BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of the Alternative Energy Portfolio Standards Act of 2004	:	Docket No. M-00051865
Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa. C.S. Section 2807(e)(2)	:	Docket No. L-00040169

Comments of PPL Electric Utilities Corporation

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

I. Introduction

In an Order entered in the above referenced dockets on November 18, 2005, the Public Utility Commission ("PUC" or the "Commission") announced that it would reopen the comment period for its default service rulemaking in order to consider issues raised by implementation of the Alternative Energy Portfolio Standards Act of 2004 ("Act 213"), consideration of the mandates of the Energy Policy Act of 2005 ("EPAct 2005"), and to more fully examine issues raised in the comments of the Independent Regulatory Review Commission. By Secretarial Letter dated February 8, 2006, the Commission requested comments on a list of eight issues related to the recovery of compliance costs incurred under Act 213.

PPL Electric Utilities Corporation ("PPL Electric" or the "Company") is an Electric Distribution Company ("EDC") serving 1.3 million retail customers in central eastern Pennsylvania. PPL Electric has been an active participant in the stakeholder process that the Commission established to address issues relevant to the implementation of Act 213 and also has been an active participant in the Commission's efforts to develop default service regulations. PPL Electric appreciates the opportunity to provide comments on the list of issues and looks forward to continuing to work with the Commission and all other stakeholders to address other issues associated with implementation of Act 213 and the development of default service rules.

II. Issues

In the interest of clarity, PPL Electric's comments are organized as responses to each of the eight issues listed in the Secretarial Letter.

1. Should Act 213 cost recovery be addressed in the Default Service regulations as opposed to a separate rulemaking? Is it necessary to consider Act 213 cost recovery regulations on a different time frame in order to encourage development of alternative energy resources during the "cost recovery period"?

PPL Electric recommends that cost recovery for Act 213 compliance and for default service be addressed in a single rulemaking, but one that recognizes (1) that it implements requirements from two different statutes and (2) that the timing needs of the two statutes may be different. Act 213 raises a number of unique cost recovery issues not raised by default service. One example is the need to address

specifically the recovery of the following: (1) deferred costs incurred during the cost recovery period, (2) the cost of banked credits, (3) the payments to third party administrators, and (4) the cost of alternative compliance payments. Another unique issue is the need to decide whether a force majeure determination includes a cost consideration, and if it does, how such a determination will be coordinated with cost recovery. Conversely, default service raises its own set of unique cost recovery issues not raised by Act 213. The most obvious example is determination of what is meant by “prevailing market price” in Section 2806(e)(3) of the Electricity Generation Customer Choice and Competition Act (“Customer Choice Act”) and how EDCs can comply with that requirement. Another issue is the need to develop a specific cost recovery mechanism, for example, an automatic adjustment clause reconciled on an annual basis.

With regard to timeframe, the Company recommends that the Commission proceed with both rulemakings as expeditiously as possible. In PPL Electric’s case, its obligations under Act 213 and its obligations to provide default service do not begin until January 1, 2010. However, there can be real value in promulgating final regulations well before that date. As recognized by the Commission, finalizing Act 213 cost recovery regulations may encourage development of alternative energy resources during the cost recovery period. Similarly, promulgating final default service regulations will enable EDCs to begin developing comprehensive and cost effective compliance strategies. In both instances, promulgation of final cost recovery regulations will bring additional certainty to the market which should support stability and future growth. Accordingly,

PPL Electric respectfully recommends that the Commission pursue a schedule that will permit all rules in these matters to be finalized by June 2007.

2. Do the prevailing market conditions require long-term contracts to initiate development of alternative energy resources? May Default Service Providers employ long-term fixed price contracts to acquire alternative energy resources? What competitive procurement process may be employed if the Default Services Provider acquires alternative energy resources through a long-term fixed price contract?

PPL Electric has not yet sought alternative energy resources and does not have any actual knowledge of market conditions or the need for long-term contracts. However, the Company would expect that developers of different alternative energy resources will seek different types of contracts; and is generally aware that the availability of long-term contracts is a significant factor in the development alternative energy resources. The nature of the alternative energy resource project and the associated financial requirements will be major considerations. For example, it would be reasonable to assume that large expensive projects with long service lives, such as a coal gasification plant, will require long-term fixed price contracts or, perhaps, contracts that include a fixed payment for capital and an indexed payment for energy and expenses. For that reason, EDCs should have the option to utilize long-term contracts to acquire alternative energy resources for Act 213 compliance.

Similarly, PPL Electric believes that default service providers should be able to employ long-term contracts to obtain some or all of their supply requirements,

not only alternative energy resources. The Company believes such an approach can provide several clear advantages. Long-term contracts can benefit default service customers by providing stable, cost-effective supply options. PPL Electric believes that the best approach, from the perspective of promoting rate stability, is for each default service provider to create a portfolio of contracts of varying lengths, staggered start and end dates, and overlapping terms. Long-term contracts also can benefit the competitive market by providing the revenue stream that many believe is necessary to support investment in new generating facilities. However, the Company acknowledges that some policymakers are concerned that long-term contracts do not satisfy the "prevailing market price" standard in the Customer Choice Act. PPL Electric believes that long-term contracts can satisfy the Customer Choice Act, but recognizes that this issue must be resolved in the Commission's default service rulemaking. PPL Electric believes that "prevailing market price" does not necessarily equate to a short-term or spot-market price. The electricity market is actually made up of various markets and products; each characterized by the nature of the service provided (i.e., firm load, load following, customer segment, etc.), the term of service (i.e., daily, monthly, annual, multi-year, etc.), the pricing of the service (i.e., spot-market, day-ahead market, indexed price, fixed price, etc.), and other attributes (i.e., with or without associated alternative energy credits, with or without capacity, with or without ancillary services, etc.).

The competitive procurement process that may be employed by the default service provider has not yet been determined. PPL Electric anticipates that this issue will be a critical detail addressed in the Commission's default service

rulemaking. In that proceeding, the Commission should consider a full variety of procurement processes including requests for proposals ("RFPs"), auctions and possibly other alternatives. Finally, the Company recommends that the Commission permit EDCs to retain maximum flexibility in choice of a procurement process to facilitate timely and appropriate responses to changes in the market over time.

3. Should the force majeure provisions of Act 213 be integrated into the Default Service procurement process? Should Default Service Providers be required to make force majeure claims in their Default Service implementation filing? What criteria should the Commission consider in evaluating a force majeure claim? How may the Commission resolve a claim of force majeure by an electric generation supplier?

PPL Electric believes that the force majeure provisions of Act 213 could be integrated in the default service procurement process. The Company recommends that the Commission permit utilities to integrate in the procurement process the purchase of generation to comply with Act 213 and the purchase of generation to provide default service. As part of that unified procurement process, the EDC and the Commission would consider the availability of alternative energy resources needed to comply with Act 213 and the appropriateness of a force majeure.

However, it is important to note that the concept of force majeure does not really apply to default service. The concept of default service, as mandated by the Customer Choice Act, is service to a customer who cannot or does not choose an Electric Generation Supplier ("EGS"). Both the EDC and the PUC must make every

effort to ensure that adequate supplies are available to meet the needs of all default service customers. Such an obligation simply is not consistent with the concept of force majeure. In fact, it is not clear how a force majeure determination would be implemented in the context of default service. By definition, the default service provider is the customer's last option. If an EDC is excused from performance by force majeure, presumably no electric service would be provided to some or all of its default service customers. PPL Electric does not believe that this result was contemplated by either the Customer Choice Act or Act 213.

On the other hand, force majeure is a critical component of implementing Act 213. In its Implementation Order II, the Commission tentatively concluded that Alternative Compliance Payments will not be recoverable in rates, but that EDCs would be financially protected through the force majeure provisions of Act 213. However, in order for this to be true, the force majeure determinations must include an economic criterion. In addition, a force majeure determination should be made at the beginning of each reporting year. This approach would establish whether there are enough credits available or likely to become available during the year to meet expected requirements and the price at which they are considered to be economically viable. If the Commission determines there is an insufficient level of available credits or that their price is unreasonably high, the PUC should issue an order suspending or reducing Act 213 compliance requirements for that year for that particular Tier or category of resources. Because credits can come from an entire Regional Transmission Organization ("RTO"), a force majeure determination for one EDC or EGS in that RTO should be applicable to every EDC and EGS in the RTO

subject to Act 213. Without a sound and forward-looking force majeure procedure, EGSs and EDCs will be forced to bid up the credit prices, if demand for credits exceeds supplies. If the price for credits becomes excessive, EGSs will have the opportunity to stop serving new customers and to terminate service to existing customers. However, default service suppliers will be required to continue to serve existing customers, new customers and customers previously served by EGSs. The EDC would be forced to acquire credits even though prices could become unreasonably high as a result of a shortage of supply.

Act 213 specifically provides that either an EDC or an EGS can request a force majeure determination from the Commission. However, Act 213 does not establish different criteria for the Commission to apply when considering a request by an EGS versus a request from an EDC. To retain a level playing field in the market and facilitate uniform application of Act 213, PPL Electric recommends that the Commission resolve a claim of force majeure by an EDC on the same basis as a claim by an EGS. However, it is important to note that EGSs will have a different perspective on force majeure than EDCs will have. Under the Public Utility Code and proposed Commission default service regulations, EDCs have an obligation to serve. Therefore, if the Commission denies a request for a force majeure determination, the EDC must somehow obtain alternative energy resources or risk exposure to making Alternative Compliance Payments. On the other hand, EGSs do not have an obligation to serve. Therefore, if the PUC denies a request for a force majeure determination, the EGS simply can exit the affected segment of the market. This would leave the default service provider in the position of having to supply, on short

notice, the energy that the EGS would have otherwise provided as well as the additional alternative energy credits, the unavailability of which was the reason for the EGS's exit from the market.

4. Given that Act 213 includes a minimum solar photovoltaic requirement as part of Tier I, should these resources be treated differently from other alternative energy resources in terms of procurement and cost recovery?

PPL Electric recommends that generally all classes of alternative energy resources (including solar photovoltaic) should be treated the same in terms of procurement and cost recovery. Most importantly, credits must be separated from the associated energy as they are in New Jersey and as mandated by Section 1648.3(e)(4)(ii) of Act 213, which states "one alternative energy credit shall represent one megawatt hour of qualified electric generation, whether self-generated, purchased along with the electric commodity or separately through a tradable instrument." Separation of the credits from the associated energy allows for easier determination of the value of the renewable attributes. It also is an important element in being able to establish a market price for credits which is necessary to support cost recovery. Separation also is necessary to establish an Alternative Compliance Payment amount for solar photovoltaic measures consistent with Section 1648.3(f)(4) which requires that the Alternative Compliance Payment for solar photovoltaic requirements shall be 200% of the average market value of the solar photovoltaic credits transacted during the reporting period within the appropriate RTO.

A full range of procurement options should be available for all Tiers and classes of resources, recognizing that the markets for particular types of resources will determine the procurement options that will be used. Finally, cost recovery for all classes of resources (including solar photovoltaic) should be on a full and current basis.

The one area of Act 213 compliance in which solar photovoltaic may be treated differently is the Commission's determination of force majeure. As discussed above, PPL Electric believes that a force majeure determination should include consideration of economic factors. If the Commission establishes procedures consistent with that recommendation, an economic evaluation of whether solar photovoltaic resources are "reasonably available" may differ from an economic evaluation of whether other alternative energy resources are "reasonably available." Those evaluations would be expected to differ to recognize the limited availability of solar photovoltaic resources and the higher alternative compliance payments established for solar photovoltaic resources.

5. Should the Commission integrate the costs determined through a §1307 process for alternative energy resources with the energy costs identified through the Default Service Provider regulations? How could these costs be blended into the Default Service Providers Tariff rate schedules?

Act 213 mandates that all costs of AEPS compliance "shall be recovered on a full and current basis pursuant to an automatic energy adjustment clause." The Customer Choice Act specifically provides that the EDC "shall recover

fully all reasonable costs" of acquiring electric energy to serve its default service customers. However, unlike Act 213, the Customer Choice Act does not specifically identify a cost recovery mechanism.

PPL Electric recommends that the Commission utilize a single automatic adjustment clause (with annual reconciliation) for recovery of both AEPS compliance costs and default service costs. This recommendation recognizes that a reconcilable automatic adjustment clause is the only mechanism that can comply with the cost recovery mandates of both Act 213 and the Customer Choice Act. If an automatic adjustment clause cannot be reconciled or if costs are recovered through another ratemaking mechanism, there is a real possibility that some costs will not be fully recovered by the EDC. Under those circumstances, the statutory cost recovery mandates discussed above would not be satisfied.

A single cost recovery mechanism also provides practical benefits. First, the Commission can readily review and audit the application of such a clause, particularly in light of its experience with similar clauses such as the Energy Cost Rate and Competitive Transition Charge. Second, including a single clause rather than multiple clauses on customers' bills should increase understanding of and reduce dissatisfaction with such ratemaking mechanisms. Third, a reconcilable automatic adjustment clause can easily be implemented and managed by the affected EDC. For all of the foregoing reasons, PPL recommends that the cost recovery mechanism for both Act 213 compliance and default service be combined into a single reconcilable automatic adjustment clause.

6. May a Default Service Provider enter into a long-term fixed price contract for the energy supplies produced by coal gasification based generation if the resulting energy costs reflected in the tariff rate schedules are limited to the prevailing market prices determined through a competitive procurement process approved by the Commission?

As discussed in response to question 2, above, PPL Electric believes that long-term fixed price contracts (or contracts with fixed and variable components) may be necessary to support construction of new alternative energy resources, including coal gasification projects. PPL Electric also believes, as stated in its response to question 2, that long-term contracts are an appropriate method of procuring supply from other, non-alternative energy resources to serve default service customers. As further stated in response to question 2, the Company believes that the prevailing market price should be the result of "blending" the actual costs of the contracts that make up the default service provider's supply portfolio, including long-term contracts, that were obtained in the market. PPL Electric believes that the price so determined should only change as a result of the expiration of a portion of the supply portfolio and its replacement with new supply obtained in the market at the then-prevailing price for the product(s) so obtained. As discussed in response to question 5, above, both Act 213 and the Customer Choice Act mandate that the EDC fully recover all of its costs of complying with its obligations under statutes. The approach suggested in this question could violate the statutory standards for cost recovery if the prevailing market prices reflected in the EDC's tariff rate schedules are not reflective of the actual market procurements, but, instead, the

result of an administrative determination of prevailing market price and below the prices the EDC must pay under the long-term contract. For this reason, PPL Electric believes that such an approach would be inappropriate and inconsistent with Pennsylvania law.

7. Should the Commission delay the promulgation of default service regulations until a time nearer the end of the transition period, as suggested by the Independent Regulatory Review Commission in its comments on the proposed regulations?

As discussed in response to question 1, above, PPL Electric recommends that the Commission proceed with both the Act 213 and default service rulemakings as expeditiously as possible. Promulgating final regulations well before compliance is required may encourage development of the competitive market and enable EDCs to begin developing comprehensive and cost-effective compliance strategies. Accordingly, PPL Electric respectfully recommends that the Commission endeavor to have both the Act 213 and default service rulemakings completed by June 2007.

8. Does the Commission need to make any revisions to its proposed default service regulations to reflect the mandates of the Energy Policy Act of 2005?

EPAct 2005 directs state public service commissions to undertake the following three studies: (1) smart metering, (2) interconnection, and (3) net metering and additional standards. Conducting these studies should not require any revisions to the Commission's proposed default service regulations. These studies could have

implications for the Commission's implementation of Act 213, but, in large measure, it appears that the Commission already has completed most of the required analysis. For that reason, it seems unlikely that the requirement in EPAct 2005 to conduct the three studies will affect the Commission's approach to implementing Act 213.

III. Conclusion

For all of the reasons stated above, PPL Electric Utilities Corporation recommends that the Public Utility Commission pursue, consistent with the foregoing comments, completion of its proceeding to implement the Alternative Energy Portfolio Standards Act of 2004 and its rulemaking to develop default service regulations.

Respectfully submitted,

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at Allentown, Pennsylvania