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April 18, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

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

Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the Comments of the PP&L Industrial Customer Alliance ("PPLICA") to the Compliance Tariff Filing in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being duly served with a copy of the document. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare', written over a horizontal line.

Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

AAB/sar

Enclosure

c: Certificate of Service

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Docket No. R-2012-2290597, *et al.*
Page 2

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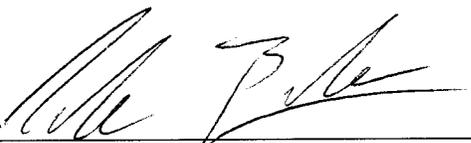
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Counsel to PP&L Industrial Customer Alliance

Dated this 18th day of April, 2013, at Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS OF THE
PP&L INDUSTRIAL CUSTOMER ALLIANCE**

I. INTRODUCTION

On March 28, 2013, PPL Electric Utilities Corporation ("PPL" or "Company") filed Tariff Supplement No. 130 to PPL Electric Utilities Corporation Tariff – Electric Pa. P.U.C. No. 201 ("Supplement No. 130") with the Pennsylvania Public Utility Commission ("PUC" or "Commission") proposing to establish a Storm Damage Expense Rider ("SDER").¹ PPL submitted Supplement No. 130 pursuant to the Commission's Opinion and Order entered on December 28, 2012, at the above-captioned docket ("December Order").

Consistent with the Secretarial Letter issued on April 5, 2013, the PP&L Industrial Customer Alliance ("PPLICA") hereby submits these Comments to the proposed SDER. As set forth below, PPLICA requests that the Commission reject PPL's request to establish an SDER. Alternatively, PPLICA requests that the Commission modify the proposal by (a) ensuring that the SDER surcharge expenses are allocated to, and collected from, rate schedules in accordance with the cost allocations approved in the base rate proceeding; (b) exempting, as appropriate, Rate Schedule LP-5, L5S and

¹ In addition to Supplement No. 130, PPL also filed a letter outlining certain details of the proposed SDER ("SDER Letter").

LPEP customers from SDER charges; and, (c) implementing a cap on total revenues recoverable through the SDER.

II. COMMENTS

A. The Commission Should Deny PPL's Proposed SDER

In the December Order, the Commission determined that a rider or surcharge could serve as a reasonable means for PPL to recover costs for extraordinary storm damage. Although the Commission previously recognized the possibility that a storm damage rider could be approved, PPLICA submits that the Commission reached this conclusion based on the conceptual framework of a rider. At this point, following PPL's development and proposal of the SDER, PPLICA submits that approving the SDER may result in unjust and unreasonable rates and unnecessarily increase the revenues collected from customers outside of traditional base rate proceedings. Therefore, PPLICA requests that the Commission should deny the proposed SDER.

1. The Commission Reserves Discretion to Deny PPL's Proposal to Recover Storm Damage Expenses Through the SDER or any Other Reconcilable Mechanism

The procedural status of PPL's proposed SDER should be clarified to confirm that the Commission has not preliminarily approved reconcilable recovery of PPL's storm damage expenses. The clarification is necessary due to statements made in response to the Petition for Clarification and Reconsideration of the December Order ("Clarification Petition") filed by the Office of Consumer Advocate ("OCA"). In Answering the Clarification Petition, PPL suggested that the Commission had already determined that PPL should recover extraordinary storm damage expense on a reconcilable basis. PPL Answer to Clarification Petition, pp. 3-4. However, a review of the relevant procedural history, the Commission's December Order, and the February 28, 2012, Order granting the Clarification Petition ("Clarification Order") provides no indication that PPL is entitled to reconcilable recovery of storm damage expenses. Therefore, parties are not limited in proposing

modifications to the SDER or opposing any proposal resulting in reconcilable recovery of storm damage expenses.

No party to the base rate proceeding proposed a specific rider to be approved by the Commission. Originally, the Bureau of Investigation and Enforcement ("I&E") filed a Main Brief arguing that PPL's claimed expenses for storm damage insurance premiums should be denied. I&E M.B., p. 60. Although I&E did not specifically propose an alternative to PPL's use of storm damage insurance in its Main Brief, I&E had submitted testimony indicating that a reserve account or rider may be viable alternatives. I&E Stmt. No. 2, pp. 32-33. PPL then submitted its Main Brief in response to I&E's testimony, opposing establishment of a reserve account or rider. PPL M.B., p. 70. I&E subsequently filed a Reply Brief reiterating that a reserve account or rider are viable prospects for replacing PPL's use of storm damage insurance. I&E R.B., p. 38. Neither I&E nor PPL set forth any specific proposals or methodologies for the Commission's consideration.

On October 19, 2012, Administrative Law Judge ("ALJ") Susan Colwell issued a Recommended Decision ("R.D.") addressing the proposals to adjust PPL's storm damage expenses and explore viable alternatives. R.D., pp. 37-38. The ALJ denied I&E's proposal to adjust PPL's claim for storm damage expenses, finding that PPL had justified its use of storm damage insurance. *Id.* at 39. However, the ALJ agreed that PPL should develop a plan for implementing a storm damage reserve account or rider to be submitted to the Commission. Exceptions filed by PPL and Reply Exceptions filed by I&E questioned parts of the ALJ's analysis, but neither party opposed the directive for PPL to develop a storm damage reserve account or rider for the Commission's consideration. *See* December Order, p. 37.

Consistent with the R.D., the Commission's December Order directed PPL to collaborate with public advocates and develop a reserve account or rider to be submitted for consideration, but in no way restricted the issues to be raised by other parties in response to PPL's subsequent filing. The Commission specifically directed PPL to "propose a Storm Damage Expense Rider for Commission

review." December Order, pp. 37-38. Following entry of the December Order, OCA filed the aforementioned Clarification Petition to confirm that the collaborative should include consideration of a reserve account as well as a rider. PPL, apparently concerned that OCA intended to address potential for a non-reconcilable reserve account, stated that the Commission "determined that there should be reconciliation of storm damage expenses and revenues for recovery of storm damage expenses, and that rates should be adjusted based on the annual level of the expense." PPL Answer to Clarification Petition, pp. 3-4

Finally, on February 28, 2013, the Commission issued an Order granting OCA's Petition for Clarification ("Clarification Order") and finding that discussions on recovery of PPL's storm damage expenses should include both rider and reserve account methodologies. Clarification Order, p. 8. Most importantly, the Commission's language did not limit the scope of any discussions and proposals. *See id.* Contrary to PPL's assertion that the Commission already determined that the Company's storm damage costs should be recovered through a reconcilable mechanism, PPLICA submits that the Commission's December Order and the Clarification Order preserved parties' rights to recommend denial of the proposed SDER or any other proposal resulting in reconcilable recovery of storm damage costs.

2. Unlike Other Costs Recovered Through Surcharges, Storm Damage Expenses May Be Impacted by PPL's Discretion and Are Therefore More Appropriately Recovered Through Base Rates

Although the Public Utility Code permits recovery of certain costs through reconcilable surcharges, PPLICA requests that the Commission deny PPL's proposed SDER on the grounds that it is unclear whether storm damage expenses are sufficiently outside the control of PPL to justify recovery through a reconcilable rider. PPL obviously cannot control the timing and severity of storms, but unlike other costs typically recovered through reconcilable surcharges, PPL may possess significant discretion in controlling the costs of responding to storm events.

PPL's storm damage costs appear to be inappropriate for recovery through a reconcilable surcharge and should be subject to review in base rate proceedings. The Commission is empowered to approve recovery of expenses through reconcilable surcharges "where expressly authorized, as in 66 Pa. C.S. § 1307(g), or for easily identifiable expenses that are beyond a utility's control, such as tax rate changes or changes in the costs of fuel." *Popowsky v. Pennsylvania Public Utility Com'n*, 13 A.3d 583, 589 (Jan. 21, 2011). As evidenced by the Rider Matrix included in Supplement No. 130, the Commission has recently approved several surcharges under statutory authority, including PPL's Act 129 Compliance Rider ("ACR") and Smart Meter Rider ("SMR"). See Supplement No. 130, p. 14D. The costs recovered through these surcharges are preapproved by the Commission, and therefore unlikely to result in unjust and unreasonable charges. Similarly, the Commission has approved surcharges pursuant to its discretionary authority to allow reconcilable recovery for expenses beyond a utility's control. Examples of such surcharges are PPL's Competitive Enhancement Rider ("CER") or its Generation Supply Charges ("GSCs"). These costs are outside PPL's control in the sense that the costs recovered through the surcharges are subject to Commission approval before PPL can recover the costs from customers.

PPL's response to storm events may involve substantial discretion. PPL may be required to make decisions regarding staffing needs, reliance on outside contractors, and postponement of other operational tasks, which may contribute to costs to be recovered through the SDER. While the storm events themselves are clearly outside the control of PPL, the total cost of PPL's response may depend largely on the Company's decisions. Therefore, the proposed SDER may unreasonably require customers to pay potentially substantial storm damage costs without any meaningful opportunity to review discretionary components of PPL's storm damage expenses.² As such, it is not clear that

² The Commission's power to conduct after-the-fact audits, as referenced in PPL's Supplement No. 130, cannot effectively replicate the scrutiny of a base rate case and is insufficient to protect ratepayers from unjust and unreasonable storm damage expenses. See Supplement No. 130, p. 19Z.24.

recovery of PPL's storm damage costs through a reconcilable surcharge is appropriate or consistent with the Public Utility Code.

3. The Commission Should Consider the Rate Impacts to Customers Resulting From Accumulation of Multiple Surcharges

While the actual rate impact of the proposed SDER remains unknown, the Commission should consider the rapidly increasing number of surcharges billed to PPL's customers in disposing of the SDER. The expanding number of surcharges assessed to customers threatens to overturn the traditional "regulatory compact," which grants public utilities a fair opportunity to earn a return of and a return on investments through revenues levels established through a base rate proceeding.

Since 2008, PPL's customers have experienced a significant increase in surcharges approved on top of base rates. As previously referenced, current surcharges include PPL's ACR, SMR, and the recently approved CER. Supplement No. 130, p. 14D. Additionally, PPL's proposed Distribution System Improvement Charge ("DSIC") is currently before the Commission. *See Petition of PPL Electric Utilities Corporation for Approval of a Distribution System Improvement Charge*, Petition, Docket No. P- 2012-2325034 (Jan. 15, 2013). Approval of the SDER would contribute to the increasing reliance on guaranteed revenue recovery through surcharges and the continued erosion of the traditional base rate process. To avoid overburdening customers with multiple surcharges, the Commission should deny the proposed SDER and explore additional means for recovering PPL's extraordinary storm damage expenses.

B. Alternatively, the Commission Should Modify PPL's Proposed SDER to Confirm Appropriate Cost Allocation, Exempt Transmission Voltage Customers, and Cap Revenues Recovered Through the Surcharge

If the Commission approves the proposed SDER, the Commission should modify PPL's proposal to include necessary customer protections. First, the Commission should not approve PPL's proposed SDER until parties have had an opportunity to review the customer allocators applicable to the SDER and the charges projected to be assessed beyond the initial SDER period. Second, because

PPL's SDER will recover costs incurred for storm damage to distribution facilities, the Commission should exempt Large Commercial and Industrial ("C&I") customers taking service at transmission voltage from recovery of the SDER. Finally, the Commission should apply a cap on total revenues recovered through the SDER to protect ratepayers from unlimited recovery of storm damage expenses outside a traditional base rate proceeding.

1. The Commission Should Not Approve the Proposed SDER Until the Allocation Factors for the Expenses are Confirmed and Parties Have an Opportunity to Review Projected and Potential Costs to be Recovered Through the Surcharge

PPL's Supplement No. 130 briefly addresses cost allocation, noting only that the Company's storm damage expenses exceeding the \$14.7 million base rate allocation will be allocated amongst all customer classes consistent with the cost allocation study approved in the Company's 2012 base rate case. PPLICA acknowledges and appreciates the Company's willingness to confirm its intention to generally maintain the cost allocations deemed just and reasonable by the Commission in the 2012 rate case. Departing from the Cost of Service Study ("COSS") in allocating, designing or collecting the SDER would violate fundamental cost allocation principles. For example, in the rate case, customers on Rate Schedule LP-4 were allocated 4.1% of PPL's extraordinary storm damage expenses for 2011. *See* PPL Exhibit JMK-1, pp. 53-54. A rider that charged customers for more than 4.1% of the expenses would be unjust, unreasonable, and inequitable.

To avoid such unreasonable charges, the Company must provide additional documentation of the allocation factors and potential charges that may result if the Commission approves the SDER. Specifically, PPLICA requests for the allocators to be included in the tariff and/or in the Commission's Order, if any, approving the SDER. In addition, as a condition to any approval of the SDER, PPLICA suggests that the Commission require PPL to estimate costs to be incurred in 2013, when the SDER is set to zero, and project the applicable charges to be recovered through the 2014 period. Additionally, PPL should provide an estimation of costs to be recovered from each customer

class following hypothetical years of light storm damage costs, moderate storm damage costs, and extensive storm damage costs. In any case, the Commission should not grant approval of the SDER until parties have had an opportunity to review costs to be recovered following the initial 2013 period.

2. Customers Taking Service at Transmission Voltage Should be Excluded From Recovery of PPL's SDER Charges

As the proposed SDER would recover revenues associated only with storm damage to distribution facilities, PPL should exempt transmission voltage customers from recovery of the SDER. Customers on PPL's Rate Schedule LP-5, LPEP and L5S take service directly from transmission voltage facilities at a minimum of 69 kV.³ In the rate case, customers on these rate schedules were allocated only nominal extraordinary storm damage expenses related to distribution facilities (because they are not served by distribution facilities). For example, PPL's COSS reflects a nominal 0.2% allocation of PPL's extraordinary storm damage expense to LP-5 customers. PPL Exhibit JMK-1, p. 54.

Although the applicable allocator has not been disclosed, PPL has included transmission voltage customers amongst the customer classes subject to SDER charges. Supplement No. 130, p. 19Z.22. Supplement No. 130 clearly states that "[t]ransmission storm damage expenses will continue to be recovered through transmission rates, and capitalized amounts will be included in rate base in future rate proceedings." SDER Letter, p. 2. While the SDER costs allocated to LP-5 customers should certainly not exceed the 0.2% of costs reflected in the base rate case COSS, the nominal allocation further justifies an exemption from the SDER entirely. Accordingly, Supplement No. 130 should be modified to exclude customers taking service exclusively at transmission voltage, including all LP-5 customers.

³ PPL's transmission voltage rates also include Rate Schedule LPEP. Supplement No. 130 further identifies a Rate Schedule L5S, which is unfamiliar to PPLICA, but appears to be a transmission voltage rate.

3. PPL's Proposed SDER Should Be Modified to Incorporate a Cap on Revenues Recovered Through the Surcharge

If the Commission approves any variation of PPL's proposed SDER, the Commission should adopt a revenue cap to protect customers from unreasonable rate impacts. As previously referenced, the Public Utility Code authorizes the Commission to implement reconcilable surcharges upon request from a public utility. *See* 66 Pa. C.S. § 1307(a); *see also* 66 Pa. C.S. § 1307(b) (prescribing parallel authority for Commission implementation of mandatory surcharges). However, the Public Utility Code also requires that reconcilable surcharges be reasonably structured to avoid potential for unjust and unreasonable rates. *See id.* Without additional modification, the proposed SDER would subject customers to unmitigated expenses resulting from storm damage to PPL's facilities in excess of base rate revenues. Therefore, the Commission should adopt a cap on revenues recovered through the proposed SDER.

To remain consistent with Section 1307(a) of the Public Utility Code, the Commission should condition any approval of PPL's SDER upon implementation of an appropriate cap on revenues recovered through the surcharge. Section 1307(a) authorizes the Commission to approve reconcilable surcharges, but only as shall provide a *just and reasonable* return on the rate base of such public utility. 66 Pa. C.S. § 1307(a); *see also National Fuel Gas Distribution Corp. v. Pennsylvania Public Utility Com'n*, 473 A.2d 1109, 1118 (Mar. 26, 1984) [Emphasis added]. Accordingly, other reconcilable surcharges previously approved by the Commission incorporate measures to ensure that customers are not charged unreasonable rates. Revenues collected through PPL's ACR and SMR are constrained by revenue caps and stringent Commission review of the underlying expenses. 66 Pa. C.S. §§ 2806.1(g); *see also Energy and Efficiency and Conservation Program*, Implementation Order, Docket No. M-2008-2069887 (Jan. 15, 2009); *Smart Meter Procurement and Installation*, Implementation Order, Docket No. M-2009-209655 (June 24, 2009). The proposed PPL DSIC currently before the Commission will be subject to a 5% cap on billed

revenues pursuant to Section 1358(a) of the Public Utility Code. 66 Pa. C.S. § 1358(a). Notably, recoveries through PPL's GSCs are not capped, but the Company's procurement methodologies underlying such charges are rigorously examined by the Commission through PPL's DSP proceedings. *See Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan*, Opinion and Order, Docket No. P-2012-2302074 (January 24, 2013). The CER is similarly used to recover costs previously subject to Commission approval through other proceedings, with PPL confirming that the CER recovers only costs "incurred under Commission directives." *See* December Order, pp. 142-43.

Unfortunately, the proposed SDER lacks similar protections. PPL's storm damage costs can reach significant levels, as evidenced by the Company's reporting 2011 storm damage costs exceeding the base rate allocation by \$27 million. PPL Exceptions, p. 25. Allowing PPL to immediately recover storm damage expense without any meaningful review of even the most extraordinary expenses fails to comply with Section 1308(a). To ensure just and reasonable rates for PPL's Large C&I customers, the Commission must prescribe procedures for developing and implementing a cap on revenues recovered through the SDER if the surcharge is to be approved.

III. CONCLUSION

WHEREFORE, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, the foregoing Comments.

Respectfully submitted,

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