PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120

Pennsylvania Public Utility Commission
v. PPL Electric Utilities Corporation

Public Meeting October 31, 2013
2290597-TUS
Docket No. R-2012-2290597

MOTION OF
CHAIRMAN ROBERT F. POWELSON

Before the Commission today for disposition is Supplement No. 130 to PPL Electric Utilities Corporation's (PPL) Tariff Electric – Pa. P.U.C. No. 201, as well as the Comments and Replies to Comments filed thereto.

By way of background, on March 30, 2012, PPL submitted a rate increase filing to the Commission, which the Commission disposed of by Order entered December 28, 2012. One of the issues in the proceeding was whether PPL should continue to purchase insurance to cover extraordinary storm damage expenses or whether an alternative approach, such as the creation of a rider or the use of reserve accounting, should be used to recover such expenses. In its December 28 Order, the Commission found that the use of a Storm Damage Expense Rider (SDER) was appropriate and directed PPL to file a proposed rider within 90 days of entry of the Order. In addition, the Commission directed that the parties to the case hold a collaborative to discuss and try to obtain consensus on certain details of the rider. By Order entered February 28, 2013, in response to a Petition for Clarification filed by the Office of Consumer Advocate (OCA), the Commission clarified that the collaborative should also include discussions on the possible creation of a reserve account for storm damage expense recovery.

On March 28, 2013, PPL filed Supplement No. 130, a proposed SDER. In doing so, PPL noted that, despite the parties' best efforts, consensus regarding the details of the rider could not be reached. By Secretarial Letter issued April 5, 2013, the parties were given until April 18th to file Comments on the proposed rider, and until May 6, 2013 to file Replies to Comments.

In their Comments and Replies to Comments on the proposed Rider, the Commission's Bureau of Investigation and Enforcement (I&E) suggested specific changes to PPL's proposal. The PPL Industrial Customer Alliance requested that the Commission reject the proposal, or in the alternative, accept specific modifications set forth in their Comments. Similarly, the OCA requested that the Commission reject PPL's filing and send the matter for full evidentiary hearings. The OCA also articulated a number of reasons why they perceive PPL's proposal to be problematic.

It is well settled that when property interests such as those at issue here are implicated, parties must be afforded due process. The question is, however, what level of due process is required. As the Commonwealth Court has held, "when there are no disputed questions of fact and the issue to be decided is purely one of law or policy, a case may be disposed of without

resort to an evidentiary hearing."[1] Rather, in such cases a "paper hearing" is sufficient to protect the due process rights of the participants.[2]

Having reviewed the parties' various Comments and Replies to Comments, I note that the issues to be decided are purely questions of law and policy that, as set forth above, do not require an evidentiary hearing. Further, a review of the procedural history set forth above makes it clear that the parties have already been given an opportunity to be heard, both before an Administrative Law Judge, and through the allowance of the filing of Comments and Reply Comments. However, out of an abundance of caution, and in the interest of ensuring the parties' due process rights, I believe that setting an additional Comment and Replies to Comments period would be prudent. This path has the added benefit of not unnecessarily expending the resources of the parties and the Commission as well ensuring that PPL has an adequate recovery mechanism in place sooner in time should the Commonwealth be hit with severe weather events such as those experienced in each of the past two years.

I caution the parties, however, that the purpose of taking additional Comments and Replies to Comments is to afford the Commission the benefit of receiving substantive input on PPL's proposal as well as any counter proposals the parties may wish to make, including the I&E counter proposal. Additional attempts to relitigate the appropriateness of allowing an alternative funding mechanism to replace the disallowed storm damage insurance will be disregarded. To that end, attached hereto as Appendix A are specific questions that should be addressed in the parties' filings to help facilitate the Commission's decision. The parties are, of course, free to raise and address any additional issues that they believe need to be resolved.

THEREFORE, I MOVE THAT:

1. Interested parties shall filed Comments to PPL Electric Utilities, Inc.'s March 28, 2013 proposed Storm Damage Expense Rider within 30 days of entry of an Opinion and Order in this matter, with Replies to Comments being due 15 days thereafter.

2. The Bureau of Technical Utility Services prepare an Opinion and Order consistent with this Motion.

Robert F. Powelson

ROBERT F. POWELSON
CHAIRMAN

DATE: October 31, 2013

[1] *Dee Dee Cab, Inc. v. Pa. Pub. Util. Comm'n*, 817 A.2d 593, 598 (Pa. Commw. 1995). *See also, Lehigh Valley Power Committee v. Pa. Pub. Util. Comm'n*, 563 A.2d 548, 556 (Pa. Commw. 1989)("[i]t is a fundamental proposition of law that a hearing or trial procedure is necessary only to resolve disputed questions of fact and is not required to decide questions of law, policy or discretion.").

[2] *Diamond Energy, Inc. v. Pa. Pub. Util. Comm'n*, 653 A.2d 1360, 1367 (Pa. Commw. 1995) ("based on the absence . . . of disputed facts, [a] paper hearing . . . [is] not violative of due process.").

Appendix A

1. Does the proper test for an automatic adjustment clause include expenses that are "substantial, variable, and beyond the utility's control?" If so, do all storm related operating expenses meet this standard?

2. Does Section 1307 authorize "one-way" reconciliation provisions? Is I&E's storm damage reserve proposal contrary to statutory requirements?

3. Under a Storm Damage Expense Rider (SDER) or similar mechanism, what is the appropriate period to amortize a "major storm?" Provide statistical data or other relevant factors that the Commission should consider to support the appropriate amortization period. Should the Commission establish one amortization period that applies to all "major storms" or a sliding scale of amortization periods based on the expense levels or other factors?

4. For purposes of the SDER, should the Commission establish a different definition for "major storm" to comply with "extraordinary, non-reoccurring, and unanticipated" criteria?

5. What regulatory precedent, both in PA and in other states, exists for a "replenishing" storm reserve fund? How do other jurisdictions provide for recovery in excess of the reserve funding amounts? Should other over-recovery amounts be included, such as above authorized actual returns, be included in such cost recovery reserve funds?

6. Should there be a cap on the amount of costs recoverable under a storm rider or reserve account in order to ensure rates are "just and reasonable?" If so, what should the amount of the cap be?

7. Why is it appropriate to charge interest on any amortized expenses? Provide pertinent case histories on where the Commission has permitted collection of interest on similar expenses. Under PPL's proposal, does interest accrue to customers on the $14.7M reserve as it is collected in rates?

8. SDER rate filings: Should the Commission require review and approval of the annual rates before taking effect? What precedents exist for review of similar expenses? What service requirements, comment opportunity and reporting requirements should be required in such rate filings? Should only actual or estimated expenses be included?

9. How should storm damage rider costs be allocated among rate classes? Should the allocation factors be included in the tariff?