

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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January 14, 2013

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17101

Re: Pa. Public Utility Commission  
v.  
PPL Electric Utilities  
Docket No. R-2012-2290597

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Petition for Reconsideration or Clarification in the above-referenced proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Darryl A. Lawrence".

Darryl A. Lawrence  
Assistant Consumer Advocate  
PA Attorney I.D. # 93682

Enclosures

cc: Honorable Susan D. Colwell  
Certificate of Service  
155413.DOC

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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PETITION OF THE OFFICE OF  
CONSUMER ADVOCATE FOR  
RECONSIDERATION OR CLARIFICATION

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The Office of Consumer Advocate (OCA) hereby submits this Petition pursuant to Sections 5.41 and 5.572 of the Public Utility Commission’s (Commission) regulations. 52 Pa. Code §§ 5.41, 5.572. The OCA requests that the Commission reconsider and/or clarify its Order entered December 28, 2012, in the above-captioned case regarding the collaborative established to consider a Storm Damage Expense Rider. The OCA respectfully requests that the Commission include consideration of a Storm Damage Reserve Account, as developed in the record of this case, as a mechanism to also be considered in the collaborative process.

I. INTRODUCTION

On December 28, 2012, the Commission entered an Opinion and Order (Order) in the above-captioned proceeding. The Order addressed the general rate case filed by PPL Electric Utilities Corporation (PPL or Company). The OCA seeks reconsideration or clarification of the Commission’s Order as it relates to the collaborative established to consider a storm damage expense rider proposal. Clarification or reconsideration is necessary because the Commission’s

Order indicates that it is adopting ALJ Colwell's Recommended Decision (R.D.) that provided for the establishment of a storm damage reserve account, but the Order directs consideration of a rider. While both mechanisms can achieve the same purpose, the OCA submits that they can have different impacts on customers and customer acceptance that should be considered in the collaborative process. If the Commission's Order was intended to limit the discussion between PPL and the public advocates to only the creation of a rider, then the OCA respectfully seeks reconsideration on that issue, as apparently key evidence and facts provided by PPL and I&E, and ALJ Colwell's R.D. as to the creation of a storm damage reserve account have been overlooked by the Commission. Accordingly, the OCA requests the Commission to review its Order and clarify that the establishment of a storm damage reserve account should also be considered in the collaborative process.

## II. STANDARD OF REVIEW

As set forth in Duick v. Pennsylvania Gas and Water Co., 56 Pa.P.U.C. 553 (1985), the standards for granting a petition for reconsideration are as follows:

A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was stated that “[p]arties ..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them ...” What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

56 Pa.P.U.C. at 559 (quoting Pennsylvania R.R. Co. v. Pa. Pub. Util. Comm'n, 118 Pa. Super. 380, 179 A. 850 (1935)) (emphasis added).

In this Petition, the OCA raises one issue which the Commission may have overlooked. The OCA seeks reconsideration or clarification of the Order as it relates to the Section entitled “Storm Damage Expense Recovery.” Order at 35-38. Specifically, this section of the Order, under “Disposition” appears to overlook the fact that the R.D., PPL’s Exceptions and I&E’s Reply Exceptions all discuss the possibility of creating a storm damage reserve account *or* a rider for the future recovery of extraordinary storm damage and was not limited to only the creation of a rider for this purpose. The OCA looks forward to working with the Company and other stakeholders in the creation of a reasonable mechanism for the recovery of storm damage expenses, but the OCA submits that such a discussion should include all alternatives that have been developed in the record.

The OCA submits that the Commission’s Order does not reflect the full record that was developed on this issue, particularly as it concerns the use of a reserve account. Accordingly, the OCA respectfully requests that the Commission clarify that both a reserve account mechanism and a rider mechanism should be the subject of discussion in the collaborative process.

### III. RECONSIDERATION OR CLARIFICATION

The section of the Order in question is as follows:

Based upon our review of the record and the Parties’ Exceptions and Replies to this issue, *we agree with the ALJ’s recommendation* to adopt I&E’s proposal for PPL to propose a Storm Damage Expense Rider for Commission review. R.D. at 39. The issues to be discussed between PPL and the public advocates shall include, but not be limited to, the following: (1) provisions for interest on under and over collections; (2) timing of reconciliation; (3) reporting of storm damage expenses and revenue for their

recovery; (4) methods for adjusting the annual level of the expense in rates; and (5) exact categories of storm damage expense that would be subject to the reconciliation. Additionally, we approve I&E's recommendation, and so direct, that PPL file a rider for storm damage expense recovery within ninety days of the date of entry of this Opinion and Order. PPL has stated its intention to file as soon as practicable after the Commission's entry of a final decision in this proceeding.

Order at 37-38 (emphasis added). This part of the Order provides that the Commission agrees with the ALJ's recommendation to adopt I&E's proposal as to storm damage expense recovery, but the Order misstates what ALJ Colwell recommended.

In her R.D., ALJ Colwell provided the following discussion and recommendation under the heading "Storm Damage Reserve Account":

The I&E recommendation that this Company may be better off with a storm damage reserve account or rider is worth pursuing ...

...

The insurance proposal was approved in 2007, and sufficient time has elapsed to find that it is not being used to the benefit of the ratepayers. PPL Electric should be directed to develop a plan for establishment of a *storm damage reserve account* and to submit it for approval. If approved, it should be implemented when the insurance coverage provided by its present provider expires. It is recommended that the public advocates be included in the development of this program.

R.D. at 38-39 (emphasis added). ALJ Colwell was clear in her recommendation that PPL should establish a storm damage reserve account. PPL and I&E filed Exceptions and Reply Exceptions, respectively, on this issue.

In its Exceptions, PPL explained that the main point of contention between the Company and I&E was related to PPL's continued purchase of storm damage insurance. PPL Exc. at 20-26. ALJ Colwell agreed with I&E on this issue and proposed that PPL should establish a storm damage reserve account as opposed to continuing to purchase storm damage insurance. R.D. at 39. The Company explained further, however, that the storm insurance issue

was now moot, as such insurance would be unavailable for 2013. PPL Exceptions at 23. PPL also provided that “[a] reserve/tracker mechanism for storm damage expense is clearly appropriate.” Id.

In reply to PPL, I&E restated its position as to the recovery of storm damage expense, in relevant part:

Reviewing five years' of data under this strategy, I&E concluded that the Company's purchase of storm insurance from its affiliate proved more advantageous to the Company's affiliate than ratepayers and recommended that PPL be required to discontinue the insurance and instead use a storm reserve account or a storm rider.

I&E Reply Exceptions at 11. The position set out here is completely consistent with what I&E recommended in its Main Brief, either a storm reserve account or a rider should be considered. I&E M.B. at 55. The record evidence also establishes that neither PPL nor I&E took specific exception to ALJ Colwell's recommendation for consideration of a storm reserve account, although, admittedly, both parties used the terms “reserve account”, “tracker” and “rider” interchangeably at various places in their submitted documents. Accordingly, the OCA submits that the discussions to take place between PPL and the statutory advocates as to storm damage expense recovery mechanisms should not be limited to only the creation of a rider, but should also include consideration of a storm reserve account.

The OCA submits that the Commission's Order, as discussed herein, should be clarified or reconsidered given the ALJ's recommendation. The OCA respectfully requests the Commission to include ALJ Colwell's recommendations as they relate to the creation of a storm damage reserve account in the collaborative discussions.

IV. CONCLUSION

For these reasons, the OCA respectfully requests that the Commission clarify or reconsider its decision as set forth above.

Respectfully Submitted,



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Dated: January 14, 2013

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CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the Office of Consumer Advocate's Petition for Reconsideration or Clarification, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 14th day of January 2013.

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