, providing that the “E” factor be figured by matching the time period to be reconciled for both revenues and expenses. The ALJ also recommended that PPL’s proposal to implement the CTR be denied; that the proposal to include the over or under collection of the residential and small Commercial & Industrial (C&I) Time of Use (TOU) program rates be reconciled with the respective residential and small C&I customer classes, following the disposition of the pending case at Docket No. R-2011-2264771,[[3]](#footnote-3) with the E factor determined by matching the time period to be reconciled for both revenues and expenses; that the proposal regarding the ability to net the over and under collections of the Generation Supply Charge (GSC)-1 and GSC-2 with the Transmission Service Charge (TSC) reconciliations be deferred until the Commission’s disposition of the pending case at *PPL Electric Utilities Corporation Proposed Transmission Service Charge Reconciliation for the Twelve Months Ending November 30, 2010* at Docket No. M-2010-2213754 (*PPL 2010 TSC Reconciliation Proceeding)*; that the length of the reconciliations be changed to a “rolling” annual basis; that the interest rate for under collections remain at 6%; and that the Large C&I customer classes be reconciled separately. R.D. at 54-55.

 Exceptions to the Recommended Decision and Replies to Exceptions were filed as noted above.

# II. Discussion

ALJ Colwell made forty-nine Findings of Fact and reached twenty-two Conclusions of Law. R.D. at 3-11, 55-58. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

Before addressing the Exceptions, we note that any issue or Exception that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. [Consolidated Rail Corp. v. Pa. PUC, 625 A.2d 741 (Pa. Cmwlth. 1993);](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=5&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b625%20A.2d%20741%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=ad2b02d95c2a9216e83b92a3570d4785) *also* see, generally, [University of Pennsylvania v. Pa. PUC, 485 A.2d 1217 (Pa. Cmwlth. 1984).](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=6&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b485%20A.2d%201217%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=9b1cc8319afd12440738bb82d74455ef)

## A. Burden of Proof

 The proponent of a rule or order in any Commission proceeding has the burden of proof, 66 Pa. C.S. § 332, and therefore, the Applicant or Petitioner has the burden of proving its case by a preponderance of the evidence, or evidence which is more convincing than the evidence presented by the other parties. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.3d 854 (1950); *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990).

 Additionally, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence, which is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Mill v. Pa. PUC,* 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transportation Corp. v. Pa. PUC,* 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa. C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. v. Pa. PUC,* 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Com. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Comm., Dept. of Public Welfare, White Haven Center,* 480 A.2d 382 (Pa. Cmwlth. 1984).

 The “burden of proof” is composed of two distinct burdens: the burden of production and the burden of persuasion. *Hurley v. Hurley*, 754 A.2d 1283 (Pa. Super. 2000).

The burden of production, also called the burden of producing evidence or the burden of coming forward with evidence, determines which party must come forward with evidence to support a particular proposition. This burden may shift between the parties during the course of a trial. If the party (initially, this will usually be the complainant, applicant, or petitioner, as the case may be) with the burden of production fails to introduce sufficient evidence, the opposing party is entitled to receive a favorable ruling. That is, the opposing party would be entitled to a compulsory nonsuit, a directed verdict, or a judgment notwithstanding the verdict. Once the party with the initial burden of production introduces sufficient evidence to make out a *prima facie* case, the burden of production shifts to the opposing party. If the opposing party introduces evidence sufficient to balance the evidence introduced by the party having the initial burden of production, the burden then shifts back to the party who had the initial burden to introduce more evidence favorable to his position. The burden of production goes to the legal sufficiency of a party’s case.

Having passed the test of legal sufficiency, the party with the burden of proof must then bear the burden of persuasion to be entitled to a verdict in his favor. “[T]he burden of persuasion never leaves the party on whom it is originally cast, but the burden of production may shift during the course of the proceedings.” *Riedel v. County of Allegheny*, 633 A.2d 1325; 1328 n. 11 (Pa.Cmwlth. 1993). The burden of persuasion, usually placed on the complainant, applicant, or petitioner,[[4]](#footnote-4) determines which party must produce sufficient evidence to meet the applicable standard of proof. *Hurley v. Hurley*, *supra.* It is entirely possible for a party to successfully bear the burden of production but not be entitled to a verdict in his favor because the party did not bear the burden of persuasion. Unlike the burden of production, the burden of persuasion includes determinations of credibility and acceptance or rejection of inferences. Even unrebutted evidence may be disbelieved. *Suber v. Pa. Comm’n on Crime and Delinquency*, 885 A.2d 678 (Pa.Cmwlth. 2005), app. denied, 586 Pa. 776, 895 A.2d 1264 (2006). In order to bear the burden of proof and be entitled to a decision in his favor, a party must bear both the burden of production and the burden of persuasion.

 The proponent, or utility, that seeks to implement a tariff that has not been approved, is responsible for sustaining the burden of proof. Here, the Company admits its burden and contends that it has carried it.

## B. Introduction

In order to understand the claimed need for the mechanisms proposed here by PPL, it is important to know the events leading to this filing. On August 2, 2006, PPL filed its Petition for Approval of a Competitive Bridge Plan (“CBP”) to establish terms and conditions under which the Company would provide Default Service, or Provider of Last Resort Service, during calendar year 2010, as a transition to a fully competitive market beginning January 1, 2011. *Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan*, Docket No. P-00062227 (Order entered May 17, 2007)(*Competitive Bridge Plan Order)*. PPL St. No. 1 at 9.

 As part of the CBP, PPL implemented a new rate rider, the GSC, an automatic cost recovery mechanism under Section 1307(e) of the Public Utility Code (Code), 66 Pa. C.S. § 1307(e), that provided for annual reconciliation of any over or under collection of the Company’s actual costs incurred to acquire generation supply on behalf of each of three Customer Classes: Residential, Small C&I and Large C&I. In its compliance filing, PPL submitted the approved GSC tariff rider, which provided for the GSC to be re-calculated and reconciled on a quarterly basis pursuant to the Commission’s Order, to become effective for service rendered on and after January 1, 2010. *Id.*

 On August 28, 2008, PPL filed with the Commission its Petition for Approval of a Default Service Program and Procurement Plan for the period January 1, 2011, through May 31, 2013 (DSP Plan). In its Petition, PPL proposed to implement a new rate rider, the GSC-1, which would replace the GSC for the Residential and Small C&I Customer Classes, beginning January 1, 2011. The GSC-1 is an automatic Section 1307(e) cost recovery mechanism that provides for quarterly re-calculation of the GSC-1 rates and quarterly reconciliation of any over or under collection of the Company’s actual costs incurred to acquire generation supply on behalf of the Residential and Small C&I Customer Classes. The Commission approved the Joint Petition for Settlement of this proceeding: *Petition of PPL Electric Utilities Corp. for Approval of a Default Service Program and Procurement Plan for the period January 1, 2011 Through May 31, 2014,* Docket No. P-2008-2060309 (Order Entered June 30, 2009)(*PPL 2009 DSP Order*). PPL M.B. at 9.

 Pursuant to PPL’s tariff, the 2010 GSC rate reflected projected costs for 2010, divided by projected sales, with the resulting rate adjusted to reflect the gross receipts tax. At the end of 2010, PPL performed a reconciliation of the 2010 GSC costs as compared to the Company’s actual billed revenues. The actual billed revenues for January 2010 were prorated to eliminate the portion of those revenues for services rendered in December 2009. *Id.* at 11.

 Due to the effects of accounting for only 11 ½ months of revenue compared to 12 months of costs, the 1307(e) reconciliation mechanism produced an under collection of the Company’s costs. A portion of the 2010 under collection balance has been carried over to subsequent application periods. As of August 31, 2011, the Company’s remaining under collection balance was approximately $1.4 million for Small C&I customers.

 A Section 1307(e) cost recovery mechanism has two primary components. The first, the C factor, is a projection of costs for the application period. The second, the E factor, provides for the refund or recovery of prior period over/under collections.

 All costs and revenues associated with service provided in a single application period cannot be included in that application period because PPL does not know the actual costs for that application period until at least two months after the costs are incurred.

 When Commission staff audits PPL’s Section 1307(e) cost recovery mechanisms, they compare actual billed revenue amounts with actual incurred costs for each application period. The Company’s methodology of reconciling actual billed revenues with actual incurred costs is consistent with how the Commission’s staff audits the GSC-1. The Commission does not consider unbilled revenues in the reconciliation of a Section 1307(e) cost recovery mechanism.

 PPL proposed to reconcile default service costs on an annual basis under its GSC in its CBP Proceeding. However, in the CBP Order, the Commission required PPL to reconcile default service costs quarterly, as opposed to annually.

 PPL’s default service rates for Small C&I customers have stabilized as the Company has recovered its under collections. The under collection for Small C&I customers has been reduced to approximately $1.4 million as of August 31, 2011.

 PPL includes all billed default service revenue and incurred costs in its GSC and GSC-1 charges, and all such revenue and costs are audited regularly by Commission audit staff.

 Additionally, it is important to note that this is one of several dockets that are interrelated, although not consolidated or dependent upon each other. In *Office of Small Business Advocate v. PPL Electric Utilities Corporation,* Docket No. C-2011-2245906 (*OSBA Complaint Proceeding)*, the OSBA asks the Commission to find that the Company’s proration accounting method resulted in June 2011 GSC-1 rates that were not just and reasonable; that the Company should make refunds as appropriate; and that the Commission’s Bureau of Audits conduct a detailed audit of the Company’s default service revenues and costs for 2010, including the possible under-reporting of revenues. This case is pending before the Commission.

In the *Revised TOU Proceeding, supra.,* the Company seeks approval of a tariff implementing an amended TOU Program pursuant to a Commission directive. The ALJ issued a Recommended Decision in this proceeding on June 20, 2012.

 The third related case is the *PPL2010 TSC Reconciliation Proceeding, supra.*  The Commission issued an Order in this proceeding on May 19, 2011, which directed the Law Bureau and Bureau of Audits to develop a recommendation for the Commission regarding the various methods of reconciling transmission service charges in a dynamic market on a going forward basis. The Commission has not yet received that recommendation.

 Finally, the OSBA filed another Complaint against the GSC-1 reconciliation for the period December 1, 2011, through February 29, 2011, at *Office of Small Business Advocate v. PPL Electric Utilities Corporation,* Docket No. C-2011-2279176. By letter dated February 9, 2012, the OSBA asked that this Complaint be held in abeyance pending the outcome of the prior OSBA Complaint. ALJ Dennis Buckley granted this request by Order issued February 16, 2012.

 In the instant case, the Company seeks approval to implement a mechanism for: (1) assessing the under collection or refunding the over collection of costs of default service to customers taking default service during the over/under collection period, but shopping at the time of reconciliation, and (2) omitting the over/under collection from the Price to Compare (PTC). Specifically, PPL seeks approval to implement the following:

1. A reconciliation rider designed to charge or refund the E factor to those who paid the original rates;
2. A competitive transition rider;
3. Inclusion of the Residential and Small C&I TOU program over and under collections in the RR and CTR rates applicable to the respective Residential and Small C&I customer classes;
4. Ability to net the over and under collections of the respective GSC-1 and GSC-2 with the TSC reconciliations for each customer class; and

5. Modification of the provisions of the GSC-1 to permit reconciliation on an annual PJM Planning Year basis.

PPL M.B. at 6.

## C. Competitive Transition Rider (CTR)

### 1. Description

 “The CTR is a one-time, temporary, non-bypassable, reconcilable Section 1307(e) cost recovery mechanism that will provide a fresh start by refunding or recovering any remaining net historic over or under collections balances related to transmission service and generation supply service that were incurred prior to the effective date of the RR.” PPL M.B. at 15, citing PPL St. 1 at 6-7.

 The Company states that its substantial over and under collection balances have been difficult to correct because of the significant number of shopping customers, *i.e.*, there are fewer customers from whom to collect the balances. The CTR is proposed to become effective June 1, 2012, and to remain in effect for a twelve-month period. At the end of the twelve months, it will be reconciled. It will remain in effect as long as necessary to true-up the balances of any over or under collections which exist as of May 31, 2012, that were not refunded or recouped during the initial 12-month application period. PPL M.B. at 23.

### 2. Positions of the Parties

 The OCA supported implementation of the CTR as a reasonable method to recover historic costs that are associated with the transition from rate caps to default service beginning in 2010, as well as the costs associated with the TOU program, which has encountered difficulties in design and customer retention. OCA M.B. at 6-7; R.B. at 1-2. The mechanism would be a temporary, one-time charge driven by events that already have occurred, including the proration of bills in January 2010 and the increase in shopping that has significantly reduced the number of customers taking default service, thus reducing the number of customers that are paying the under collection. *Id.* at 7-8.

 As an example, the OCA pointed out that the Company testified that only 3,900 customers remain on TOU service as of the service of the rebuttal testimony in December of 2011. The TOU under collection is approximately two million dollars. The OCA position is that the CTR mechanism would allow for a reasonable method of collecting these costs from all residential customers. *Id.* at 8.

 The OSBA opposed the CTR as unnecessary and inequitable. The OSBA averred that the Company has failed to provide evidence to support the need for it, as it presented no evidence that there will be a substantial variance at the end of May 2012, that could not be recovered through the RR. OSBA M.B. at 20.

 The OSBA argued that implementation of the CTR would continue the accounting mismatch that comes with the Company’s “proration” of revenues that started the problem two years ago, thus prolonging the problem that it purports to address. According to the OSBA, this mechanism is unfair to shopping customers as it charges *all* distribution customers without any evidence that the shopping customers contributed to the over or under collection that exists on May 31, 2012. After all, the 2010 variances already have been collected from default service customers. Therefore, it is impossible for customers who shopped in early 2010 to be responsible for the variances in May 31, 2012. *Id.* at 21-22.

 As an alternative, the OSBA recommended that any variance existing on May 31, 2012, be rolled into the RR variance account as the opening balance on June 1, 2012, which then could be collected over the following twelve months through the RR. *Id.* at 22.

PPLICA opposed the collection of default service-related generation costs from shopping customers as being unreasonable and not authorized by Act 129.[[5]](#footnote-5) According to PPLICA, from a general ratemaking standpoint, it is patently unjust and unreasonable to recover generation-related under collections for default service supply from customers who have not taken default service during the application period. PPLICA opined that PPL’s reliance on Section 2807(e)(3.9) overextends the meaning of the statute. PPLICA stated that the statute addresses only an EDC’s right to recover default service costs; its plain meaning does not authorize recovery of such costs from shopping customers. PPLICA M.B. at 14.

 Further, PPLICA charged that the generation supply under collection experienced in January 2010 arose largely from an accounting decision made by the Company which mismatched expenses for January 2010 against only two weeks of revenues. PPLICA alleged this mismatch was not caused by a revenue shortfall, and that PPL’s proposal to recover historical GSC variances through the proposed CTR is not authorized by the cost recovery provisions in Act 129. *Id.* at 15-16.

 However, PPLICA did not oppose the transmission component in the CTR, which may provide the Commission with a mechanism for administering any necessary refunds resulting from its ongoing investigation into PPL’s TSC. PPLICA specifically requested that the Company be required to separately reconcile the E-factors for the Large C&I Primary and Large C&I Transmission classes. PPLICA pointed out that an analysis of PPL’s historic TSC variances, through the 2010, 2011, and 2011/2012 TSC application periods, demonstrated that the currently deferred TSC over collection is largely attributable to periods during which virtually all of PPL’s Large C&I customer base remained on default service. *Id.* at 16-17.

 PPLICA stated that until the pending *PPL 2010 TSC Reconciliation Proceeding, supra.,* is completed, the differences will not be either refunded or recouped. *Id.* at 21-22.

 Dominion stated that the CTR “would recover the costs of providing default service through a charge other than the PTC and would recover those costs from customers other than default service customers. . . . Moreover, this type of recovery, from all customers, is akin to recovering those charges through the Distribution Rate, which is clearly prohibited under the Commission’s regulations. 52 Pa Code § 54.187(d).” Dominion M.B. at 10.

REG argued that the CTR proposal will further penalize a customer for switching to a competitive electric generation supplier (EGS), as the CTR will require a customer, having switched to an EGS, to reimburse PPL from whatever savings the customer had seen, for having exercised that right. As there is no direct tie from PPL’s lack of ability to recoup its costs to the decision of the customer to leave default service, there is no reason to impose a penalty upon that customer. REG M.B. at 7‑8.

 Wal-Mart advocated that:

The Commission should determine that from a general public policy perspective, it is not appropriate to implement mechanisms that charge shopping customers for generation supply and transmission service costs incurred by the utility only to serve non-shopping customers. The CTR would unfairly apply to even those customers who had been receiving electric supply from a competitive supplier even before December 31, 2009. These customers would not have contributed at all to any under collection being recovered through the CTR. [Wal-Mart] Witness Chriss is concerned that the CTR as proposed would make shopping customers, who take generation supply and transmission service from competitive electric generation suppliers, pay, or receive a refund from, PPL for some part of PPL’s generation supply costs. This misaligns cost causation and cost responsibility and results in inequitable rates.

Wal-Mart R.B. at 4 (footnotes omitted).

 Wal-Mart pointed out that the current reconciliation mechanism will continue to operate pending the outcome of this proceeding, and that more and more shopping customers will not have contributed to whatever balance will exist when the CTR is imposed. Wal-Mart R.B. at 3-4.

However, PPLICA states:

A non-bypassable charge is an appropriate recovery measure when costs to be recovered are limited to those reasonably attributable to the entire customer base. Seegenerally Competition Act[[6]](#footnote-6), 66 Pa C.S. § 2808. The Competitive Transition Charges authorized by the Competition Act required all EDC distribution and transmission customers to pay for stranded generation costs incurred by EDCs prior to divesting their generation assets. *Id*. Unlike the GSC variances, PPL’s TSC variances for Large C&I customers predate the expiration of generation rate caps. As demonstrated below, the current over collection is attributable to the entire Large C&I customer base.

PPLICA M.B. at 17.

### 3. ALJ’s Recommendation

 The ALJ recommended that the CTR be denied without prejudice as the Company is entitled to recoup costs that it can show are reasonable if it can propose a method that results in a reasonable rate and does not violate the regulations or the statute. However, the ALJ was persuaded by the arguments of the opposing Parties that this mechanism, as described, does not differentiate between default and shopping customers or make an attempt to align cost causation with the Parties responsible for the costs. According to the ALJ, the CTR appears to violate the statute and the regulation requiring the cost of default service to be borne by default service customers. R.D. at 42-43.

 The ALJ concluded that there was no evidence presented to support the need for this mechanism. She specifically cited to the OSBA’s argument that the numbers that are known do not support the need for the CTR. Furthermore, the ALJ stated that, if we do not know the numbers, then we do not know when the under recovery occurred, and therefore, we do not know if it is fair and equitable to assess shopping customers for recovery of prior uncollected costs. According to the ALJ, this request may simply be premature. The ALJ opined that, while the Company is entitled to full recovery of its cost of providing service, it must prove that those costs are reasonable, and must be able to quantify the costs as well. In her opinion, the Company has not done so here. R.D. at 42-43.

### 4. Exceptions and Replies

In its Exceptions, PPL states that the ALJ’s conclusion is in error as she did not give sufficient weight to the fact that PPL is statutorily entitled/required to refund or recover over and under collections related to transmission service and generation supply service. PPL further maintained that the ALJ did not give sufficient weight to the fact that current shopping customers contributed to the historic over/under collections that will be refunded/recouped, and that the CTR will be applied on a customer class basis. PPL Exc. at 8-9.

 PPL avers that Act 129 states that providers of last resort service (POLR or default service) are entitled to recover, on a full and current basis, all reasonable costs incurred in providing default service through a reconcilable surcharge. *See* 66 Pa. C.S. § 2807(e)(3.9); *Pa. Power Co. v. Pa. PUC*, 932 A.2d 300, 307 (Pa. Cmwlth. 2007). PPL notes that, although the Company is entitled by law to fully recover its costs of providing default service, due to a variety of factors, including increased shopping levels and disparities between TOU rates and default service rates, it has not been able to recover/refund all of its default service costs in a full and timely manner. PPL Exc. at 9.

PPL states that, given the magnitude of the over and under collection balances and the small number of non-shopping customers, the RR alone is not sufficient because it may not be likely or reasonable to refund or recover all the historic over and under collection balances from such a very small number of customers in a timely manner. According to PPL, its proposal to implement the CTR balances the need to promote competition, alleviate the volatility and uncertainty associated with the over and under collection balances related to transmission service and generation supply costs, and the need to ensure that PPL fully recovers these costs as required by law. PPL Exc. at 10‑11.

With regard to the necessity for the CTR, PPL notes that it historically has incurred significant over and under collections related to default service, and to date, it has not been able to recover/refund all of its default service costs in a full and timely manner due to increased shopping levels. PPL avers it is unable to recover the remaining net historic over and under collection balances through the current cost recovery mechanisms, and the RR alone will not fully address this problem. According to PPL, this is particularly problematic for the under collections related to the historic transmission service and generation supply costs for the Large C&I customers. Absent the CTR, PPL opines that it is without a reasonable means to refund or recover the remaining net historic over and under collection balances incurred for transmission service and generation supply service prior to the effective date of the RR. PPL Exc. at 14.

 The OCA also excepts to the ALJ’s recommendation. The OCA submits that on balance, the CTR provides a reasonable manner to collect transitional costs that arose as the Company came out from the rate cap period, is consistent with cost causation, and should be approved. According to the OCA, the CTR provides a reasonable method for the recovery of historic costs that are associated with the transition from the rate caps to default service beginning in 2010 as well as the costs associated with the Company’s TOU program that has encountered difficulties in design and customer retention. OCA Exc. at 3.

 Additionally, the OCA avers that the CTR is reasonable at this time under these unique circumstances. Given the significant decline in default service load at PPL, the OCA opines that the collection of the CTR historic over and under collections over the entire distribution customer base is more consistent with the customer base that created these amounts than recovery of these costs only from current remaining default service customers. According to the OCA, the costs associated with the CTR are limited, one-time and unique in nature, and that the application of the CTR across all residential customers is appropriate for these circumstances. OCA Exc. at 4-5.

 In its Exceptions, PPLICA avers that the ALJ erred in denying its request to approve PPL’s proposed CTR for the reconciliation of historical transmission related expenses. PPLICA avers that the generation-related variances to be recovered through the CTR accrued after the introduction of competitive supply, while substantial transmission-related variances accrued during periods where all Large C&I customers remained on default service and before the expiration of rate caps. PPLICA requests that, considering the established cost causation between PPL’s historical TSC balances and the entire Large C&I customer base, the Commission should reject the ALJ’s conclusion and resolve this proceeding in a manner restoring fairness and equity for PPL’s Large C&I customers. PPLICA Exc. at 3-9.

 In its Reply Exceptions, the OSBA states that the CTR is not just and reasonable because it is not consistent with the basic ratemaking principle of cost causation. The OSBA avers that the CTR is patently unfair to customers who long ago chose to shop and are not responsible for any prior period under collections that will be on the Company’s books when the CTR would go into effect. The OSBA maintains that there is no clear evidence to support PPL’s argument that *all* shopping customers will have caused the variance as of the effective date of the RR. OSBA R. Exc. at 3-5.

 Also, the OSBA avers that the ALJ correctly determined that PPL has not been able to show that the CTR is a necessary cost recovery mechanism. The OSBA opines that PPL’s concerns about the ability to recover/recoup historic under collections are not supported, as any historical under collection that exists can be fairly and adequately recovered/recouped through the RR. According to the OSBA, there is no need to establish a rate mechanism that is inconsistent with cost causation and inequitable merely on the basis that PPL might possibly find itself facing an unrecoverable variance. OSBA R. Exc. at 5-6.

 In its Reply Exceptions, RESA asserts that the arguments of PPL in support of the CTR are red herrings as the legal requirements are absolute and there are no “exceptions” to them based on PPL’s fairness argument or its claim that the CTR is reasonable due to the availability of default service for all customers. RESA avers that the law requires that all costs that are associated with providing default service must be recognized and recovered in the default service rate that is paid by default service customers. According to RESA, while the Competition Act expressly provides for the recovery of certain costs through non-bypassable charges on all customers, there is no such express authorization for the recovery of default service costs through non-bypassable, distribution service charges such as the riders proposed by PPL. RESA alleges that, because the CTR illegally imposes a default service cost on non-default service customers, it cannot be implemented. RESA states that the ALJ was correct to deny the CTR on this basis. RESA R. Exc. at 2-5.

 Additionally, RESA asserts that the assumption built into PPL’s claim that it will not recover the historic under collection is not supported in the record. RESA also asserts that there are still substantial numbers of customers taking default service to which the current reconciliation mechanism may be applied. RESA notes that PPL does recognize that the remaining balances “may be small” and claims PPL is really asking the Commission to give it an illegal mechanism now just in case. RESA avers that PPL already has a reconciliation mechanism in place which is positioned to ensure PPL receives appropriate cost recovery of the historical balances and that the ALJ correctly rejected PPL’s proposed CTR. RESA R. Exc. at 5-6.

 In its Replies to PPL’s Exceptions, Dominion avers that the law does not allow, and in fact prohibits, the collection of the costs of default service outside the PTC and from non-default service customers. According to Dominion, neither the statute nor the regulations permit PPL to recover any reconciled surcharge from non-default service customers. According to Dominion, the record in this case makes it clear that the significant contributing factor to PPL’s unrecovered balances was not customer migration to shopping, but PPL’s inability to accurately forecast its rates and to match its revenues and expenses. Additionally, Dominion notes that PPL could not support the existence of any balance in the record. Dominion opines that PPL has failed to carry its burden of proving the need for the CTR and that PPL’s Exceptions should be rejected. Dominion also asserts that there is no evidence of record that any balance does in fact exist or will exist as of the date of the Commission’s decision in this matter. Dominion R. Exc. at 4-8.

 In its Reply Exceptions, Wal-Mart avers that PPL’s arguments cannot overcome the ratemaking and legal defects inherent in the CTR proposal. According to Wal-Mart, the allegation that some shopping customers may have been default customers who contributed to the unquantifiable uncollected balance as of May 30, 2012, simply cannot justify the application of a rider to collect default service costs from all shopping customers that did not cause PPL to incur generation and transmission costs. Wal-Mart maintains that the refunding or charging of shopping customers for any unrecovered balance for generation and transmission costs for which they neither caused nor overpaid is unlawful and inconsistent with proper ratemaking principles. Additionally, Wal-Mart contends that PPL made no effort to quantify the need for the CTR and as a result, failed to meet its burden of proof. Wal-Mart R. Exc. at 3-8.

 In its Reply Exceptions, PPLICA asserts that the generation component of the proposed CTR is not a just and reasonable cost recovery mechanism because it would force many Large C&I customer to pay generation supply costs to which they did not contribute. PPLICA avers that, for the Large C&I customer class, generation-related expenses and transmission-related expenses require separate treatment under the CTR. According to its analysis, all Large C&I customers contributed to PPL’s historic transmission-related balance, but only customers remaining on default service for periods after January 1, 2010, made substantial contributions to PPL’s generation related balance. As a result, PPLICA opines that for Large C&I customers, cost causation principles support application of the CTR only for recovery of transmission-related balances. PPLICA acknowledges PPL’s entitlement to recover expenses incurred in the provision of default service under Act 129, but cautions that the provisions of Act 129 do not authorize cost recovery from customers that made no contribution to the default service balances. PPLICA is of the opinion that the CTR should be approved for recovery of transmission-related expenses and denied for recovery of generation-related expenses. PPLICA R. Exc. at 3-5.

 In its Reply Exceptions, PPL filed a response to PPLICA’s position within its Exceptions. PPL notes that PPLICA is attempting to create a situation where its customers receive refunds for over collections, but are not required to pay under collections. PPL opines that if the Commission approves the CTR, the CTR should apply to all balances, not just over collections. PPL R. Exc. at 21-23.

### 5. Disposition

Based upon our review and analysis of the evidence of record, we are in agreement with the recommendation of the ALJ that PPL has failed to sustain its burden of proving that the CTR is necessary, as the Company failed to provide evidence that there would be a substantial variance that cannot be recovered through its currently existing reconciliation mechanism. It is compelling that the evidence provided as of September 30, 2011,[[7]](#footnote-7) showed that PPL actually had a net over-recovery from both the residential and the Large C&I classes. As stated by the ALJ, while the Company is entitled to full recovery of its cost of providing service, it must prove that those costs are reasonable, and must be able to quantify the costs as well. We find that PPL has failed to do so in this proceeding. Accordingly, we deny the Exceptions of PPL, the OCA and PPLICA and adopt the recommendation of the ALJ to deny the request of PPL to implement the CTR, without prejudice.

 As we have determined to deny the implementation of the CTR on evidentiary grounds, we are not addressing the legal issues raised by the Parties in their Exceptions. These Exceptions are dismissed as moot.

## D. Reconciliation Rider (RR)

### 1. Description

PPL’s current tariff provides for over or under collections to be refunded or assessed to the default service customers taking service at the time of the assessment or refund. The proposed RR would provide that over collections would be refunded to those from whom they were collected, and under collections would be recovered from those who were undercharged, even after these customers leave default service to take generation supply from another provider. In other words, the cost of the energy would be paid by those customers who used it. PPL M.B. at 17-18.

 Currently, the Company recovers or refunds the over/under collections related to the TSC, the GSC-1 and GSC-2 through the E-Factor applied to the rates paid by customers who take default service from the Company in the next application period. Although an “application period” is usually one year, it can vary and is not uniform.[[8]](#footnote-8)

 PPL claimed that it has experienced “significant” over and under collections in the various rate classes. *Id. at* 10-11. These over and under collections affect the transmission service and generation supply rates that the remaining default service customers pay as well as the PTC. PPL stated that the increase in customer shopping is affecting the Company’s ability to recoup the under collections properly. According to PPL, approximately 86% of the Large C&I customers, representing 97% of the load in that class, has moved from default service. In addition, approximately 486,787 residential customers, or 40% of the customers, representing 45% of that class’s load, has moved to another supplier. Fifty-one percent of the total Small C&I customers representing 93% of that class’s load, has moved to another supplier. *Id.* at 12.

 PPL stated that the RR is intended to “refine PPL’s existing default service recovery mechanisms to refund or recover net over and under collection balances after the effective date of the RR.” *Id.* at 15.

### 2. Positions of the Parties

 PPL explained that its original proposal was to calculate and reconcile on a fixed annual basis pursuant to the reconciliation provisions for TSC, GSC-1 and GSC-2 included in the tariff. *Id.* at 17. However, the OSBA recommended that the balance be recovered over a twelve-month period, but that the calculation be updated quarterly. OSBA St. 1 at 7; OSBA St. 3 at 1-3. PPL accepted this modification and amended its proposal to be calculated and reconciled on a rolling twelve-month annual basis. Tr. at 31-32; PPL M.B. at 17.

 PPL’s proposal was to show the reconciliation amount as a line item on customers’ bills; to reflect different rates for the three customer classes (Residential, Small C&I, and Large C&I); to include Residential and Small C&I TOU over and under collections; and to determine application of the RR each time a customer’s status changes from default service to shopping or from shopping to default service. The Company explained that application of the RR would be based on the customer’s status during the period immediately preceding the customer’s status change. According to PPL, if a customer switches from default service to shopping, the customer would be subject to the RR for a period equal to the number of consecutive months, not to exceed twelve months, that the customer took default service immediately prior to becoming a shopping customer. If a customer switches from shopping to default service, the customer would be exempt from the RR for a period equal to the number of consecutive months, not to exceed twelve months, that the customer was a shopping customer immediately prior to switching to default service. PPL noted that the applicability of the RR then would be re‑determined anytime a customer’s status changes between default service and shopping. New PPL default service customers would be exempt from paying the RR for a period of twelve months. *Id.* at 18.

 The OCA, PPLICA, RESA, Dominion, REG and Wal-Mart all opposed the RR. The OSBA supported the RR with modifications.

 The OCA opposed the implementation of the RR because it would “pose significant educational challenges and could create customer confusion about the default service rate.” OCA M.B. at 9. The OCA stated that the application of the provisions likely would result in frequent rate changes for individual customers and would result in confusion. The OCA also believed that the RR would make auditing of the reconciliation provisions more difficult compared to the current methodology, and that the provisions may be too unwieldy to be practical. *Id.* at 9-10.

 PPLICA agreed that the RR should be denied. According to PPLICA, PPL has created a system with no real impact on the underlying accounting mismatch responsible for the volatile under collections and over collections. PPLICA opined that as the majority of the over collections and under collections recently experienced by PPL originated from the one-time introduction of competitive supply, it does not appear that the requested relief is necessary under Act 129. Considering the obviated need for the rider, PPLICA recommended that the Commission deny PPL’s request to implement the RR. PPLICA M.B. at 6.

 PPLICA pointed out that the billing methodology used by PPL reconciles incurred costs with billed revenues, not revenues received for that same time period. According to PPLICA, the appropriateness of this billing method is the subject of the pending *OSBA Complaint Proceeding, supra.*  PPLICA noted, however, that the severity of the variance was caused by the expiration of rate caps and is therefore unlikely to reoccur. *Id.* at 7.

 PPLICA stated that the record and the Company’s explanations support a finding that this was an isolated event. PPLICA pointed out that no customer class has experienced even 50% of the GSC under collection rate recorded in January 2010 in any subsequent month. For these reasons, PPLICA opined that the proposed RR is unnecessary. *Id.* at 8-9.

 In addition, PPLICA noted that the proposed RR eliminates the current practice of separating the Large C&I customers into two groups: Large C&I Primary and Large C&I Transmission. PPLICA explained that this separation was the result of the contested litigation of the Company’s 2004 base rate case, and its remand from the Commonwealth Court, which required the Commission to set PPL’s rates as nondiscriminatory. *Lloyd V. Pa. PUC*, 904 A.2d 1010 (Pa. Cmwlth. 2006), *app. den.,* 591 Pa. 676, 916 A.2d 1104 (2007)(*Lloyd)*. At the very least, PPLICA urged that these two classes should be maintained. PPLICA *Id.* at 9-10.

 RESA, REG, and Dominion argued that the Company had failed to sustain its burden of proving that its existing mechanism should be changed. RESA charged that the proposed changes to the current reconciliation mechanism: (1) violate the Competition Act; and (2) are inconsistent with Commission Regulations. RESA M.B. at 1.

 According to RESA, PPL’s proposals violate the requirement that cost recovery must occur on a full and current basis, 66 Pa. C.S. § 2807(e)(3.9), and will stymie competitive market development. RESA believes that the calculation and reconciliation on an annual rather than on a quarterly basis will not foster the development of a competitive retail electricity market. RESA states that the statutory parameter for “current” is quarterly reconciliation. 66 Pa. C.S. § 2807(e)(7). *Id.* at 9-11.

 RESA further opined that PPL’s proposal would send inaccurate price signals to customers and could distort customer shopping decisions because the actual default service cost will not be passed onto consumers in a timely way. Customers will not see the true cost of energy on a contemporaneous basis. RESA stated that “the bottom-line amount paid by customers will be based, at least in part, on a year’s worth of reconciliation data rather than the current price of energy.” *Id.* at 11-12.

 RESA averred that the Commission’s default service Regulations at 52 Pa. Code § 54.187(a) require that the default service rate include the sum of all generation and transmission related default service costs. “While the Competition Act expressly provides for the recovery of certain costs through nonbypassable charges on all customers, both non-shopping and shopping, there is no such express authorization for the recovery of default service costs through nonbypassable, distribution service type charges such as the riders proposed by PPL here.” *Id.* at 14.

 REG argued that the Company had failed to sustain its burden of proving that the current PTC reconciliation process is not working as designed. The present process was approved as part of PPL’s DSP Plan as a mechanism to recover reasonable costs relating to the procurement of generation supply for default customers by recovering shortfalls from default customers. According to REG, the issue presented in this proceeding is not whether PPL should be given an opportunity to recover its reasonable costs of providing default service, as suggested by PPL, but from whom those costs should be recovered: customers who currently are being provided default service or from customers who have exercised their right to switch suppliers, many of whom exercised that right two years ago. REG M.B. at 6-7.

 Dominion agreed that the statute and regulations together require that all costs incurred by the default service provider for providing default service be recovered through a default service rate schedule, which is to be identified as the PTC, and which shall be designed to recover those costs during the period service is provided to the customers. Dominion averred that the proposals to carve out certain default service costs to be recovered from customers other than default service customers violates Commission regulations and creates illegal inter-class rate subsidies. Dominion argued that migration riders are not authorized by statute, are contrary to the Commission’s regulations, are anti-customer and anti-competitive, and are not in the public interest. Dominion M.B. at 8.

 The OSBA supported the migration rider aspects of the RR as supported by the principles of cost causation and equity. According to the OSBA, the RR will align charges and refunds with the customers who underpaid or overpaid while receiving the default service. The present mechanism allows customers who shop to avoid paying costs incurred while they were default customers, but permits them to benefit from refunds if they return to default service. OSBA M.B. at 4.

 The OSBA recommended several modifications:

1. New customers should not be subject to RR for 12 months – they did not contribute to the prior period’s variances and therefore, they should be neither charged nor credited for them. The Company has agreed to this proposal.

 (2) A rolling annual reconciliation – the Company proposal is for a fixed annual reconciliation, meaning that the RR balance would be amortized over a fixed 12-month period and the charge/credit would be updated once every 12 months. OSBA recommends updating the charge or credit quarterly with the balance recovered over 12-month rolling periods. The goal is to retain rate stability while quickly incorporating variances into the rates. The Company has agreed to this proposal.

 (3) Reduced interest rates – to avoid incenting the Company from under collecting, as the present 6% interest rate is higher than can be earned on short-term investments. The Company stated that it expected the 6% on under collections and 8% on over collections, consistent with the regulations. 52 Pa. Code § 54.187(f).

*Id.* at 6-8.

 The OSBA stated that the RR will reduce rate instability, and noted that there has been instability in the reconciliation of the TSC, GSC-1 and GSC-2 in the recent past. According to the OSBA, it is the move to annual reconciliation which will stabilize the rates. *Id.* at 10-11. Contrary to the testimony of the OCA, Dominion and RESA witnesses that the RR is unnecessary because future reconciliation amounts should be minor, the OSBA believes that the effect of the accounting mismatch is largest in the first month but affects each month following. The OSBA notes that this is where the shopping “exodus” has an effect, because the amount not collected from the larger number of customers must now be collected from the decreasing default customer base. *Id.* at 12-13.

Caution is urged by the I&E to ensure that only the appropriate costs are included in the RR. According to the I&E, while the Code provides for the recovery of all reasonable costs associated with default service, the proposed mechanisms provide for recovery without a showing of substantial evidence that these costs are reasonable. I&E M.B. at 5-6.

### 3. ALJ’s Recommendation

 First, the ALJ noted that a review of the Company’s experience with the transition from a fully integrated electric company to a distribution-only default service provider shows a need for the RR, which is designed to allocate the cost of electricity to its user. The ALJ stated that the “pro-ration” of rates in January 2010, as the billing cycle crossed the date where the new default service rules took effect, caused the Company to count a full month of expenses against only two weeks of revenues. According to the ALJ, this created a deficit which was magnified when the reconciliation was calculated quarterly, instead of annually, and the high deficit, coupled with the customers’ exodus to competitive generation suppliers, left both an inflated PTC and a dwindling number of customers to pay the reconciliation shortfall. R.D. at 29-30.

 Next, the ALJ explained that, had there been a migration rider in place from the beginning, the customers who used the commodity would be responsible for its full cost. She stated that the reconciliation amount would be assessed on all of the customers, which would reduce the amount paid per customer. More importantly, each customer would be paying for his or her own costs, not the costs caused by service to others who are no longer default customers. Conversely, any over collection also would be refunded to those from whom the money was over collected, not only to those who happen to be on default service at the time. R.D. at 30.

 The ALJ further noted that the most zealous part of Dominion’s argument addresses the problem with assessing reconciliation amounts to new default customers. According to the ALJ, this would have been a fatal flaw in the proposal, but it was removed as an issue when the Company adopted the OSBA recommendation that new customers would not be charged or refunded until they had been on default service for twelve months. Then, if the mechanism is working the way it is intended, the customer would pay or recoup the reconciliation amount for that time period. R.D. at 31.

 Next, the ALJ found that once the RR is in place, the correct PTC for a new default service customer would not include the reconciliation amount. According to the ALJ, this makes sense because a new customer will not pay the reconciliation amount. Existing customers will have the reconciliation amount added to the PTC, and customers new to shopping will have the same fee. After the reconciliation, the amount to be refunded or recouped will appear as a separate line item on the bill. The ALJ concluded that the RR should make the PTC simpler and easier to understand because it will remove from the PTC all balances arising from reconciliation and will more accurately reflect the actual cost to acquire default service. As a result, the ALJ recommended adoption of a PTC that is as accurate as possible by omitting the reconciliation amounts from its calculation. R.D. at 31-32, 36.

### 4. Exceptions and Replies

In its Exceptions, the OCA states that it does not support implementation of the RR as proposed as it poses significant educational challenges and could create customer confusion about the default service rate. According to the OCA, the application of the RR as proposed by PPL would result in instances of frequent rate changes for individual customers, would be unwieldy and should not be approved at this time. OCA Exc. at 5-6.

 In its Exceptions, RESA first avers that PPL’s proposal to apply the RR differently based on shopping status violates Section 2807(e)(4) of the Competition Act, 66 Pa. C.S. § 2807(e)(4). RESA explains that this Section explicitly requires EDCs to treat any shopping customer who chooses to return to default service “exactly as it would any new applicant for energy service.” According to RESA, despite this clear legal requirement, PPL’s proposal treats returning customers differently than new customers and, therefore, the ALJ’s recommendation should be rejected. RESA explains that, while the ALJ did correctly note that this aspect of PPL’s original proposal “would have been a fatal flaw,” she incorrectly concluded that this “fatal flaw” was “removed as an issue” when PPL modified its treatment of new customers. RESA opines that the revised proposal suffers from the same “fatal flaw” as the initial proposal because they both treat shopping customers returning to PPL differently than new customers with respect to how or if the RR is applied. RESA argues that the fact that the initial proposal required new customers to be subject to the RR, and the revised proposal exempts them, is a meaningless change from the perspective of the statutory requirements because neither proposal aligns exactly with how PPL proposes to treat returning customers. RESA alleges that the result of adopting the ALJ’s recommendation to implement the RR would be to create a preference for default service and enact barriers to the marketplace. RESA Exc. at 5-8.

Next, RESA argues that the ALJ erred in determining that there is a current and on-going need for the RR. RESA is of the opinion that PPL’s reconciliation mechanism will provide the Company full recovery as it is currently structured. RESA avers that the evidence shows that as of September 30, 2011, PPL had a net over-recovery from both the residential and the Large C&I classes. Additionally, RESA notes that, while PPL is showing a net under collection for the Small C&I class, it is not facing any immediate risk of not recovering these amounts because a significant number of customers in this class remain on default service. As a result, RESA alleges that no evidence was presented to show that there is any significant future risk of non-recovery. Since PPL is not facing any near term risk of failing to recover its costs, RESA suggests that the changes proposed by PPL to its reconciliation mechanism should be denied. RESA Exc. at 8-10.

RESA next avers that the proposed RR illegally imposes a cost of providing default service on all customers, both shopping and non-shopping. RESA opines that this is in violation of the Competition Act, which provides that all reasonable costs of providing default service in the post transition period shall be fully recovered by the default service provider. RESA explains that, while the Competition Act expressly provides for the recovery of certain costs through non-bypassable charges on all customers, there is no such express authorization for the recovery of default service costs through non-bypassable, distribution service type charges such as the riders proposed by PPL in this proceeding. RESA avers that, since PPL’s proposal requires all customers, except new ones, to absorb the impact of reconciliations related solely to default service, it is not legal and cannot be adopted by the Commission. RESA Exc. at 10-12.

Additionally, RESA argues that the RR will stymie the development of a competitive electric market. According to RESA, an EDC that is not including all the costs to provide default service in its default service rate could be given an unfair competitive advantage to create an artificially subsidized lower default rate with which EGSs will never be able to compete. RESA alleges that the requirement that default service costs be recovered through default service rates is intended to ensure a level playing field for retail competition and to prevent the subsidization of default service by all ratepayers. RESA argues that sound retail market design requires that default service related costs be fully avoidable when a customer makes the decision to shop and take generation service from a competitive retail provider. RESA Exc. at 13-14.

In its Exceptions, Dominion similarly argues that the RR violates at least two provisions of the Commission’s Regulations. Dominion states that the first provision that would be violated requires that default service costs be recovered only through the PTC, and the second requires that default service costs be recovered only from customers actually taking default service. Dominion maintains that the Regulations are consistent in requiring that the PTC be designed to recover all default service costs and that the PTC be charged only to default service customers. According to Dominion, while it is true that migration riders have been authorized in other contexts, there is no authorization for such a mechanism anywhere in the Competition Act or in the Commission’s Regulations governing default service. Dominion Exc. at 5-7.

Dominion maintains that the Regulations clearly require that default service customers pay for default service costs, and that the cost of default service must be fully recovered only from default service customers, and only through the default service rate. Dominion avers that this is the way that the Commission applied its Regulations in approving PPL’s current plan, and the plans of all other EDCs. Dominion avers that the addition of a reconciliation component does not change that fact. According to Dominion, PPL reconciles today and includes the E-factor in the PTC, which is how it was intended to be and should be calculated. Dominion maintains that what is not contemplated by the Regulations is the suggestion that the RR or any charge for default service could be recovered from any customers other than present default service customers, and there is no contemplation of the concept that customers taking competitive service should be required to pay default service charges for up to a year into the future. Dominion opines that the ALJ’s conclusion that the RR is reasonable is without legal support, is contrary to the requirements of the Commission’s Regulations and must be reversed. Dominion Exc. at 8-9.

In reply, PPL states that it is undisputed that it is statutorily required/entitled to fully recover the costs incurred to provide transmission service and generation supply to default service customers. Also, PPL notes that it is undisputed that the Company has experienced significant over and/or under collection balances related to the TSC, GSC-1 and GSC-2 and that, to date, it has not been able to recover/refund all of its default service costs in a full and timely manner under its current reconciliation method. PPL avers that the RR attempts to more closely assign over/under collections to those customers that received default service during the period in which the over/under collection occurred. According to PPL, this approach will help to assure that shopping customers pay/receive their fair share of the over or under collections that arose while the customer received default service. PPL opines that there is nothing in Act 129 that prohibits a default service provider from recovering default service costs from the customers that caused those costs to be incurred. PPL R. Exc. at 3-4.

PPL avers that the proposed RR is consistent with Act 129 and the Commission’s default service Regulations. PPL also avers that the proposed RR is consistent with the cost-causation principles established in *Lloyd, supra.,* because it recovers default service costs from those default service customers that actually caused the costs to be incurred. Additionally, PPL maintains that the RR is a better cost assignment methodology than the Company’s current methodology which: (1) allows default service customers to avoid under collections by shopping, or (2) does not provide shopping customers with the benefit of any refund due to over collections that occurred while the shopping customer was taking default service. Therefore, PPL argues that the ALJ properly recommended approval of PPL’s RR. PPL R. Exc. at 7-8.

Next, PPL avers that RESA’s assertion that the RR treats new and returning customers differently is incorrect as both groups will be exempt from the RR to the extent that they were not taking default service from PPL prior to their becoming default service customers. PPL asserts that the purpose of the RR is to align transmission and generation supply costs with the customers who caused such costs to be incurred. According to PPL, the RR applies the principles of cost causation equally to both new default service customers and customers returning to default service. PPL notes that new customers did not contribute to the prior annual over or under collection and should not be charged or credited for such. Similarly, customers returning to default service who shopped for less than twelve months did contribute to the prior annual over or under collections and should be charged or credited for such over or under collections. PPL R. Exc. at 8-9.

Next, PPL avers that the argument that the RR provides an incentive to “understate” or offer an “artificially subsidized lower” default service rate is premised on the incorrect assumption that there is some motive or benefit to drive shopping customers to default service. According to PPL, unlike competitive suppliers, default service providers do not procure and provide customers with default service supply for a profit, and therefore there is no motive to drive shopping customers to switch to default service. PPL maintains that the purpose of the RR is to more closely align over and/or under collection balances with the customers who created such balances, to remove volatility from the PTC and to help ensure that PPL recovers its costs to provide default service in a full and timely manner. PPL R. Exc. at 11-12.

PPL also maintains that the RR will simplify the PTC and should make the PTC easier for customers to understand because it will remove from the PTC all balances arising from reconciliation of PPL’s default service rates and will more accurately reflect the actual costs to acquire default service. According to PPL, customers will be able to more easily use that data to evaluate offers from competitive suppliers and make informed shopping decisions. Additionally, PPL contends that it will provide customers with detailed education about the RR before it is implemented. The Company believes the concerns of the OCA and RESA regarding customer confusion are unwarranted. PPL R. Exc. at 15-16.

In its Reply Exceptions, the OSBA avers that PPL’s current reconciliation mechanism is unfair and that substantial variances are likely to continue. Therefore, the OSBA argues that the equity considerations outweigh the concerns expressed with the increased complexity of the RR. The OSBA opines that until such time as PPL adopts accounting and forecasting procedures that result in small variances, it is both reasonable and necessary to adopt a reconciliation mechanism that properly matches recovery (or refund) of the large variance with the specific customers who caused that variance. According to the OSBA, PPL’s RR proposal achieves that objective, with the modest cost of increased complexity. OSBA R. Exc. at 6-7.

### 5. Disposition

Based upon our review and analysis of the evidence of record, we are not convinced that the changes proposed by PPL to its currently effective default service reconciliation mechanism are necessary or appropriate at this time. We find that PPL has failed to meet its burden of proof that the significant changes it has proposed to its existing default service reconciliation mechanism are required. We disagree with the conclusion of the ALJ that PPL has successfully shown a need for the RR at this time. Therefore, we grant the Exceptions of the OCA and RESA with regard to the need for the RR and reject the recommendation of the ALJ.

It has become apparent from the issues litigated in this and other related proceedings that the traditional methods of reconciliation accounting associated with default service costs in this post-rate cap era may have resulted in excessive rate volatility and inaccurate price signals for electricity consumers in Pennsylvania. However, we do not believe it would be appropriate to implement any of PPL’s requested changes to its existing methodology within this proceeding in the context of a single utility and a single reconciliation clause. Instead, we are of the opinion that any revisions should be made only on a prospective basis in a generic proceeding where all affected utilities and interested parties have the opportunity to participate. Therefore, the Commission will be issuing an order in the immediate future which opens a docket and seeks comments and reply comments on “Default Service Reconciliation Interim Guidelines.” It is the current intention of the Commission to address all issues regarding default service reconciliation riders generically, establish interim guidelines and make any necessary changes to our existing default service Regulations.

 Based upon the above determination to address default service reconciliation issues generically, we deny, without prejudice, the request of PPL to implement the RR. We also reject the recommendation of the ALJ to require PPL to reconcile the GSC-1 rate class annually. On this issue we do not share, at this time, the opinion of the ALJ and PPL, that the quarterly reconciliation of default service costs was a major contributing factor to the significant rate increase to the small C&I customers.

## E. Inclusion of the Residential and Small C&I TOU program over and under collections in the RR and CTR rates applicable to the respective Residential and Small C&I customer classes

### 1. Description

 PPL’s current default service TOU plan was approved by the Commission in December 2010. *PPL Electric Utilities Corporation* *Supplement No. 94 to Tariff Electric – Pa. P.U.C. No. 201- Time of Use Rates,* Docket No. R-2010-2201138 (Order entered December 2, 2010)(*2010 PPL TOU Order)*. Therein, PPL proposed to set default service TOU rates based upon market quotes on forward contracts for on-peak and off-peak wholesale energy within the PPL Zone for the relevant period. PPL also proposed to use the historical variation in Locational Marginal Prices to develop hourly prices and then develop on-peak and off-peak TOU rates based upon these hourly prices. No party objected to this methodology and the Commission approved this methodology in its Order entered on December 2, 2010. PPL M.B. at 52.

 PPL stated that its default service TOU rates were established pursuant to the *2010 PPL TOU Order* and the terms and conditions of the Commission-approved TOU tariff provisions. Pursuant thereto, the default service TOU rates were determined by applying the publicly available NYMEX prices to the load profiles that were approved by the Commission in PPL’s TOU plan. *Id.* at 53.

 PPL was required to submit proposed 2011 default service TOU rates for the Residential and Small C&I customer classes to the Commission for review on December 1, 2010, and again on December 14, 2010. PPL therefore waited until late November 2010 to obtain the most current NYMEX prices to be submitted with its proposed 2011 TOU rates. The Commission approved the proposed default service TOU rates and they became effective on January 1, 2011. However, due to unrest in Libya and global market conditions, oil prices spiked in February 2011 to their highest levels in over two years. This created a significant differential between the actual market prices paid by PPL and the pricing information included in the Commission-approved default service TOU rates. *Id*.

### 2. Positions of the Parties

 PPL maintained that it has experienced significant under collections related to its Residential and Small C&I TOU programs. According to PPL, these under collections were not the result of PPL intentionally or negligently estimating its default service TOU rates, as Dominion alleges, but rather due to the timing of PPL’s TOU program and global market changes that were beyond PPL’s control and which could not be predicted. *Id.* at 53-54.

The I&E averred that the TOU program is not a default service program because it requires active election by the participants, unlike true default service, and therefore, it should not be included in the other default service programs for reconciliation. The I&E averred further that the Company failed to meet its burden of proving that the TOU is a default program, and therefore, it is not automatically entitled to recover its costs in implementing it. According to the I&E, only the reasonable costs associated with default service are eligible for recovery. The I&E stated that, as the Company has failed to meet the evidentiary standard in support of the characterization of the TOU program as default service, any revenue discrepancies are at the risk of the Company and/or customer. I&E M.B. at 7-9 .

 The I&E maintained that the Company’s TOU option is not default service. As a result, the I&E opined that the costs associated with this program should not be included in any proposed Riders. As the CTR is solely for an historical under collection, its implementation should be denied. *Id.* at 9-10. The I&E further averred that the Company’s TOU program was flawed to the point of being unreasonable, and that the Company should have known that it would develop problems. *Id.* at 12.

The OCA supported the recovery of the TOU costs through the CTR but pointed out a distinction that other Parties did not develop. According to the OCA, while PPL is unquestionably a default service provider, 66 Pa. C.S. § 2803, and the TOU program was required, 66 Pa. C.S. § 2807(f)(5), the program itself is not default service. OCA R.B. at 2‑3. Despite this position, the OCA was of the opinion that PPL’s actions were responsible and the recovery of these costs is warranted. According to the OCA, given the actions of the Company to date, the collection of the historic TOU costs through the CTR resulting from the TOU offering is just and reasonable. *Id.* at 4.

 REG stated that this proposal will affect the customers who have chosen to shop if the RR and CTR are adopted, and then the TOU under collection is assessed to the Residential and Small C&I classes. According to REG, at that time a non-shopping customer who never took service under PPL’s TOU rates will be subsidizing those who did. REG opined that under the proposed RR and CTR, a shopping customer who may have left default service in January 2010 would be assessed for the costs incurred in providing default service. According to REG, this is clearly cross-subsidization. REG M.B. at 8.

 Dominion alleged that the PPL forecasting for TOU rates in place during the period of high under collection was either purposeful or negligent. Dominion St. 1 at 7-8.

 The OSBA did not take a position or submit testimony on this issue in this proceeding, instead relying on a Company statement in discovery that “Reconciliation of the TOU option under the GSC-1 will follow the procedure approved by the Commission in its review of PPL’s new TOU program filed on September 26, 2011.” OSBA R.B. at 6-7. The OSBA argued that the legal question of whether or not costs associated with PPL’s TOU program are reasonable default service costs is not properly before the Commission in the instant proceeding because that question is part of another proceeding. (*Revised* *TOU Proceeding, supra.*). Therefore, the OSBA reasoned, the Commission should not make a determination here regarding whether the TOU program is a default service program or whether the TOU under collections were reasonably incurred. *Id.* at 5.

### 3. ALJ’s Recommendation

In her Recommended Decision, the ALJ found that there was no doubt that the TOU is a default service program. According to the ALJ, the Parties promoting the idea that a TOU program may not be a default service program rely upon the differences between it and straight default service to support their arguments. However, according to the ALJ, the similarities outweigh the differences. The ALJ stated that the EDC must pass through the actual cost of the commodity and cannot make a profit on it and was required to implement the TOU program as part of the default service program under Act No. 129, 66 Pa. C.S. § 2807(f)(5). R.D. at 46-47.

 Next, the ALJ opined that the issue remaining is whether the costs incurred were reasonable, and if so, which classes should be assessed the under collection. She noted that in the *Revised TOU Proceeding* case referred to by the OSBA, the Commission ordered the following, in pertinent part:

 1. That an investigation on Commission motion be, and hereby is, instituted to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Supplement No. 110 to Tariff Electric Pa. P.U.C. No. 201.

 2. That the proposed Supplement No. 110 to Tariff Electric Pa. P.U.C. No. 201 will be suspended until September 1, 2012, unless otherwise directed by Order of the Commission.

 3. That this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Company’s existing rates, rules, and regulations.

 4. That the case be assigned to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision.

Order entered November 10, 2011 at 2-3); R.D. at 47-48.

 The ALJ noted that a hearing was held in this proceeding on February 22, 2012. Therefore, she recommended that the issue of whether the costs incurred were reasonable, and if so, in what amount, should be deferred to that proceeding. The ALJ concluded that once some measure of those costs has been determined to be recoverable, that amount should be added to the RR for the rate classes which participated in the TOU program. R.D. at 48.

### 4. Exceptions and Replies

Exceptions were filed in response to this recommendation by the I&E, the OCA and RESA.

The I&E argues that the ALJ’s determination that the TOU option available for selection by PPL’s customers should be classified as default service is not in the public interest and must be rejected. The I&E avers that alternative programs do not meet the classic definition of default service and should not be recognized in the same manner. I&E Exc. at 4-8.

In its Exceptions, RESA argues that the ALJ erred in concluding that all customers should be required to pay for the costs of the TOU program available only to default service customers. RESA argues that this recommendation should be rejected as the Commission has already determined that shopping customers cannot be required to bear the costs of a TOU program available only to default service customers. RESA argues that the question of whether shopping customers should be required to pay for the costs of a TOU program was directly presented to the Commission in the context of PECO’s dynamic pricing offerings. RESA avers that, like PPL’s TOU program, PECO’s dynamic pricing program was open only to default service customers and the Commission ultimately concluded that the costs of the program should only be recovered from default service customers and not from shopping customers.[[9]](#footnote-9) RESA Exc. at 18-20.

 The OCA argues in its Exceptions that TOU costs are recoverable costs to the default service provider, but are not properly classified as default service costs. OCA Exc. at 6-8.

### 5. Disposition

 Having determined previously that PPL’s proposed RR is rejected, the recommendation of the ALJ that recoverable TOU costs be recovered through the RR is dismissed as moot. However, we agree with the ALJ’s recommendation that the issue of whether the TOU costs incurred were reasonable, and if so, in what amount, should be deferred to the pending *Revised TOU Proceeding* at Docket No. R-2011-2264771. The issue of how the allowable level of reasonable TOU costs should be recovered is also deferred to this proceeding.

## F. Ability to net the over and under collections of the respective GSC-1 and GSC-2 with the TSC reconciliations for each customer class.

### 1. Description

 The Company explained that it is not uncommon for the Company to experience an over collection for generation supply charges and an under collection for transmission service charges, or vice versa. For example, in calendar year 2010, PPL experienced an under collection of approximately $8 million for generation supply charges associated with Large C&I default service customers under the 2010 GSC. However, the Company also experienced an over collection of approximately $2 million in the 2010 TSC applicable to Large C&I-Transmission default service customers. PPL M.B. at 23.

According to PPL, combining the respective over or under collections related to the transmission service and generation supply charges will help reduce the overall impact of reconciling the over and under collections. PPL opined that this, in turn, should help to reduce the volatility in both the default service rate and the transmission supply charges. *Id.* at 24.

### 2. Recommended Decision

 The ALJ noted that the issue of transmission service charges is being addressed in the pending *PPL 2010 TSC Reconciliation Proceeding, supra.* The Commission entered an Order in this proceeding on May 19, 2011, which directed the Law Bureau and Bureau of Audits to develop a recommendation for the Commission regarding the various methods of reconciling charges in a dynamic market on a going forward basis. According to the ALJ, as of the time of her Recommended Decision, this recommendation had not been issued. Therefore, the ALJ recommended that this issue be deferred until the Commission’s disposition of the aforementioned proceeding. R.D. at 49, 54-55.

### 3. Exceptions and Replies

 PPL filed Exceptions alleging that the ALJ erred in deferring the resolution of PPL’S proposal to net the over and under collections of the respective GSC-1 and GSC-2 with the TSC for each customer class. PPL alleges that the amount of historic over and under collections that ultimately are approved by the Commission will not impact the methodology employed to refund and recoup over and under collections from each customer class. PPL avers that combining the respective over or under collections related to the transmission service and generation supply charges will help reduce the overall impact of reconciling the over and under collections. PPL Exc. at 21-22.

### 4. Disposition

We are in agreement with the recommendation of the ALJ that this issue be deferred to the *PPL 2010 TSC Reconciliation Proceeding*. This is also an issue that lends itself to further analysis and discussion within the context of the soon to be established generic proceeding on default service reconciliation issues. Accordingly, the Exceptions of PPL are denied.

## G. Interest Rate for Under Collections

### 1. Description

 The OSBA recommended that the interest rate on under collections be reduced from the 6% proposed by PPL because it exceeds the earnings rate that could be achieved on short-term investments and the Company’s short-term cost of capital, which creates an incentive to under collect. According to the OSBA, the reduced interest rate is meant to avoid incenting the Company from under collecting. 52 Pa. Code § 54.187(f). OSBA M.B. at 7-9.

 The Company stated that, consistent with the requirements of the Commission’s default service Regulations, the interest rate for under collection balances will be set at the legal rate of interest, or 6%, and PPL will be interest at 8% on over collections. According to PPL, the OSBA’s alternative interest rate adjustment is unnecessary and contrary to the Commission’s Regulations. PPL M.B. at 45-46.

### 2. ALJ’s Recommendation

 The ALJ denied the request of the OSBA as the Commission’s Regulations provide that “A DSP may collect interest from retail customers on the recoveries of under collection of default service costs at the legal rate of interest. Refunds to customers for over recoveries shall be made with interest, at the legal rate of interest plus 2%.” 52 Pa. Code § 54.187(f). The ALJ stated that, although the legal interest rate has been low in comparison to what was available in the marketplace at times in the past, this is not one of those times. The ALJ noted that at the present time, there is little opportunity to earn 6% from conventional financial institutions. She averred that this percentage rate is a regulatory windfall for EDCs, and the irresponsible EDC does have an opportunity for abuse. However, in her opinion, the regulatory environment should provide oversight for the ratemaking process, and she encouraged the statutory advocates to continue to watch all of the EDCs carefully to ensure due diligence. However, she concluded that, without evidence of wrongdoing on the part of the Company, there is no support for applying any interest rate other than that already required by the Commission’s Regulations. R.D. at 54.

### 3. Exceptions and Replies

 In its Exceptions, the OSBA states that the ALJ erred by not finding that the interest rates proposed by PPL on under and over collections should be reduced to more closely align with capital market conditions. The OSBA notes that the existing Commission Regulations at 52 Pa. Code 54.17(f) provide for an interest rate of 6% on under collections and 8% on over collections. However, the OSBA argues that, to the extent that Commission Regulations can distort incentives, create a potential windfall for default service providers and distort competition, waivers to those Regulations should reasonably be granted. The OSBA requests that the interest rates be indexed to capital market conditions, rather than a fixed rate like the legal rate of interest. OSBA Exc. at 3‑6.

 In reply, PPL avers that, other than the OSBA’s unsubstantiated concerns, there is absolutely no evidence of record to suggest that the interest rates set forth in the Commission’s default service Regulations have provided or will provide PPL with the alleged incentive to under collect its default service costs. According to PPL, there is no basis to support the OSBA’s proposal to single out and penalize PPL with arbitrary interest rates through this Petition proceeding, while allowing other default service providers to continue to use the interest rates set forth in the Commission’s default service Regulations. PPL R. Exc. at 18-19.

### 4. Disposition

We agree with PPL that it would be inappropriate to adopt the OSBA recommendation within the context of this proceeding, as there is no evidence of wrongdoing on the part of PPL to warrant the waiver of our Regulations concerning the interest rate on under and over collections with respect to PPL and only PPL. Instead, it is our intention that this particular issue be included within the generic proceeding to be initiated on default service reconciliation issues. Accordingly, the Exceptions of the OSBA are denied.

# III. Conclusion

Based on our review, evaluation and analysis of the record evidence, we shall grant and deny the Exceptions of the Parties, consistent with this Opinion and Order. We recommend that the Petition of PPL to implement a Reconciliation Rider be denied, without prejudice; that the proposal to implement a Competitive Transition Rider be denied, without prejudice; that the proposal to reconcile the over or under collection of the residential and Small C&I Time of Use program rates be deferred to the *Revised TOU Proceeding, supra.*; that the proposal regarding the ability to net the over and under collections of the GSC-1 and GSC-2 with the TSC reconciliations be deferred until the Commission’s disposition of the *PPL 2010 TSC Reconciliation Proceeding*; and that the interest rate for under collections remain at 6%. We adopt, in part, and reject, in part, the recommendations of the ALJ and modify her Recommended Decision, consistent with this Opinion and Order;  **THEREFORE,**

 **IT IS ORDERED:**

1. That the Exceptions filed by PPL Electric Utilities Corporation, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Retail Energy Supply Association, Dominion Retail, Inc. and the PP&L Industrial Customer Alliance on April 24, 2012, to the Recommended Decision of Administrative Law Judge Susan D. Colwell are granted or denied, consistent with this Opinion and Order.

 2. That the Recommended Decision of Administrative Law Judge Susan D. Colwell, issued on April 4, 2012, is modified, consistent with this Opinion and Order.

 3. That the request of PPL Electric utilities Corporation to implement the Competitive Transition Rider is denied, without prejudice.

4. That the Petition of PPL Electric Utilities Corporation for Approval to Implement a Reconciliation Rider for Default Service Supply is denied, without prejudice.

 5. That the issue of whether the Residential and Small C&I TOU program over and under collections were reasonably incurred is deferred to the proceeding at *Pa. PUC v. PPL Electric Utilities Corporation, Supplement No. 110 to Tariff Electric – PA. P.U.C. No. 201 Time of Use Program,* R-2011-2264771, and its attendant complaints.

 6. That the proposal to include the Time of Use under collection amount in the Reconciliation Rider rates applicable to the respective Residential and Small C&I customer classes, is dismissed as moot.

 7. That PPL Electric Utilities Corporation’s request to net the over and under collections of the respective Generation Supply Charge-1 and Generation Supply Charge-2 with the Transition Service Charge reconciliations for each customer class is deferred until the resolution of *PPL Electric Utilities Corporation Proposed Transmission Service Charge Reconciliation for the Twelve Months Ending November 30, 2010*, Docket No. M-2010-2213754, Order entered May 19, 2011.

 8. That the record at Docket No. P-2011-2256365 shall be marked closed.

 **BY THE COMMISSION,**

 Rosemary Chiavetta

 Secretary

(SEAL)

ORDER ADOPTED: July 19, 2012

ORDER ENTERED: July 19, 2012

1. For a full and complete history, please refer to the Recommended Decision at 1-3. [↑](#footnote-ref-1)
2. Although the Wal-Mart petition was filed after the deadline, it was not opposed, it contained the appropriate discussion regarding late-filed interventions, and it was filed well before the prehearing conference, thus reducing any claim of prejudice to any other party. [↑](#footnote-ref-2)
3. *Pa. Public Utility Commission, et al. v. PPL Electric Utilities Corporation,* Docket No. R-2011-2264771 (Recommended Decision of ALJ Susan D. Colwell issued June 20, 2012) (*Revised Time of Use Proceeding*). [↑](#footnote-ref-3)
4. See, 66 Pa. C.S. §§ 332(a), 315. [↑](#footnote-ref-4)
5. Act 129 of 2008, Oct.15, P.L. 1592, Codified at 66 Pa. C.S. §§ 2803 *et al.* (Act 129). [↑](#footnote-ref-5)
6. *Electricity Generation Customer Choice and Competition Act*, 1996, Dec. 3, P.L. 802, No. 138, Codified at 66 Pa. C.S. §§ 2801 *et seq.* (Competition Act). [↑](#footnote-ref-6)
7. Exhibit RJH-1 [↑](#footnote-ref-7)
8. The GSC-1 is presently computed quarterly but is the subject of a pending companion case, the *OSBA Complaint Proceeding, supra.*; and the beginning and ending dates of several reconciliation charges have been changed to conform to the PJM planning year, resulting in a one-time five-month reconciliation period for those charges. [↑](#footnote-ref-8)
9. *Petition of PECO Energy Company for Approval of its Initial Dynamic Pricing and Customer Acceptance Plan,* Docket No. M-2009-2123944 (Order entered April 15, 2011) at 21. [↑](#footnote-ref-9)