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October 30, 2009

VIA HAND DELIVERY

Secretary James J. McNulty
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Petition of PPL Electric Utilities Corporation Requesting Approval of a Voluntary
Purchase of Accounts Receivables Program and Merchant Function Charge
Docket No. P-2009-2129502.

Dear Secretary McNulty:

Enclosed is an original Main Brief, on behalf of FirstEnergy Solutions in the above
subject matter. Copies have been served in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Very truly yours,

STEVENS & LEE



Judith D. Cassel

JDC:kdd
Enclosure

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A PROFESSIONAL CORPORATION

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PPL ELECTRIC UTILITIES :
CORPORATION REQUESTING APPROVAL :
OF A VOLUNTARY PURCHASE OF : Docket No. P-2009-2129502
ACCOUNTS RECEIVABLES PROGRAM :
AND MERCHANT FUNCTION CHARGE :

MAIN BRIEF OF THE INTERVENOR, FIRSTENERGY SOLUTIONS, INC.

FirstEnergy Solutions (hereinafter referred to as "FES") pursuant to 52 Pa. Code. § 5.501 and 5.502, hereby respectfully submits its Main Brief in this proceeding. For the reasons set forth below, FES respectfully requests that the Commission reject the Office of Consumer Advocate's ("OCA") proposal to limit residential collections under the PPL POR Program to only the amount that would have been incurred under the default rate.

I. INTRODUCTION

FES is a subsidiary of FirstEnergy Corp., a diversified energy services holding company headquartered in Akron, Ohio. FES provides wholesale and retail energy and related products to customers located primarily in the Mid-Atlantic and Midwest regions of the United States. FES is a licensed electric generation supplier ("EGS") in the Commonwealth of Pennsylvania, pursuant to 66 Pa. C.S. § 2809, having been authorized at Docket No. A-110078 to serve retail customers throughout Pennsylvania, including the service territory of PPL Electric Utilities, Inc. ("PPL").

This matter involves PPL's proposed implementation of a purchase of receivables program ("POR") and a merchant function charge ("MFC"). PPL proposes to implement the POR Program effective January 1, 2010. PPL's POR program proposes to unbundle generation-related uncollectible account expense from base rates and to purchase

EGS's receivables at a discount. The proposed discount rate would be 1.37 percent for residential customers and 0.17 percent for the small commercial and industrial ("Small C&I") customers. Both of these discount rates include a factor for administrative expense.

The PPL POR proposes that the actual discount rate could be higher for an EGS whose Small C&I customers experience higher uncollectibles than the discount rate allows. If an EGS elected to place all of its Small C&I customers into the program, then the EGS would only incur the .17 percent discount rate on all accounts receivable regardless of the EGS's actual uncollectible expense. However, if an EGS did not elect to place all of its Small C&I customers into the POR Program, then PPL, at its own discretion, could charge the EGS a higher discount rate.

PPL's program would require an EGS who wishes to participate in the Program for residential customers to place all of its residential customers in the POR program. There is no option for an EGS to only place a portion of its residential customers into the program. For the Small C&I customers, an EGS may choose which of its customers to place in the PPL POR program. If the EGS elects not to have some of its C&I customers in the POR program, those customers may not participate in the EDC's consolidated billing. An EGS may perform credit checks on both the residential class and the Small C&I class of customers, but no residential customer can be declined service based on the credit history. Furthermore, an EGS may not collect a deposit on its residential customers.

The OCA has offered an alternative proposal that would interfere with an EGS's ability to market products to residential customers. The OCA proposes to restrict the amount an EGS would be able to collect for products sold to residential customers. For the reasons set forth below, FES opposes the OCA's proposal, and urges the Commission to reject it.

II. BACKGROUND AND PROCEDURAL HISTORY

On or about September 10, 2009, PPL filed its Petition seeking to implement the POR program and merchant function charge.

On September 24, 2009, a Petition to Intervene was filed by Dominion Retail, Inc. (“Dominion”), and the Office of Small Business Advocate (“OSBA”) filed a Notice of Intervention.

On September 25, 2009, the Secretary of the Commission issued a Secretarial Letter which set forth an expedited schedule for this proceeding.

On September 29, 2009, the PPL Industrial Customer alliance (“PPLICA”) filed its Petition to Intervene.

On September 30, 2009, the Office of Consumer Advocate (“OCA”) filed its Answer to the Petition and FES filed its Petition to Intervene, Constellation NewEnergy Inc. (“Constellation”) filed its Petition to Intervene, and the Office of Trial Staff (“OTS”) entered its Notice of Appearance.

On October 5, 2009, Direct Energy Services, LLC (“Direct Energy”) and Retail energy Supply Association (“RESA”) filed their Petitions to Intervene.

On October 7, 2009, the Prehearing Conference was convened. At the Prehearing Conference, PPL served its prepared direct testimony, and all Petitions to Intervene were granted.

On October 16, 2009, OCA, RESA and Dominion served their written direct testimony.

An evidentiary hearing was held on October 22, 2009, at which time the pre-filed written testimony and exhibits were admitted into the record, and various witnesses presented oral rebuttal testimony and were cross-examined.

Following the evidentiary hearing, the parties engaged in settlement discussions. As a result of those discussions, a settlement in principle of all but two issues was achieved by the parties subsequent to the conclusion of the hearings, but prior to the submission of Main and Reply Briefs. It is anticipated that a Joint Petition for Settlement will be filed after the submission of Main Briefs, which will reflect the full settlement of several issues, with only two issues being preserved for litigation.

III. SUMMARY OF ARGUMENT

FES supports the approval of the PPL POR Program, with the inclusion of the adjustments reflected in the pending Joint Petition for Settlement. FES's Main Brief is being submitted in order to address only one issue – the OCA's proposed plan to limit residential termination and reconnection charges to those that do not exceed the default rate. The OCA's plan should be rejected because it creates a disincentive for an EGS to offer competitive products, encourages residential customers to "game" the system, puts an EGS at risk for mark to market losses, spreads an increasing amount of bad debt over an ever smaller group of customers and would be virtually impossible for PPL's system software to implement.

IV. ARGUMENT

A. PURCHASE OF RECEIVABLES ("POR") PROGRAM

1. General Design Issues – **FES will not be briefing this issue.**
2. Discount Rate Issues– **FES will not be briefing this issue.**
3. Merchant Function Charge– **FES will not be briefing this issue.**

4. Customer Termination Issues

- a. Should a customer that is terminated for non-payment be required to pay all electric generation charges due including all EGS charges above the default rate?**

Brief Answer: Yes. Customers should be responsible for all electric generation services in which they knowingly and willingly elected to participate.

In the Direct Testimony of Ms. Barbara Alexander's, filed by the OCA, she proposes that PPL's POR plan provide that the right to terminate residential customers and the requirements of reconnection must be limited to unpaid charges that are no higher than default service rates.¹ This proposed plan creates a disincentive for an EGS to offer competitive products, encourages residential customers to "game" the system, puts an EGS at risk for market losses, spreads an increasing amount of bad debt over an ever smaller group of customers and would be virtually impossible for the PPL software to implement.²

The OCA's proposal would have a stifling effect on competitive products such as variable priced, multiple year, and "green" products. The availability of these types of products are the cornerstone of the competitive marketplace the Commission seeks to create.³ Customers find fixed, variable and green products attractive. It is the ability of an EGS to bill and collect for these types of products that allows EGSs to offer them to the residential class. Sometimes these types of attractive products carry a premium price when compared to the plain old default service price given at any point in time.⁴ Under the OCA's proposal, an EGS would be at risk for unpaid balances for these types of products. Therefore, an EGS would be less likely to offer

¹ Testimony of Barbara R. Alexander on Behalf of the OCA, OCA Statement No. 1, page 9 lines 15 – 16.

² Direct Testimony of James L. Crist on Behalf of Dominion Retail, Inc., Dominion Retail Statement No. 1.0 page 8, lines 9 – 11.

³ Direct Examination of Richard Hudson, Transcript page 188 lines 22-25 through page - 189, lines 1 – 3.

such products, if at all.⁵ Even Ms. Alexander admitted, in reference to an EGS's ability to offer multi-year products, that the OCA's proposal would "not be very helpful to those customers."⁶

Ms. Alexander confirmed that customers "voluntarily and affirmatively choose" service from an EGS that may provide variable, multi-year, or green products.⁷ A customer should not be able to choose one of these attractive products from an EGS, pay for them as long as they are below the default price, only to default when that price exceeds the default rate. Such a scenario would have the effect of allowing customers to have the best of both worlds without entirely paying for either.

The OCA proposal would not only encourage the residential customer to "game" the system, but would put the EGS at a double risk. The EGS would not only be at risk for non-recoverable non-payment of the electric generation used by the customer, but an EGS would be at a mark to market risk for the unused portion of the electric generation as well.⁸ As explained by RESA's expert witness Richard Hudson, the "risk is several orders of magnitude greater, in fact, even exponentially greater than the actual risk of nonpayment."⁹

Finally, PPL's software system is not capable of performing the necessary tracking, allocation of payments, and "shadow" calculations required to determine what the customer incurred and what the default service charge would have been.¹⁰ This prevents the OCA proposal from being implemented even if it were to ultimately be incorporated in the proposed plan.

⁴ Id. at p. 9, lines 10 -12.

⁵ Direct Examination of Richard Hudson, Transcript page 188, lines 22 – 24.

⁶ Cross Examination of Barbara R. Alexander, Transcript page 132, lines 19 – 20.

⁷ Id. at page 133 lines 20 – 23.

⁸ Direct Examination of Richard Hudson, Transcript page 193, lines 23-25.

⁹ Id. at page 194, lines 4 – 7.

5. All-in/All-out Requirements– **FES will not be briefing this issue.**
 6. Company Alternative to All-in/All-out Requirements– **FES will not be briefing this issue.**
 7. Basic Generation Supply Service Issues– **FES will not be briefing this issue, but reserves the right to file a Reply Brief on this issue.**
 8. Credit Check Requirements– **FES will not be briefing this issue.**
 9. 12-Month Stay Provision– **FES will not be briefing this issue.**
 10. Program Availability for Large Commercial and Industrial Customers– **FES will not be briefing this issue.**
 11. POR Program Contingencies– **FES will not be briefing this issue.**
- B. SUBSEQUENT RECOVERY OF UNCOLLECTED RECEIVABLES AND UNRECOVERED ADMINISTRATIVE COSTS– FES WILL NOT BE BRIEFING THIS ISSUE.**
- C. CUSTOMER NOTIFICATION ISSUES– FES WILL NOT BE BRIEFING THIS ISSUE.**

V. CONCLUSION

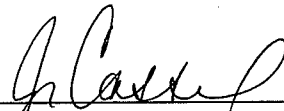
The OCA's proposal would hinder competition and violate the contracts that customers knowingly and voluntarily entered into with the EGSs. The OCA's proposal would place barriers to customers being offered green and other competitive products. The availability of these types of products are the cornerstone of the competitive marketplace the Commission seeks to create. If saddled with the OCA's restriction, the PPL POR program would become so unattractive as to be underutilized by the EGSs, thus thwarting the Commission's goal of using the POR program to expand competition.

¹⁰ Direct Testimony of Joseph M. Kleha on Behalf of PPL, Statement No. 1, Page 14, lines 7 – 10.

Not only would the marketplace be at risk under the OCA's proposal, individual EGSs would be at risk for both the unpaid balances and the unaccepted quantities, making the OCA's proposal untenable.

Therefore, for all the reasons stated herein, FES respectfully requests that the Commission reject the OCA proposal to limit residential collections to only the amount that would have been incurred under the default rate.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

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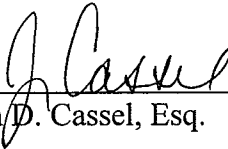
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Date: October 30, 2009



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