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November 8, 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 Direct Energy Services LLC ("Direct Energy") enclosed please find the original of its Exceptions which has been filed electronically with regard to the above referenced matter. Copies have been served in accordance with the attached Certificate of Service.

Sincerely,

A handwritten signature in cursive script that reads "Deanne M. O'Dell".

Deanne M. O'Dell

DMO/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 Direct Energy's Exceptions 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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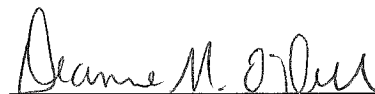
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Dated: November 8, 2012

  
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Deanne M. O'Dell, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**EXCEPTIONS OF  
DIRECT ENERGY SERVICES, LLC**

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Date: November 8, 2012

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## I. INTRODUCTION

One of the key issues in this distribution rate case proceeding is the request of PPL Electric Utilities Corporation (“PPL”) to increase the uncollectible accounts expense factor recovered through the Purchase of Receivables (“POR”) discount by 23.89% for residential customers and 56.52% for small commercial customers. In her Recommended Decision (“RD”), Administrative Law Judge (“ALJ”) Susan D. Colwell rightly recognized that the uncollectible accounts expense recovered through the POR discount must be based on actual costs and that PPL did not prove the actual uncollectible accounts expense for shopping customers which is recovered through the POR discount rate. She failed, however, to acknowledge – as the record made clear – that PPL cannot calculate the actual uncollectible accounts expense for shopping customers. Based on this, the ALJ erred in not recommending that PPL be directed to recover its uncollectible accounts expense through a non-bypassable mechanism consistent with the recommendation of Direct Energy Services, LLC (“Direct Energy”).

As explained in Exception Number 1, the ALJ’s recommendation to give PPL another chance to try to prove actual uncollectible accounts expense applicable to POR customers (as opposed to distribution customers generally which is all that PPL has offered) should be rejected. PPL has made clear in this record (and in its last distribution rate case) that it cannot do this calculation presumably because it would take an unreasonable expenditure of time and resources to try to create this calculation. Therefore, the remedy for PPL’s failure in this regard and the only effective way to avoid the potential that shopping customers being overcharged through the POR discount rate for their actual share of uncollectible accounts expense is to apply the unbundled uncollectible accounts expense charge to all customers on a non-bypassable basis. This approach – which is currently utilized by the FirstEnergy companies – has the added benefit

of creating a more attractive and robust POR program to support the development of retail competition for the mass market.

If, however, the Commission rejects Direct Energy's Exception Number 1 and chooses to maintain the MFC/POR discount collection mechanism then it needs to make three adjustments in order to calculate the correct POR discount rate. As explained in Exception Number 2, the initial starting point for calculating the POR discount must be to use the uncollectible accounts expense factor the Commission permits PPL to utilize in calculating its revenue requirements. In this case, the ALJ correctly recommended that the level for residential customers should be 1.70%. If the Commission determines a different uncollectible accounts expense percentage for PPL's revenue requirements, then that percentage should be used.

From this starting point, the uncollectible accounts expense factor must be further adjusted to address PPL's continued failure to credit the uncollectible accounts expense factor with the revenue it receives from late payment charges. PPL continues to provide the credit for late payment revenue to all distribution customers in lieu of applying it to the uncollectible accounts expense factor even though: (1) a portion of the late payment revenues are undeniably associated with generation charges; and, (2) revenue from late payment charges decreases the amount of uncollectible accounts expense that ratepayers must pay for those who do not pay their bills.

The final adjustment that must be made to calculate the POR discount rate (if the Commission denies Direct Energy's first exception) is to include a 0.05% administrative credit. The purpose of the credit is to return the approximately one million dollars PPL has already collected through the administrative factor of the POR discount rate in light of PPL's clear admission that: (1) it never tracked how much incremental actual cost was needed to implement

and run the program; and, (2) it never tracked these costs to assure that it has not already recovered them in its base rates.

In conclusion, PPL was directed in 2009 by the Commission to implement a POR program and, in doing so, the Commission stated that “any discount in the purchase of receives should, as much as possible, reflect only the Company’s actual expenses. This should not be a mechanism for the Company to make money.”<sup>1</sup> PPL has never proven the actual costs of either the uncollectible accounts expense for shopping customers (just as the ALJ concluded here) or the incremental administrative costs of implementing the program yet it continues to seek to recover these unsubstantiated costs through the POR discount rate. Given these undisputed failures, Direct Energy urges the Commission to direct PPL to remove its recovery of uncollectible accounts expense for shopping customers from the POR discount rate and recover it from all customers through a non-bypassable charge. This change would give meaning to the ALJ’s finding that PPL has not proven its actual uncollectible accounts expense for shopping customers and would be highly preferable to continuing an already bad mechanism based on unsupported numbers.

## II. EXCEPTIONS

### A. **Exception No. 1: Although She Correctly Concluded That PPL Has Failed To Prove Its Rate Increase Request Regarding The POR Discount Rate, The ALJ Erred In Directing PPL To Continue The Current POR/MFC Discount Mechanism Regardless (RD at 133, Ordering ¶¶ 9-11)**

Direct Energy opposed PPL’s proposal to increase the uncollectible accounts factor recovered in the POR discount by 23.89% for residential customers and 56.52% for small

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<sup>1</sup> *PPL Electric Utilities Corporation Retail Markets*, Final Order entered at Docket No. M-2009-2104271, Final Order entered on August 11, 2009 at 29-30 (emphasis added).



commercial customers because: (1) there is no record basis to support PPL's claimed uncollectible accounts expense level for shopping customers being served via POR; (2) PPL's uncollectible accounts expense percentage for generation-related services does not attempt to reflect the actual uncollectible cost for the group of customers being required to pay for it; and, (3) PPL's proposal will stall development of a fully robust competitive retail market.<sup>2</sup> Instead of continuing PPL's problematic MFC/POR discount recovery mechanism, Direct Energy recommended that PPL be required to recover the currently unbundled uncollectible accounts expense in a non-bypassable charge applicable to all customers, similar to the approach used by the FirstEnergy companies.<sup>3</sup>

In her RD, the ALJ correctly concluded that “the actual amount of the uncollectible expenses is required in order to fairly charge customers the correct amount.”<sup>4</sup> She did not, however, place this important finding in the appropriate context of PPL's overall POR program design and how continuation of that design – with its ever-increasing POR discount rate – could negatively impact the status of retail competition for the mass market in PPL's service territory. The Commission has recognized that the purpose of the POR program is to facilitate the growth of the competitive market so as to ensure compliance with the Electricity Generation Choice and Generation Act (“Choice Act”).<sup>5</sup> A properly structured POR program is and will remain an important part of competitive market development because it keeps “barriers to entry” down,

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<sup>2</sup> Direct Energy Main Brief (“MB”) at 11-15.

<sup>3</sup> See *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Default Service Programs*, Docket Nos. P-2011-2273650; P-2011-2273668; P-2011-2273669; P-2011-2273670, Opinion and Order entered August 16, 2012.

<sup>4</sup> RD at 133 (emphasis added).

<sup>5</sup> 66 Pa. C.S. § 2801 *et seq.* See, e.g., *PPL Electric Utilities Corporation Retail Markets*, Docket No. M-2009-2104271, Tentative Order adopted May 14, 2009 at 15; 66 Pa. C.S. § 2806(a).

reduces costs and places competitive supply on an equal footing with default service in terms of collection. Under the current market design, there really is no viable alternative to a properly structured POR program to enable electric generation suppliers (“EGSs”) to cost efficiently provide service to the mass market.<sup>6</sup> Thus, a POR program that is not properly structured is likely to result in EGSs choosing not to enter the market or, if they have already entered, to exit.<sup>7</sup>

For PPL’s POR program, its chosen uncollectible accounts expense recovery mechanism – which reflects total uncollectible accounts expense in the POR discount rate without regard for actual uncollectible accounts expense generated by shopping customers – has resulted in continuing and significant increases to the POR discount rate. This history of PPL’s POR discount rates and its current proposal are reflected in the below table:

<b>PPL POR Discount Rates Effective January 1, 2010</b>		
	<b>Residential</b>	<b>Small C&amp;I</b>
Uncollectible Factor	1.32%	.12%
Administrative	0.05%	0.05%
<b>Total Discount Rate</b>	<b>1.37%</b>	<b>0.17%</b>
<b>PPL POR Discount Rates effective January 1, 2011</b>		
	<b>Residential</b>	<b>Small C&amp;I</b>
Uncollectible	1.80%	0.10%
Administrative	0.05%	0.05%
<b>Total Discount Rate</b>	<b>1.85%</b>	<b>0.15%</b>
<b>PPL Proposed POR Discount Rates To Be Effective January 1, 2013</b>		
	<b>Residential</b>	<b>Small C&amp;I</b>
Uncollectible Factor	2.23%	0.23%
Administrative	0.00%	0.00%
<b>Total Discount Rate</b>	<b>2.23%</b>	<b>0.23%</b>

If the residential discount rate PPL proposes here were to be adopted, then PPL’s POR program would have the highest discount rate of all the EDCs in the Commonwealth with a rate

<sup>6</sup> Direct Energy St. No. 1-SR at 5.

<sup>7</sup> Direct Energy St. No. 1-SR at 5.

significantly higher than the only other EDC utilizing a similar collection mechanism.<sup>8</sup> In this case, the record shows that approving the significant increase to the POR discount rate proposed by PPL could have a negative effect on the continued development of the competitive market in PPL's service territory, particularly for residential and small commercial and industrial customers, who continue to lag significantly in shopping compared to larger customers.<sup>9</sup> This, coupled with the history of PPL continuing to increase the POR discount rate to recover uncollectible accounts expense will negatively impact the overall attractiveness of the POR program from the viewpoint of competitive suppliers. EGSs choosing to exit the market or to not serve these customers as a result of the POR program design could materially reduce the status of competition in PPL's service territory where approximately 43% of its current residential customers receive competitive generation supply.<sup>10</sup> If the ALJ had properly taken into consideration these issues, then the only remedy for PPL's failure to calculate actual uncollectible accounts expense for shopping customers would have been to direct implementation of Direct Energy's alternative uncollectible accounts expense recovery mechanism. Instead, the ALJ recommended that the Commission give PPL yet another opportunity to try to prove actual uncollectible accounts expense for shopping customers and, if PPL cannot do that, to continue to charge the same uncollectible accounts expense factor taken

<sup>8</sup> The only other EDC that recovers some portion of the uncollectible accounts expense through the POR discount is Duquesne Light and, as seen in the chart below, the amount it recovers has historically been significantly lower than PPL.

<b>Duquesne Light</b>				
<b>Supplier Tariff,</b>	<b>Rule No. 12.1.7.1.2</b>	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Medium C&amp;I</b>
Uncollectible		0.42%	0.42%	0.18%
Administrative		0.10%	0.10%	0.10%
<b>Total Discount Rate</b>		<b>0.52%</b>	<b>0.52%</b>	<b>0.28%</b>

<sup>9</sup> Direct Energy St. No. 1 at 6.

<sup>10</sup> Weekly PAPowerSwitch Update of Customers Switching To An Electric Generation Supplier as of October 31, 2012. Available at [www.PAPowerSwitch.com](http://www.PAPowerSwitch.com)

from PPL's prior rate case which is also not based on the actual uncollectible accounts expense for shopping customers.<sup>11</sup> In Direct Energy's opinion, this was in error and must be rejected.

At the hearing, PPL Witness Kleha confirmed that PPL does not track uncollectible accounts expense for shopping customers. He further confirmed that, even though PPL tracks *revenues* from EGSs, PPL could not determine if the customers of any EGSs were responsible for the uncollectible accounts expense.<sup>12</sup> PPL's inability to determine the actual uncollectible accounts expense for shopping customers is not new. In fact, the Commission recognized in PPL's last distribution rate case that the uncollectible accounts expense factor charged in the POR discount rate is not based on the actual uncollectible accounts expense of shopping customers. At that time, however, the Commission determined that that "the newness of the PPL POR program prevents actual costs from being used in calculating the uncollectible accounts expense factor."<sup>13</sup> Since that time, PPL still has not been able to calculate actual uncollectible accounts expense for shopping customers although it asks the Commission here to not only continue its collection mechanism but to increase the rate by 23.89% for residential customers and 56.52% for small commercial customers. As determined by the ALJ, PPL has not met its burden of proving that the proposed POR discount rate is just and reasonable and non-discriminatory.<sup>14</sup> On the contrary, PPL's position is akin to it claiming a maintenance expense

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<sup>11</sup> RD at 133, 142 at ordering ¶¶ 9 -11.

<sup>12</sup> Tr. at 404-405.

<sup>13</sup> *Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation*, Docket No. R-2010-2161694, Opinion and Order entered December 21, 2012 at 94-95.

<sup>14</sup> This Commission has the statutory mandate, authority and responsibility to adjudicate whether proposed rates are just and reasonable and non-discriminatory and whether they constitute adequate and reasonable service. *See* 66 Pa. C.S. § 1301(discrimination in rates), 1501 (character of service and facilities; adequate, safe and reasonable). *See also PUC v. PPL Electric Utilities Corporation*, Docket No. R-2010-2161694, Opinion and Order entered June 21, 2012, 2012 Pa. PUC LEXIS 989 (requiring PPL to provide service to Donsco at a discount would constitute unreasonable discrimination in rates in violation of Section 1304 of

associated with Pennsylvania operations based on the amount incurred by PECO because it cannot determine exactly how much PPL incurred on its own. The Commission would never permit PPL to impose such a charge based on such non-existent support. The ALJ failed to give appropriate weight to PPL's clear concession that it cannot calculate the actual uncollectible accounts expense for shopping customers when she recommended that PPL's current MFC/POR discount mechanism be continued.

There are only a few ways in which to "cure" this fundamental failure. The Commission could deny – and would be well within its authority to – PPL's request to impose any POR discount for uncollectible accounts expense. This, however, would deny PPL the ability to recover uncollectible accounts expense for the accounts receivable it purchases under the POR program. As such, the better approach would be to adopt Direct Energy's recommendation to convert PPL's current MFC/POR discount collection mechanism to one charge applied to all customers on a non-bypassable basis.

This outcome would eliminate the need to determine the specific uncollectible accounts expense for shopping customers while allocating the uncollectible accounts expense across all customers consistent with traditional rate-making principles. While the ALJ criticizes Direct Energy's proposal because it does not require a calculation of actual uncollectible accounts expense for shopping customers, the fact here is that PPL cannot make this calculation. Even the ALJ acknowledged that, presumably when the actual uncollectible accounts expense cannot be calculated, Direct Energy's approach is better than the one used by PPL (according to the ALJ, Direct Energy's mechanism is "less unfair in its inherent unfairness.")<sup>15</sup>

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the Code, and would result in rates that are neither just nor reasonable in violation of Section 1301 of the Code).

<sup>15</sup> PPL RD at 133.

In addition to dealing with this, Direct Energy's approach would result in a simpler, more attractive POR program leading to a wider diversity of product options for customers. It also treats all customers the same and leverages the well-established and powerful system of the EDC to minimize the cost of uncollectible accounts expense for the benefit of all consumers. In this sense, Direct Energy's alternative proposal to PPL's approach is preferable and more consistent with the Choice Act and an appropriate response to PPL's admitted inability to determine the actual uncollectible accounts expense cost for shopping customers..<sup>16</sup>

While the Commission concluded in PPL's last distribution rate case that the mechanism supported by Direct Energy here is not a "superior method of recouping uncollectibles," this conclusion was based on a finding "that collection risk for shopping customers should remain with the EGSs" which was based on the assumption that PPL would track actual uncollectible accounts expense for shopping customers in the future although it had not been able to do so by that point in time.<sup>17</sup> While the Commission may have chosen to essentially "give PPL a pass" in the last case given the then "newness" of the POR program, the Commission has been absolutely clear since directing PPL to implement the POR program in 2009 that "any discount in the purchase of receives should, as much as possible, reflect only the Company's actual expenses. This should not be a mechanism for the Company to make money."<sup>18</sup> The record in this case is clear that PPL has failed to do what the Commission directed it do in 2009 and assumed it would do following the last distribution rate case with the result that PPL is seeking a very significant

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<sup>16</sup> See Direct Energy MB at 14-23 (provides further supporting explanation).

<sup>17</sup> *Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation*, Docket No. R-2010-2161694, Opinion and Order entered December 21, 2012 at 94-95.

<sup>18</sup> *PPL Electric Utilities Corporation Retail Markets*, Final Order entered at Docket No. M-2009-2104271, Final Order entered on August 11, 2009 at 29-30 (emphasis added).

increase to the POR discount rate for the purpose of recovering uncollectible accounts expense from shopping customers without any information about what these costs are in reality.

Accordingly, the inability of PPL to properly measure and unbundle uncollectible accounts expense for shopping customers and the potential resulting negative effect on retail competition of maintaining PPL's current MFC/POR discount mechanism justifies the adoption of Direct Energy's proposal to recover the unbundled uncollectible accounts expenses from all customers through a non-bypassable charge. Such result would be consistent with the ALJ's apparent conclusion that Direct Energy's proposal is a better alternative to PPL's approach if actual uncollectible accounts expense cannot be determined and would be highly preferable to continuing an already bad mechanism based on unproven numbers.<sup>19</sup>

**B. Exception No. 2: Even If The ALJ's Recommendation To Continue PPL's Current POR/MFC Discount Structure Is Adopted, She Erred In Failing To Recommend Adjustments To The Calculation Of The POR Discount Rate That Are Supported By The Record (RD at 133-134; Ordering ¶¶ 10, 11)**

Regarding the amount of uncollectible accounts expense that PPL should be permitted to recover, the ALJ correctly concluded that "the actual amount of the uncollectible expenses is required in order to fairly charge customers the correct amount."<sup>20</sup> However, instead of adopting Direct Energy's recommendation to change the mechanism by which PPL collects uncollectible accounts expense to a non-bypassable charge (as explained in Exception Number 1), the ALJ recommended that PPL be ordered to "determine the correct amount of uncollectible expenses incurred in 2012 and the break-down of expenses between shopping and default service customers" and, if PPL fails to do so, then the ALJ recommended that "the percentage rates

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<sup>19</sup> RD at 133.

<sup>20</sup> RD at 133 (emphasis added).

currently in effect in its [POR] program shall remain in effect.”<sup>21</sup> While Direct Energy urges the Commission to adopt its collection mechanism in light of PPL’s continuing inability to provide actual data to support its mechanism, if the Commission chooses to adopt the ALJ’s recommendation and PPL is unable to prove actual uncollectible accounts expense, then PPL’s current POR discount rates cannot simply be continued at the same rates.

Rather, the Commission must direct that the initial starting point for the uncollectible accounts expense portion of the POR discount must be the same level of uncollectible accounts expense used to determine PPL’s revenue requirement. From there, the Commission should further adjust the POR discount rate to: (1) offset the uncollectible accounts expense percentage factor by the unbundled portion of the revenue PPL receives from late payment charges related to generation rates; and, (2) create an administrative credit of .05% to the POR discount rate to return to EGSs the money PPL has collected during the POR program through the administrative component based on PPL’s admitted failure to track actual incremental administrative costs and to quantify them.

1. The initial starting point for the uncollectible accounts expense portion of the POR discount must be the same level of uncollectible accounts expense used to determine PPL’s revenue requirement

The initial starting point for determining the POR discount rate must be the uncollectible accounts expense factor the Commission permits PPL to utilize in calculating its revenue requirements. In this case, the ALJ correctly recommended that the level for residential customers should be 1.70%.<sup>22</sup> This is in contrast to the current uncollectible accounts expense

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<sup>21</sup> RD at 133, 142, Ordering ¶¶ 10, 11.

<sup>22</sup> RD at 42. The ALJ reject PPL’s claim that the uncollectible accounts expense should be set at 2.23% and instead recommends that the Commission adopt 1.70% as recommended by I&E and supported by the record.



factor of 1.80% and PPL's proposed factor of 2.23%. Consistent with Direct Energy's advocacy in this proceeding, any changes directed by the Commission to the level of uncollectible accounts expense used to determine PPL's revenue requirement must result in the same adjustment to the uncollectible accounts expense percentage included in the POR discount rate if PPL's MFC/POR discount mechanism is continued.<sup>23</sup> After the uncollectible accounts expense rate is set based on the amount PPL is permitted to utilize for its revenue requirements, then the adjustments described in the next two sections should be applied to arrive at the POR discount rate.

2. Because revenue received from late payment charges reduces the amount of uncollectible accounts expense, the uncollectible accounts expense factor of the POR discount rate must be offset by the unbundled portion of revenue PPL receives from late payment charges related to generation related rates

As the ALJ correctly noted, the revenue PPL receives when customers pay late payment charges has been historically used by PPL as an overall revenue credit to distribution rates thereby reducing the overall amount of the distribution rate increase sought by PPL.<sup>24</sup> Since, historically, all of PPL's rates were bundled, this accounting for late payment revenue was not problematic. However, with the implementation of the POR program, PPL has now separated uncollectible accounts expense from distribution rates and recovers that expense through the MFC/POR discount rate recovered from generation customers. PPL does this even though a portion of late payment revenue is directly related to uncollectible accounts expense and reduces the amount of the uncollectible accounts expense that is incurred (PPL's late payment charge is assessed on a percentage basis). Because of this, Direct Energy proposed that PPL be required to

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<sup>23</sup> Direct Energy MB at 32.

<sup>24</sup> RD at 134.

adjust the uncollectible accounts expense factor by the amount of late payment revenue it expects to receive and to remove the late payment credit from the calculation of the distribution rates.<sup>25</sup>

In her disposition of this issue, the ALJ referenced arguments from PPL that: (1) revenue from late payment charges are not uncollectible accounts expense; (2) late payment charges are used to reduce overall distribution of revenue requirement for rate classes that bear the working capital requirement associated with accounts receivable; and, (3) if the accounting mechanism were changed, then it would result in rate increases for all distribution customers.<sup>26</sup> Apparently accepting these arguments, the ALJ stated that “late payment fees are presently added to revenues, and that is where they should remain.”<sup>27</sup> The ALJ erred in reaching this conclusion and, therefore, her recommendation should not be adopted.

The relationship between revenue received from the collection of late payment fees and the total uncollectible expense resulting from unpaid bills cannot be seriously disputed. If a residential customer does not pay his or her bill within 20 days, then PPL assesses a late payment charge of 1.25% per month.<sup>28</sup> Late payment charges exist because a customer has not paid his or her bill in a timely manner.<sup>29</sup> When PPL pursues collection of its unpaid bills, it also seeks collection of its late payment charges.<sup>30</sup> If a customer continues to not pay his or her bill, PPL writes off the total arrearage, including the uncollected late payment charges.<sup>31</sup> Therefore, from

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<sup>25</sup> Direct Energy MB at 24-27.

<sup>26</sup> RD at 134.

<sup>27</sup> RD at 134.

<sup>28</sup> Direct Energy St. No. 1-SR at 14.

<sup>29</sup> Direct Energy St. No. 1-SR at 14. See Exhibit RMC-3, according to PPL late payment charges are “imposed to offset the carrying costs of overdue accounts receivables.”

<sup>30</sup> Direct Energy St. No. 1-SR at 14.

<sup>31</sup> Direct Energy Exhibit RMC-3, which includes the following discovery responses from PPL: PPL Answer to DES Interrogatory I-5(b); and PPL Answer to DES Interrogatory I-5(c).

a paying ratepayer standpoint, late payment revenue received by PPL reduces the amount the paying ratepayer must pay for non-paying customers through uncollectible accounts expense.

Additionally, PPL admits that the revenue from late payment charges is used to reduce PPL's accounts receivable balance.<sup>32</sup> In turn, PPL's uncollectible accounts expense is lower. Yet by failing to unbundle this significant amount – \$13 million in the future test year<sup>33</sup> – PPL gives the entire reduction value to distribution customers while EGS customers are required to pay the gross amount of uncollectible accounts expense without regard to the offset provided by late payment revenue.<sup>34</sup> Rather than credit distribution revenues, revenue from late payment charges is more properly allocated to both distribution and generation customers.<sup>35</sup>

While reallocating the credit for the late payment revenue may result in higher distribution rates, any such change would be offset by a lower uncollectible accounts expense factor which – pursuant to PPL's POR program structure – is paid by all customers. Moreover, this proposal does not deprive PPL of any revenue or earnings associated with late payment revenue. Rather, it would allocate the late payment revenue to both the distribution and generation customers (or the distribution and generation parts of the bill). This is appropriate because the level of late payment charges is directly affected by the level of generation charges billed to the customers (since the charge is assessed as a percentage of the total bill).

For all of these reasons, if the Commission chooses to maintain PPL's current MFC/POR discount rate mechanism, then PPL should be directed to offset the amount of the uncollectible

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<sup>32</sup> Direct Energy St. No. 1 at 15-16.

<sup>33</sup> PPL's response to OCA, Set V, Q10.

<sup>34</sup> Direct Energy St. No. 1 at 15-16, *citing*, Exhibit RMC-3 and PPL Answer to DES Interrogatory I-5(b).

<sup>35</sup> Direct Energy St. No. 1-SR at 15. The question of whether cash working capital costs should also be unbundled and separately charged is a separate question, and it should not slow the Commission from properly allocating the late payment charges. Direct Energy St. No. 1-SR at 16.

accounts expense by the projected late payment revenue and remove the credit from the distribution rates. Based on PPL's Cost of Service Study, residential customers are responsible for 82.85% of the late payment charges. Accordingly, 82.85% of the *pro forma* amount in the future test year (\$13,000,000 as claimed by PPL), which is \$10,770,500, should be applied as an offset to the uncollectible accounts expense ultimately used by PPL to calculate the POR discount rate for residential customers. The corresponding calculation for small C&I customers is 9.65% and \$1,254,500. Netting late payment charges results in a revised uncollectible cost discount rate of 1.63% for residential customers and 0.07% for small C&I customers. A corresponding adjustment must be made to reduce PPL's test year pro forma distribution revenues by an identical amount, to reflect this partial allocation of the revenues to the generation portion of the uncollectible accounts expense.<sup>36</sup>

3. Because PPL has never tracked and cannot quantify the actual incremental administrative costs related to the POR program, a credit must be added to the POR discount rate to return the million dollars already collected by PPL

There is no dispute in the record that: (1) PPL has collected approximately one million dollars through the administrative component of the POR discount rate since the program's inception;<sup>37</sup> and, (2) PPL has failed to account for how the money it has collected has been utilized (or whether it was even needed) to pay for the actual incremental costs of the POR program.<sup>38</sup> In fact, the record supports a conclusion that PPL never actually incurred any incremental expenses that it anticipated would be needed to implement and administer the POR

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<sup>36</sup> Direct Energy St. No. 1 at 16; Direct Energy Exhibit RMC-4. *See also* Direct Energy MB at 24-27.

<sup>37</sup> Exhibit RMC-1, PPL Answer to DES Interrogatory I-2(a); Tr. 415.

<sup>38</sup> PPL St. No. 8 at 29; Tr. at 416-4-17.

program.<sup>39</sup> Based on this, Direct Energy proposed that if PPL’s current MFC/POR discount mechanism were to be continued, then the Commission should direct PPL to refund the amounts collected through the POR discount for administrative costs through a 0.05% credit to the POR discount rate until the amount PPL has already collected is returned.<sup>40</sup> Without explanation, the ALJ rejected Direct Energy’s proposal as “impermissible retroactive ratemaking.”<sup>41</sup> This conclusion, however, was wrong and should be reversed by the Commission.

As a threshold matter, the ALJ’s rejection in this regard is wholly inconsistent with her correct recommendation that PPL should only be permitted to recover actual costs associated with the uncollectible accounts expense component of the POR discount. The ALJ’s logic regarding the need for actual uncollectible accounts expense calculations equally applies whether addressing the POR discount component designed to recover costs associated with the uncollectible accounts expense or addressing the incremental expenses associated with administering the program. In both cases, cost recovery through the POR discount must be limited to the actual expense.

Specifically regarding administrative costs, the Commission has been absolutely clear that PPL can only recover the “actual incremental costs incurred” to administer the POR program.<sup>42</sup> According to the Commission, the POR program is not to be “a mechanism for the Company to make money.”<sup>43</sup> Because concerns were raised in PPL’s prior distribution rate case regarding PPL’s admitted failure to track actual incremental administrative costs incurred despite

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<sup>39</sup> Direct Energy MB at 29.

<sup>40</sup> Direct Energy St. No. 1 at 17-18; Direct Energy MB at 27-32.

<sup>41</sup> RD at 133.

<sup>42</sup> *PPL Electric Utilities Corporation Retail Markets*, Docket No. M-2009-210427, Final Order entered August 11, 2009 at 29 (emphasis added).

<sup>43</sup> *Id.*

its request to continue to collect 0.05% through the POR discount rate, PPL expressly committed to tracking these incremental administrative costs going forward.<sup>44</sup> Notwithstanding all of this, the record here is undisputed that PPL never tracked its incremental administrative costs to implement and run the POR program.<sup>45</sup> While PPL appropriately proposed not to continue the current administrative component of the POR discount rate, its prior collection of one million dollars without the slightest proof that it had incurred such incremental costs must not be summarily dismissed as recommended by the ALJ. Rather, Direct Energy's recommendation that an administrative cost credit be included in the POR discount rate (if that mechanism is continued) should be implemented.

Concerns about retroactive ratemaking are misplaced. The administrative factor is a charge that was paid by EGSs through the POR discount rate for a specific purpose which PPL was required to quantify and track. Consequently, Section 1308 does not apply here. Rather, Direct Energy's proposal is supported by Section 1312 of the Public Utility Code which gives the Commission the authority to direct a utility to refund the excessive amounts paid by any "patron."<sup>46</sup> Here, the EGSs – through the discount rate – paid PPL for the incremental administrative costs of the POR program in which they participated.

PPL, despite being ordered and agreeing to do so, never tracked the incremental costs incurred and collected one million dollars through the administrative factor of the POR discount rate. Therefore, a refund – in the form of a credit to the on-going POR discount rate (if the MFC/POR discount mechanism is continued) – is not only appropriate but legally required. This outcome is also completely consistent with the ALJ's recommendation that the uncollectible

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<sup>44</sup> Tr. at 416-417.

<sup>45</sup> PPL St. No. 8 at 29; PPL Initial Brief at 194.

<sup>46</sup> 66 Pa. C.S. § 1312(a).

accounts expense factor of the POR discount rate be based on actual uncollectible accounts expense.

4. Summary of Direct Energy’s proposed POR discount rates if the Commission chooses to continue to permit PPL to recover the uncollectible accounts expense from shopping customers through the POR discount rate

Setting the POR discount rate consistent with the discussion in the previous sections would result in the following discount rates:

<b>Adjustment to PPL’s Current POR Discount Rates</b>					
<b>Customer Class</b>	<b>Uncollectible Accounts Expense Component</b>	<b>Administrative Adder Component<sup>47</sup></b>	<b>Credit to return already collected administrative costs</b>	<b>Credit for Revenue from Late Payment Fees<sup>48</sup></b>	<b>Total Discount Rate</b>
<b>Residential</b>	1.70%	0.00%	-0.05%	-0.60%	1.05%
<b>Small C&amp;I</b>	0.23%	0.00%	-0.05%	-0.16%	0.02%

### **III. CONCLUSION**

For the reasons set forth above, Direct Energy Services, LLC respectfully requests that the Commission grant these exceptions and direct PPL to recover the costs of uncollectible accounts expense for shopping customers through a non-bypassable charge since PPL is unable to prove the actual costs. Such a result is consistent with the Commission’s clear pronouncement in the development of PPL’s POR program that it expected the POR discount rate to reflect

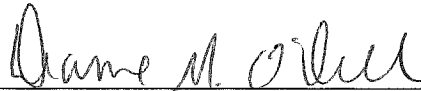
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<sup>47</sup> Since no party objected to the reduction of the administrative factor of the POR discount, the Commission should clarify that if it adopts the ALJ’s recommendation to continue the current POR discount rate (if PPL cannot provide actual evidence to support it) then the administrative factor of 0.05% must be reset to 0.00%.

<sup>48</sup> This percentage calculation is derived from Direct Energy Exhibit RMC-4 which utilizes PPL’s claim in this proceeding for uncollectible accounts expense and forfeited discount/late payment revenue by class and allocates a portion of this claim by class. The percentages are the difference between the uncollectible claim resulting from this calculation and that sought by PPL.

actual costs. If, however, the Commission rejects this recommendation, then Direct Energy recommends that the POR discount rate be calculated consistent with Exception Number 2.

Respectfully submitted,



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