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August 29, 2012

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission v. Petition of PPL Electric Utilities Corporation,
Docket No. R-2012-2290597

Dear Secretary Chiavetta:

On behalf of Granger Energy of Honey Brook LLC and Granger Energy of Morgantown LLC (“Granger Energy”) enclosed please find the original of its Main Brief with regard to the above referenced matter. Copies have been served in accordance with the attached Certificate of Service.

Sincerely,



Carl R. Shultz

CRS/lww
Enclosure

cc: Hon. Susan D. Colwell, w/enc.
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Granger Energy's Main Brief upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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Dated: August 29, 2012



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No.	R-2012-2290597
	:		
v.	:		
	:		
PPL Electric Utilities Corporation	:		

**MAIN BRIEF OF
GRANGER ENERGY OF HONEY BROOK LLC AND
GRANGER ENERGY OF MORGANTOWN LLC**

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I. INTRODUCTION

A. STATEMENT OF THE CASE

1. Overview of Granger's Position

Granger does not oppose PPL's revised proposal on net-metering. Granger opposed the original net metering proposal made by PPL. But, at the hearing, PPL withdrew its original net metering proposal.

2. Procedural History

On or about March 30, 2012, PPL filed a request for a distribution rate increase. The proposed Tariff Supplement filed with that request proposes changes to the net-metering rider in PPL's Tariff. Specifically, as part of this proceeding, PPL proposed to limit the availability of net metering "to installations where the customer-generator generates no more than 110% of the customer-generator's electric consumption." *See* Exhibit DAK-1 and DAK-1A, at Supplement No. 118 to Electric Pa. P.U.C. No. 201, Fourth Revised Page No. 19L.2. This 110% limitation would prospectively apply to all customer-generators seeking to use net metering. PPL St. No. 5, at 24-25.

Formal complaints against this proposed tariff were been filed by: the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), PP&L Industrial Customer Alliance ("PPLICA"), William Andrews, Eric Joseph Epstein, Dave A. Kenney, Roberta Kurrell, Donald Leventry, John G. Lucas, and Helen Schwika. Petitions to intervene were filed by the Commission on Economic Opportunity ("CEO"), Direct Energy Services LLC ("Direct Energy"), Dominion Retail, Inc. d/b/a Dominion Energy Solutions ("Dominion"), Granger Energy of Honey Brook LLC and Granger Energy of Morgantown LLC (collectively "Granger" or "Granger Energy"), the International Brotherhood of Electrical

Workers, Local 1600 (“IBEW”), the Sustainable Energy Fund (“SEF”) and Richards Energy Group, Inc. (“REG”).¹ The Commission's Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance.

This proceeding was assigned to Administrative Law Judge (“ALJ”) Susan D. Colwell. The prehearing conference was held as scheduled on May 31, 2012. At that time, *inter alia*, the Granger’s timely Petition for Intervention was granted. A Scheduling Order was issued on June 1, 2012. On June 18, 20, and 21, the public input hearings were held as scheduled.

The evidentiary hearing commenced on August 6, 2012 and ended on August 9, 2012.² At the hearing, pre-filed written testimony and exhibits were admitted into the record, and party witnesses were made available for cross examination.

B. Burden of Proof

The Company has the ultimate burden of proof in the proceeding and the initial burden of going forward with evidence showing that its proposals are lawful and reasonable. Section 332(a) of the Public Utility Code provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding.³ It is axiomatic that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.”⁴ A preponderance of the evidence means evidence which is more convincing, by even the

¹ The Petition of REG to Intervene Out-of-Time is granted on July 26, 2012.

² Hearings lasted three days. No hearing was held on Wednesday, August 8, 2012.

³ 66 Pa. C.S. § 332(a).

⁴ *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

smallest amount, than that presented by the other party.⁵ Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence.⁶ More information is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.⁷

II. SUMMARY OF ARGUMENT

Granger does not oppose PPL's revised proposal on net-metering. Granger opposed the original net metering proposal by PPL. But, at the hearing, PPL withdrew its original net metering proposal. In rejoinder testimony, PPL proposed a tariff revision that would merely incorporate language from the policy adopted by the Commission in the Final Order (entered March 29, 2012), entitled "*Net Metering—Use Of Third Party Operators*," at Docket No. M-2011-2249441, into PPL's net metering rider. This revised net metering proposal is consistent (a) with the recommendations made in Granger's testimony and (b) the policy adopted by the Commission on March 29, 2012.

III. RATE BASE

Granger Energy takes no position on the issues in Section III.

IV. REVENUES

Granger Energy takes no position on the issues in Section IV.

⁵ *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

⁶ *Mill v. Pa. PUC*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transportation Corp. v. Pa. PUC*, 623 A.2d 6 (Pa. Cmwlth. 1993).

⁷ *Norfolk and Western Ry. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Commonwealth, Dep't. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

V. EXPENSES

Granger Energy takes no position on the issues in Section V.

VI. TAXES

Granger Energy takes no position on the issues in Section VI.

VII. RATE OF RETURN

Granger Energy takes no position on the issues in Section VII.

VIII. RATE STRUCTURE

A. COST OF SERVICE STUDY

Granger Energy takes no position on the issues in Section VIII(A).

B. REVENUE ALLOCATION

Granger Energy takes no position on the issues in Section VIII(B).

C. TARIFF STRUCTURE

Granger Energy takes no position on the issues in Section VIII(C).

D. TARIFF RULES AND RIDERS

1. Introduction

Net metering is a program instituted by the Alternative Energy Portfolio Standards (“AEPS”) Act.⁸ Among other things, the AEPS Act provides that the opportunity for customer-generators⁹ to interconnect and “net meter” small alternative energy systems. *See* 73 P.S. §

⁸ 73 P.S. §§ 1648.1, *et seq.* The AEPS Act is also referred to as Act 213 of 2004 (“Act 213”). Act 35 of 2007 amended a number of provisions of the AEPS Act.

⁹ The AEPS Act defines a customer-generator as: “a nonutility owner or operator of a net metered distributed generation system with a nameplate capacity of not greater than 50 kilowatts if installed at a residential service or

1648.2 (definitions), 73 P.S. § 1648.5 (interconnection standards for customer-generator facilities). *See also* Granger Energy St. No. 1, at 6.

Net metering is achieved using a single, bi-directional meter that can measure and record the flow of electricity in both directions at the same rate. Granger Energy St. No. 1, at 5. In Pennsylvania, net metering is defined as:

the means of measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator when any portion of the electricity generated by the alternative energy generating system is used to offset part or all of the customer-generator's requirements for electricity.¹⁰

The Commission's net metering regulations¹¹ require that PPL's net metering rider must be consistent with the Commission's regulations on net metering.¹² The key eligibility requirements in PPL's current net metering rider are:

A. The net metering rider is available to customers under specified rate schedules with installed qualifying customer generator using a net metering system. Specifically, PPL's net metering rider applies only to customer-generators served under Rate Schedules RS, GS-1, GS-3, and LP-4.

B. The net metering rider is available for Tier 1 or Tier 2 resources that will be operated in parallel with the PPL's system.

not larger than 3,000 kilowatts at other customer service locations, except for customers whose systems are above three megawatts and up to five megawatts who make their systems available to operate in parallel with the electric utility during grid emergencies as defined by the regional transmission organization or where a microgrid is in place for the primary or secondary purpose of maintaining critical infrastructure, such as homeland security assignments, emergency services facilities, hospitals, traffic signals, wastewater treatment plants or telecommunications facilities, provided that technical rules for operating generators interconnected with facilities of an electric distribution company, electric cooperative or municipal electric system have been promulgated by the Institute of Electrical and Electronic Engineers and the Pennsylvania Public Utility Commission." 73 P. S. § 1648.2.

¹⁰ 73 P.S. §1648.2. The AEPS Act also permits virtual net metering "on properties owned or leased and operated by a customer-generator and located within two miles of the boundaries of the customer-generator's property and within a single electric distribution company's service territory." 73 P.S. §1648.2.

¹¹ 52 Pa. Code §§ 75.11 to 75.15.

¹² 52 Pa. Code § 75.13 (general provisions).

C. The net metering rider is available for installations where any portion of the electricity generated by the renewable energy generating system offsets part or all of the customer-generator's requirements.

D. Net metering is available to a non-utility owner or operator of a net metered generation system with nameplate capacity of up to 5 MW if the system is available to operate in parallel with PPL.

E. The customer's equipment must conform to the Commission's Interconnection Standards and Regulations pursuant to the AEPS Act.

Granger Energy St. No. 1, at 9.

On March 29, 2012, the Commission adopted a policy that net metered alternative energy systems owned and operated by third-parties that are interconnected and placed on property owned or leased and operated by an electric utility customer be designed to generate no more than 110% of that utility customer's annual electricity consumption, at the interconnection meter location and all qualifying virtual meter locations.¹³ The policy established by this Final Order became effective on March 29, 2012. It was published in the *Pennsylvania Bulletin* on April 14, 2012.¹⁴

2. Net-Metering

Granger opposed PPL's original net metering proposal. *See* Granger Energy St. No. 1, 1-R and 1-SR.¹⁵ Originally, PPL proposed to limit, prospectively, the generation in all new net-

¹³ *Net Metering- Use of Third Party Operators*, PUC Docket No. M-2011-2249441, Final Order entered March 29, 2012, which is available at: <http://www.puc.state.pa.us/general/ConsolidatedCaseView.aspx?Docket=M-2011-2249441>.

¹⁴ 42 Pa.B. 2136 (April 14, 2012), which is available at: <http://www.pabulletin.com/secure/data/vol42/42-15/711.html>.

¹⁵ Granger argued that PPL's original proposal is different from, and far greater than, the specific situation addressed by the policy adopted by the Commission's Final Order of March 29, 2012. *See* Granger Energy St. No. 1, 1-R and 1-SR.

metering applications to 110% of the customer-generator's connected load.¹⁶ This change was proposed by PPL witness, Douglas A. Krall, and provided that:

This Rider is available to installations where the customer-generator generates no more than 110% of the customer-generator's electric consumption, which is determined using the customer-generator's total electric usage in the twelve full months immediately preceding submission of the associated interconnection application. For new installations, the customer-generator's total electric usage for a 12 month period will be estimated.¹⁷

At the hearing, PPL withdrew its original net metering proposal. PPL St. No. 5-RJ, at 2. In rejoinder testimony, PPL proposed a tariff revision that would incorporate language from the policy adopted by the Commission in the Final Order (entered March 29, 2012), entitled "*Net Metering—Use Of Third Party Operators*," at Docket No. M-2011-2249441. That policy permits a customer-generators to rely on a third-party developer who both owns and operates the alternative energy system. But, as a condition to allowing the use of third-party developer to both own and operate the alternative energy system, the Commission imposed a size limitation which requires the alternative energy systems owned and operated by third-party developers to be designed to generate no more than 110% of the customer-generator's historic annual electric consumption. This is made clear by Ordering Paragraphs 2 and 3 of said Final Order:

2. It be the policy of the Commission that net metered alternative energy systems owned and operated by third-parties that are interconnected and placed on property owned or leased and operated by an electric utility customer be designed to generate no more than 110% of that utility customer's annual electricity consumption, at the

¹⁶ PPL St. No. 5 (Douglas A. Krall) at 24-25, and Exhibit DAK 1, which is Supplement No. 118 to Tariff Electric Pa. PUC No. 201. PPL Statement of Reasons for the Proposed Increase, Docket No. R-2012-2290597 (March 30, 2012), at 20.

¹⁷ *Id.*

interconnection meter location and all qualifying virtual meter locations.

3. It be the policy of the Commission that customer-generators with third-party owned and operated systems shall provide with the interconnection application adequate supporting data to demonstrate that the alternative energy system is designed to provide no more than 110% of the customer-generator's annual electric usage at all qualifying meter locations.¹⁸

Simply put, the Commission's Final Order of March 29, 2012 is limited, by its terms, to the business model where the third-party developer builds, owns, operates and maintains an alternative energy generation system on, or near, a customer's property; and sells power, and possibly alternative energy credits ("AECs") to that customer. It was never intended to apply circumstances outside of that business model.

PPL's revised net metering proposal, as explained in Mr. Krall's rejoinder testimony, would merely incorporate language from the said Final Order. The incorporated language states as follows:

... provided that net metered alternative energy systems owned and operated by third-parties that are interconnected and placed on property owned or leased and operated by an electric utility customer shall be designed to generate no more than 110% of that utility customer's annual electricity consumption at the interconnection meter location and all qualifying virtual meter locations. Customer generators with third-party owned and operated systems shall provide with the interconnection application adequate supporting data to demonstrate that the alternative energy system is designed to provide no more than 110% of the customer-generator's annual electric usage at all qualifying meter locations..¹⁹

¹⁸ *Net Metering—Use Of Third Party Operators*, Docket No. M-2011-2249441, Final Order entered March 29, 2012, at 16.

¹⁹ Exhibit DAK 6, at 1. Exhibit DAK 6 replaced the net metering tariff pages previously provided as part of Exhibits DAK 1 and DAK 1A. PPL St. No. 5-RJ, at 2.

Granger does not oppose PPL’s revised net metering proposal. PPL’s revised net metering proposal is consistent with (a) with the recommendations made by Granger, *see* Granger Energy St. No. 1 at 16 (“Alternatively, PPL should be required to use language in its net metering rider that is consistent with and conforms to the third-party developer owned and operated situation addressed in the *Final Order In Net Metering—Use Of Third Party Operators*, Docket No. M-2011-2249441.”); Granger Energy St. No. 1-R, at 2-3 (If language is to be added to PPL’s tariff, “[i]t may be preferable to closely track the language used in the Ordering Paragraphs of the Commission’s Final Order.”), and (b) the policy adopted by the Commission’s Final Order of March 29, 2012, which is limited in application to a specific business model (i.e., owned and operated by third-parties).

3. Other Tariff Rules and Riders (If needed)

Granger Energy is not raising issues related to other Tariff rules and riders.

E. SUMMARY AND ALTERNATIVES

As explained more fully in Section VIII(D), Granger does not oppose PPL’s revised net metering proposal.

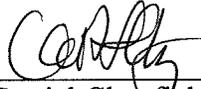
IX. MISCELLANEOUS ISSUES

Granger Energy takes no position on the issues in Section IX.

X. CONCLUSION

Granger respectfully requests that the Administrative Law Judge issue a Recommended Decision consistent with Granger's positions and recommendations in this proceeding.

Respectfully submitted,



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