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November 24, 2009

James J. McNulty  
Secretary  
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Commonwealth Keystone Building  
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Harrisburg, PA 17105-3265

**RE: Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation  
Docket Nos. R-2009-2122718, C-2009-2128394 and C-2009-2136098**

Dear Secretary McNulty:

Enclosed please find the Reply Brief of PPL Electric Utilities Corporation for the above-referenced proceeding. Copies will also be provided as indicated on the Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Anthony D. Kanagy', is written over a large, light-colored circular stamp or mark.

Anthony D. Kanagy

ADK/skr

cc: Certificate of Service  
Honorable David A. Salapa

## 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 52 Pa. Code § 1.54 (relating to service by a participant).

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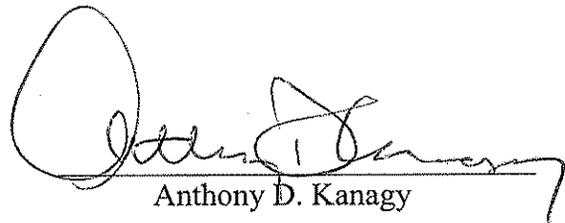
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
Office of Consumer Advocate	:	
	:	Docket Nos. R-2009-2122718
Office of Small Business Advocate	:	C-2009-2128394
	:	C-2009-2136098
v.	:	
	:	
PPL Electric Utilities Corporation	:	

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## **I. INTRODUCTION**

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby submits this Reply Brief in Response to the Main Briefs of the Office of Trial Staff (“OTS”), Office of Consumer Advocate (“OCA”), Sustainable Energy Fund (“SEF”) and Mr. Eric Epstein.

The primary criticism of the Company’s Time-of-Use (“TOU”) program from the OCA, SEF and Mr. Epstein concerns the Company’s methodology for procuring default supplies for TOU customers. However, these parties fail to acknowledge that the Company already has procured default supplies for all of its customers in 2010 pursuant to a Pennsylvania Public Utility Commission (“Commission”) approved competitive procurement process. Once this undisputed fact is recognized, the OCA, SEF and Epstein arguments regarding a separate or different procurement for TOU customers cannot be accepted and, consequently, their criticisms of the Company’s proposed cost recovery methodology must be rejected.

The Company’s Main Brief anticipated and responded to many of the arguments presented by the other parties. Therefore, in this Reply Brief, the Company provides further clarification of its position regarding the issues raised by the parties in this proceeding.

## **II. ARGUMENT**

### **A. PPL ELECTRIC IS REQUIRED TO OFFER A TOU PROGRAM UNDER ACT 129 AND IS PERMITTED TO RECOVER ITS COSTS.**

#### **1. Act 129 Provides For Recovery Of TOU Program Costs Through A Reconcilable Automatic Adjustment Clause.**

Act 129 of 2008 (“Act 129”) requires PPL Electric to offer a default service TOU program to its customers. 66 Pa. C.S. § 2807(f)(5). Act 129 also provides that an electric distribution company (“EDC”) “shall have a right to recover on a full and current basis, pursuant to a reconcilable automatic adjustment clause under Section 1307 (relating to sliding scale of rates; adjustments), all reasonable costs incurred under this section [Section 2807] ...” 66 Pa.

C.S. § 2807(e)(3.9). TOU programs are required under Section 2807 and, therefore, EDCs are permitted to recover costs for providing TOU programs through a reconcilable automatic adjustment clause.

It is axiomatic that when regulated utilities are required to offer service to customers, they are entitled to a reasonable opportunity to recover their costs for providing that service. *Pa. P.U.C. v. Pennsylvania Gas and Water Co. – Water Division*, 492 Pa. 326, 424 A.2d 1213 (1980), *cert denied*, 454 U.S. 824 (1981). This principle is long-standing, unquestioned and fundamental to the concept of utility rate regulation. However, in this proceeding, in clear contradiction to this basic, fundamental principle, the OCA is arguing that PPL Electric should not be allowed to recover its costs for providing the TOU program to customers. (OCA M.B., pp. 3-4). The OCA’s argument that PPL Electric should not be permitted to recover its TOU costs cannot be accepted.

In its Brief, the OCA cites to Section 2807(f)(4) of the Public Utility Code as prohibiting “decreased revenues to an electric distribution company due to shifting energy demand from being considered a reconcilable recoverable cost.” (OCA M.B., p. 5). The OCA is taking Section 2807(f)(4) out of context. Section 2807(f)(4), in its entirety, provides as follows:

(4) In no event shall lost or decreased revenues by an electric distribution company due to reduced electricity consumption or shifting energy demand be considered any of the following:

(i) A cost of smart meter technology recoverable under a reconcilable automatic adjustment clause under section 1307(b), except that decreased revenues and reduced energy consumption may be reflected in the revenue and sales data used to calculate rates in a distribution rate base rate proceeding filed under section 1308 (relating to voluntary changes in rates).

(ii) A recoverable cost.

Upon reviewing Section 2807(f)(4) in its entirety in combination with Section 2807(e)(3.9), it is clear that the “lost or decreased revenues” referred to in Section 2807(f)(4) means lost or decreased **distribution** revenues associated with offering a default service TOU program. To hold otherwise would not allow PPL Electric to recover its default service **generation** costs for providing the TOU option to customers, in clear contradiction to Section 2807(e)(3.9).

The OCA inappropriately has attempted to characterize the savings that will be achieved by TOU customers as “lost revenues” to PPL Electric. (OCA M.B., p. 3). These are not “lost revenues” as contemplated by Section 2807(4) but reflect a reallocation of actual generation costs incurred by the Company.

Under its TOU program, the Company is, in essence, reallocating default service generation costs based upon customers’ peak and off-peak usage. As the Company explained in this proceeding, all customers have different load shapes. (Tr. 84; PPL Electric M.B. p. 15). If a customer uses more energy in peak periods, that customer has a more expensive load shape. Conversely, if a customer uses less energy in peak periods, they have a less expensive load shape. The TOU program will give customers that have better load shapes the opportunity to receive the economic benefits of their usage pattern, and require non-participating customers to pay more for their energy. This is reasonable because in the wholesale market energy is priced to reflect customer load shapes.

The Company is required to offer a TOU program under Act 129 and also is permitted to recover its costs for providing the TOU program. The OCA has not proposed any alternative that would allow the Company to recover its costs. Therefore, the OCA’s arguments cannot be accepted.

**B. THE TOU PROGRAM WILL PROVIDE BENEFITS TO ALL RESIDENTIAL AND SMALL C&I CUSTOMERS.**

One of OCA's primary criticisms of the TOU program is its contention that the TOU program will not provide benefits for the residential class as a whole. (OCA M.B., p. 3). OCA's criticism is incorrect. In the CBP proceeding, the Company explained that it intended to offer a year-round TOU program in 2010 with no participation limits. Therefore, bidders were aware of this fact and were able to factor it into their bids. (Tr. 84). In addition, the TOU program will reduce the Company's peak demand which will benefit all default service customers by reducing future default service prices. (PPL Electric St. No. 2, p. 5).

In its Main Brief, the OCA disputes the Company's contention that wholesale bidders were aware that the Company would propose a year-round TOU program in 2010 with no participation limits. (OCA M.B., p. 11). The OCA relies on the fact that four of the six bids under the Competitive Bridge Plan ("CBP") proceeding were conducted before Act 129 was enacted. (OCA M.B., p. 11, fn. 3). However, the OCA fails to mention that in CBP Order the Commission specifically recognized that the Company would offer a year-round TOU program in 2010 with no participation limits. *Petition of PPL Electric Utilities Corporation For Approval of a Competitive Bridge Plan*, Docket No. P-02062227, Order entered May 17, 2007. On pages 12-13 of the CBP Order, the Commission states as follows:

Although the principal purpose of the CBP is to acquire POLR supply for 2010, PPL Electric incorporated several other related components into its CBP. One component is a proposal to enhance several experimental Demand Side Management (DSM) programs. The Demand Side Response Rider – Residential provides customers with a rate incentive to shift load from on-peak to off-peak periods in the summer months. The company proposed to double the limit on participation in 2008 and 2009, and remove participation limits in 2010. The company also proposed to expand the program to a year-round program in 2010, with pricing revised to more fully reflect competitive market prices. (PPL Electric St. 1 at 18-19).

It is clear from the CBP Order itself that wholesale bidders were aware that the Company intended to offer a year-round TOU program in 2010, with no participation limits and with pricing that reflected competitive market prices. The OCA's contention that CBP bidders were unaware that the Company would offer a year-round TOU program with no participation limits in 2010 cannot be accepted. The TOU program will provide benefits to all default service customers in 2010 and in future default service solicitations.

**C. THE COMPANY'S PROPOSED COST RECOVERY METHODOLOGY IS REASONABLE.**

The TOU program is a default service option offered by the Company. Therefore, in this proceeding, the Company proposes to include the TOU costs and recoveries in its Generation Supply Charge ("GSC"). The GSC is the Section 1307 mechanism by which the Company recovers its default service costs from customers. In their Main Briefs, OCA and SEF argue that the Company's TOU program will improperly shift costs to non-participants. (OCA M.B., p. 4; SEF M.B., p. 5).<sup>1</sup> As explained in the Company's Main Brief, the Company's proposal to recover TOU costs through the GSC is reasonable and should be approved for several reasons, including the following:

- Wholesale bidders were aware that the Company intended to offer a year round TOU program in 2010 with no participation limits, and were able to reflect the TOU program in their bids. Therefore, all default service customers will experience lower default service rates in 2010 as a result of the TOU program.
- Historically, standard default service rates have not reflected price differences for different customer load shapes within a class, and

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<sup>1</sup> In its Main Brief, SEF argues that the Company's proposal may adversely impact customers that occupy their residences during peak periods, such as families with young children at home, the home bound disabled and retirees. (SEF M.B., p. 13). This statement is based on SEF's assumption, with no actual evidence to support it. (Tr. 85). Moreover, as explained by Mr. Krall at hearing, if a customer has an average usage profile, there is no penalty associated with on-peak usage. (Tr. 86). In addition, customers that stay at home may benefit more because they can take actions to reduce usage during peak periods.

customers that use less energy in peak periods have been subsidizing customers that use more energy in peak periods. The TOU program gives customers that have a better load shape, and use less energy at the peak times, the opportunity to receive the economic benefits of their usage pattern. Likewise, under the Company's proposal, customers that have load shapes that reflect the use of more energy in peak periods will pay more for their energy, consistent with how energy is priced in the wholesale market.

- TOU program costs will be allocated to the residential and small C&I classes respectively, and the residential customers will not cross-subsidize small C&I customers or vice versa.
- The expected cost increase for non-TOU customers for 2010 will be so small it will be hard to discern.

As explained above, the TOU program will provide benefits to all default service customers in 2010 through lower prices for CBP bids and will provide benefits to all default service customers in later years through lower prices for future default service bids. It also is important to note that there is no legal requirement that TOU costs be allocated solely to TOU participants. Act 129 provides as follows with regard to allocation of costs for energy efficiency and conservation programs:

#### **Section 2806.1. Energy efficiency and conservation program**

**(a) Program.** – The Commission shall, by January 15, 2009, adopt an energy efficiency and conservation program to require electric distribution companies to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within the service territory of each electric distribution company in this Commonwealth. The program shall include:

- (11) Cost recovery to ensure that measures approved **are financed by the same customer class** that will receive the direct energy and conservation benefits.

(Emphasis supplied) As is evident from Section 2806.1(a)(11), EE&C program costs are to be allocated to **customer classes**, not necessarily individual customers. *See also Met-Ed Users Group and Penelec Industrial Customer Alliance v. Pa. P.U.C.*, 960 A.2d 189, 202 (Pa. Cmwlth.

2008). The Company is allocating its TOU program costs to its residential and small C&I classes, respectively, with no cross-subsidization between classes. (Tr. 161). Therefore, the Company's cost-allocation proposal is consistent with Act 129, relevant case law and long-standing precedent regarding class based ratemaking. *The Peoples Natural Gas Company v. Pa. P.U.C.*, 47 Pa. Cmwlth. 512, 409 A.2d 446 (1979); *U.S. Steel v. Pa. P.U.C.*, 37 Pa. Cmwlth. 173, 390 A.2d 865 (1978).

**D. THE PARTIES' CONTENTIONS THAT PPL ELECTRIC SHOULD PROCURE POWER FOR TOU CUSTOMERS FOR 2010 UNDER A DIFFERENT METHODOLOGY ARE UNREASONABLE.**

**1. It Is Undisputed That PPL Electric Has Procured All Of Its Default Supplies For All Customers In 2010.**

The record is clear in this proceeding that PPL Electric has procured all of its default supplies for all of its customers for 2010. (Tr. 81-82). The Company has conducted all six solicitations under the CBP proceeding. The results of all of these solicitations have been approved by the Commission, and the Company has entered into contracts with winning bidders to provide the Company's default supply for 2010. (Tr. 81). It also is important to note that no party has disputed this fact in their Main Briefs or in the record. To the contrary, the OCA recognizes that the Company has procured all of its default supplies for 2010 in its Main Brief, and SEF's witness Mr. Costlow explicitly agreed with this fact at the hearing. (OCA M.B., p. 11; Tr. 178).

**2. It Would Be Unreasonable For PPL Electric To Procure Default Supplies Separately For TOU Customers in 2010.**

Despite the fact that the Company already has procured its default supplies for 2010, SEF and Mr. Epstein argue that the Company should create a separate rate class for TOU customers and procure default supplies for them separately in 2010. (SEF M.B., p. 30; Epstein M.B., p. 6). As the Company explained in rebuttal testimony and in its Main Brief, the Company would have

to procure default supplies for these customers twice if it created a separate rate class for TOU customers. (Tr. 82; PPL Electric M.B., p. 13). This is not reasonable or prudent.

In addition, based on the record in this proceeding, it is clear that the Company will not have enough TOU customers in 2010 to procure power separately for them. (Tr. 79-80). The risk premium associated with such a product would far outweigh any benefits. In its Main Brief, SEF states that PPL Electric will have 150,500 TOU customers. (SEF M.B., p. 17). However, SEF fails to mention that the Company's projection of 150,500 TOU customers is the projection as of May 31, 2013. Currently, the Company has approximately 800 TOU pilot customers on its year-round pilot TOU program and has had approximately 1200 customers in total participating in its pilot TOU programs. (PPL Electric St. No. 1, p. 6; Tr. 78). It is not reasonable to project that the Company will have 150,500 TOU customers in 2010.

Moreover, in the CBP proceeding, SEF signed a stipulation with the Company agreeing to the Company's full-requirements procurement methodology for 2010. CBP Order, Attachment A, PPL Cross Examination Exhibit No. 7. It is inappropriate for SEF to now challenge that methodology, especially after all of the solicitations have been completed and approved by the Commission.

### **3. The OCA's Criticisms Of The Company's Power Procurement Methodology Are Unfounded.**

In its Brief, the OCA states that the reason it believes that the Company's TOU program is flawed is "because of PPL's procurement methodology for its 2010 default service load." (OCA M.B., p. 10). The OCA further states the following on page 11:

As a result of the reliance on full requirements, load following contracts, the Compan[y] cannot reduce wholesale power costs through the shifting of usage from peak to off-peak periods.

The OCA's criticism of the Company's procurement methodology cannot be accepted. As explained herein and in the Company's Main Brief, the Company already has procured all of its supply for 2010 pursuant to a Commission-approved procurement process. (PPL Electric M.B., p. 12). It is inappropriate for OCA to criticize that Commission-approved process, after the fact and after all of the procurements have been completed, in this proceeding. Moreover, in the CBP proceeding, the OCA specifically agreed to the Company's procurement process in a Stipulation, wherein the OCA stated as follows:

2. OCA supports PPL's CBP proposal for POLR service as modified by PPL's witnesses' Rebuttal Testimony, as a one-year bridge plan, contingent upon the agreements in Paragraphs 3 and 4. PPL and OCA respectfully submit that this commitment is in the public interest and request that the Presiding Officer and the Pennsylvania Public Utility Commission approve PPL's CBP proposal for POLR service consistent with this Stipulation.

The OCA specifically agreed to the Company's proposal to acquire default supplies for customers in 2010 through full requirements, load following contracts, and it is inappropriate for the OCA to now argue that the Company should have procured default supplies through a managed portfolio approach and to further argue that the Company should be denied cost-recovery because of its procurement methodology.<sup>2</sup>

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<sup>2</sup> In its Main Brief, the OCA claims that "Taken to its logical end, if all customers participate in the TOU program, those same customers will be asked to pay for these savings in future rates and their payments, in the end, will be exactly the same as if there was no program." (OCA M.B., p. 14). The OCA's argument is not logical because it assumes that all customers that enroll in the TOU program would shift usage and save money. From its experience, PPL Electric knows that this will not happen. (See PPL Electric Exh. No. 3). Moreover, this TOU program is for 2010 only. PPL Electric projects that approximately 16,000 customers will participate in the TOU program in 2010. It is entirely unreasonable to assume all 1.4 million of PPL Electric's residential and small C&I customers would participate in the TOU program in 2010.

**E. PPL ELECTRIC HAS MET ITS BURDEN OF PROOF IN THIS PROCEEDING.**

In its Main Brief, SEF correctly states that PPL Electric has the burden of proof in this proceeding. (SEF M.B., p. 7). SEF then incorrectly argues that the Company has failed to meet its burden of proof because it has failed to demonstrate that its TOU program will “meet the consumption and demand reduction requirements of Act 129.” (SEF M.B., p. 9).

There is no legal requirement in Act 129 that the Company must demonstrate, in this proceeding, that its TOU program will meet the Act’s consumption and demand requirements. PPL Electric included this TOU program in its EE&C plan as one of several programs that it proposes to implement to meet its demand reduction requirements under Act 129. The Company also included demand reduction estimates from the TOU program in its EE&C plan. However, the Company is not required to prove in this proceeding that the TOU program will meet the Company’s demand reduction estimates. Rather, as part of the EE&C proceeding, the Commission has established an evaluation process to monitor and verify the results of each program included in the EE&C filing. *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216, Order entered October 26, 2009 (“EE&C Order”), p. 89. In addition, EDCs are required to submit annual reports to the Commission regarding the results of their EE&C plans and may propose changes to their plans based upon their progress in meeting their Act 129 obligations. EE&C Order, p. 89. Therefore, the Company is not required to demonstrate in this proceeding that its TOU program will meet its demand reduction estimates under Act 129.

Moreover, as explained in the Company’s Main Brief, the Company has provided substantial data and analysis regarding its prior TOU pilot programs in this proceeding. (PPL Electric M.B., pp. 22-23). The Company has provided an analysis of customer participation,

customer savings and estimates of peak usage reductions for certain pilot participants. The Company also has provided hourly customer data and an analysis for how the Company established load shapes. (Tr. 102, 105). The Company has provided sufficient historical data and analyses to parties in this proceeding.

**F. THE TOU PROGRAM DESIGN IS REASONABLE.**

**1. The Company Properly Excluded OnTrack, Renewable Energy Rider and Net Metering Customers From The TOU Program.**

In their Main Briefs, SEF and Mr. Epstein argue that the Company's TOU program violates Act 129 because the Company proposes to exclude OnTrack, Renewable Energy Rider and Net Metering Rider customers from the program. (SEF M.B., p. 17; Epstein M.B., p. 3). The Company disagrees with this conclusion.

With regard to TOU programs, Act 129 provides as follows:

The default service provider shall offer the time-of-use rates and real-time price plan to all customers that have been provided with smart meter technology under paragraph (2)(iii).

66 Pa. C.S. § 2807(f)(5).

PPL Electric's TOU program complies with Section 2807(f)(5). As an initial matter, all residential and small C&I customers with smart meter technology can choose the Company's proposed TOU program.<sup>3</sup> However, if a customer chooses to enroll in the OnTrack program, the Renewable Energy Rider or the Net Metering Rider, the Company proposes to not allow these customers to also enroll in the TOU program. In other words, the TOU option is available to all

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<sup>3</sup> The Company will offer a real-time hourly pricing program for its large C&I customers in 2010 under its Commission-approved CBP plan.

residential customers with smart meter technology, but they cannot choose both the TOU program and the OnTrack program, Renewable Energy Rider or Net Metering Rider.<sup>4</sup>

The Company believes that it is reasonable to provide customers with rate options that are exclusive in situations where the two options either have different objectives or have inconsistent pricing methodologies. OnTrack customers pay substantially reduced bills based on their ability to pay. The objective of the OnTrack program is to allow low-income customers to receive electric service and to pay for service based upon their income. Other residential customers are required to pay for the difference between what OnTrack customers are able to pay and the actual costs of providing service to these customers. Therefore, the Company believes that it is inconsistent with the objectives of the OnTrack program to allow OnTrack customers to pay less than what they are able to afford when other customers are paying more so that OnTrack customers can receive service. The Company also does not believe that it would be appropriate for OnTrack customers to enroll in the TOU program and potentially receive higher bills resulting from increased usage in peak periods.

In addition, the Net Metering Rider and Renewable Energy Rider have generation pricing methodologies that are inconsistent with generation pricing under the TOU program. These customers' bills are based on monthly generation amounts that may occur on-peak or off-peak but are not recorded as such. Therefore, it would be inconsistent to charge these customers daily peak and off-peak rates when their bills are based on monthly average generation prices. In addition, Net Metering customers are able to carry forward excess generation from one month to the next month, for up to a 12-month period before cashing out the value of that generation. (Tr.

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<sup>4</sup> As explained in the Company's Main Brief, street lighting customers do not have meters and cannot shift load. Therefore, the Company does not propose to offer the TOU program to street lighting customers. None of the parties have challenged the Company's proposal to exclude street lighting customers from the TOU program in their Main Briefs.

94). Therefore, it also would be inconsistent to charge Net Metering customers daily peak and off-peak rates when they can carry generation forward on an average monthly price or average yearly price basis, and use it to offset generation that they buy in subsequent months.

As explained above, it is reasonable to give customers the option of participating in the TOU program but also to provide other rate options that exclude participation in the TOU program, such as the OnTrack program, Net Metering Rider and Renewable Energy Rider, where these programs have different policy objectives or have different generation pricing methodologies than the TOU program.

## **2. The TOU Program Is Cost Effective.**

In its Main Brief, SEF argues that the Company's TOU program is not cost effective. (SEF M.B., p. 21). As PPL Electric has explained, SEF's benefit-cost analysis that is presented in testimony is not based on the Total Resource Cost Test ("TRC Test"), which is the methodology that the Commission has mandated that EDCs must use for establishing benefit-cost analyses of EE&C programs, including TOU programs. EE&C Order, p. 43. In addition, in its analysis, SEF excludes the most important benefit of TOU programs – demand reduction benefits. (Tr. 98, 180).

In its Main Brief, SEF claims that "SEF witness Mr. Costlow has testified that he performed a TRC Test specifically for PPL Electric's TOU program and obtained a score of .87." (SEF M.B., p. 23). This argument cannot be accepted. SEF did not provide a TRC Test analysis of the Company's TOU program for the record in this proceeding. This statement in SEF's Brief is based upon the unsupported, unsubstantiated statement of SEF's witness on cross-examination at the hearing. (Tr. 182). In fact, at the hearing, SEF's witness claimed that he reran "the numbers on the TRC in this past week...." (Tr. 181-82). SEF cannot reasonably rely on the unsupported claims of its witness, made on cross-examination, with no record evidentiary

support to claim that SEF's witness performed a TRC Test of the TOU program. Moreover, when specifically asked at the hearing about his benefit-cost analysis, SEF's witness stated as follows:

Q. Is your analysis here consistent with what's been approved by the Commission?

A. No, it's not.

(Tr. 182).

As explained in the Company's Main Brief, the Company presented its benefit-cost analysis for the TOU program in the EE&C proceeding, and this benefit-cost analysis was accepted by the Commission along with the benefit-costs analyses of all of the Company's other EE&C programs. EE&C Order, pp. 42-43. SEF's benefit-cost analysis is not based on the TRC test, omits the most important benefit of the TOU program and cannot be accepted.

**3. The TOU Program Addresses Mr. Epstein's "Green Weekend" Proposal.**

In his Main Brief, Mr. Epstein argues that the Company did not adequately consider his "Green Weekend" proposal to offer lower weekend electricity rates to faith-based institutions, Community Based Organizations and non-profit organizations. (Epstein M.B., pp. 4-6). Contrary to Mr. Epstein's assertions, the Company adequately considered his proposal. The Company had multiple collaborative meetings with Mr. Epstein and other interested parties and an individual meeting with Mr. Epstein to discuss his proposal. (Tr. 141). In addition, the Company's TOU program offers lower weekend rates to all faith-based institutions, Community Based Organizations and non-profit organizations that are served by the Company's residential and small C&I rate schedules that are not OnTrack, Net Metering or Renewable Energy Rider customers.

In his Main Brief, Mr. Epstein argues that the Commission should amend the Company's TOU proposal to "incorporate two meetings with the intervening Parties under the PUC's supervision by October 31, 2011." (Epstein M.B., p. 10). This is a new request by Mr. Epstein that was not previously made in this proceeding. It is inappropriate for Mr. Epstein to make a new request for the first time in his Main Brief because it does not give the Company an adequate chance to respond to the proposal, including the opportunity to present evidence demonstrating that the proposal is unreasonable. *Enron Capital & Trade Resources Corporation v. The Peoples Natural Gas Company, et al.*, Docket No. R-00973928, Order entered August 24, 1998. Therefore, the Commission should not consider Mr. Epstein's new request. Moreover, as explained above, the Company has had multiple collaborative meetings with interested parties, including Mr. Epstein, regarding its TOU program and will continue to have collaborative meetings in the future with interested stakeholders as part of its EE&C plan. EE&C Order, p. 116.

**4. The TOU Program Will Not Unfairly Benefit Any PPL Electric Affiliates.**

In its Main Brief, SEF argues that "circumstantial evidence indicates that PPL Electric affiliates could benefit from the instant proposal." (SEF M.B., p. 25). SEF's argument is based upon the proposition that PPL EnergyPlus is one of the winning wholesale supply bidders to provide default supplies to PPL Electric for 2010 and that PPL EnergyPlus may be able to sell excess energy into the wholesale market.

The Commission should not accept SEF's argument. As Mr. Krall explained in this proceeding, every wholesale bidder was aware that PPL Electric intended to offer a year-round TOU program with no participation limits to default service customers in 2010. Therefore, wholesale supply bidders were able to factor the TOU program into their bids. In this regard,

PPL EnergyPlus is no different than any other bidder. Moreover, the Company had 25 bidders submitting bids to provide default supplies to the Company for 2010 and had 11 different successful bidders. (Tr. 84). PPL EnergyPlus is only one of many wholesale bidders that are providing default supplies to the Company in 2010. In addition, the Company anticipates that very few customers will participate in the TOU program in 2010, and that the resulting load shift in 2010 will be minimal. (Tr. 115-16). For these reasons, SEF's argument that the Company's TOU program should be reviewed further because PPL EnergyPlus may benefit from the TOU program should be denied.

**G. DEMAND REDUCTION CREDITS SHOULD BE ALLOCATED TO THE COMPANY'S ACT 129 COMPLIANCE RIDER.**

In this proceeding, the Company proposes to reflect any credits from selling demand reductions through the TOU program in its Act 129 Compliance Rider ("ACR"). In its Main Brief, SEF argues that any revenues from selling demand reduction credits should be credited to the GSC. (SEF M.B., p. 24). The Commission should not accept SEF's proposal.

As explained in its Main Brief, the Company intends to spend approximately \$4.0 million to market the TOU program under its EE&C plan. (PPL Electric M.B., p. 18). These costs will be recovered from customers under the Company's ACR. Therefore, it is reasonable and appropriate to reflect demand reduction credits in the ACR to reduce the marketing costs for the TOU program.

In its Main Brief, SEF states that "...if revenues resulting from the sales of demand reductions were credited toward the GSC, the Company would likely be close to closing any procurement shortfall." (SEF M.B., p. 24). There is no record evidence to support this statement by SEF, and the Commission should not accept it.

**H. THE COMPANY'S CONSUMER EDUCATION BUDGET IS NECESSARY AND REASONABLE.**

In his Main Brief, Mr. Epstein argues that the Commission should deny PPL Electric's proposal to spend \$100,000 to notify, educate and enroll customers in the TOU program. (Epstein M.B., p. 8). Mr. Epstein claims that the purpose of this expenditure is to "brand PPL." (Epstein M.B., p. 8).

Mr. Epstein's argument should not be accepted. As explained in the Company's Main Brief, PPL Electric must notify, educate and enroll customers in the TOU program because otherwise it will not have any participants, and the program will not produce any benefits. (PPL Electric M.B., p. 25). In addition, this expenditure was part of the Company's Commission-approved Consumer Education Plan. (Tr. 108). Mr. Epstein's argument that the Company should not be permitted to recover costs for notifying, educating and enrolling customers in the TOU program is unreasonable.

**I. THE OTS AND SEF REQUESTS FOR DATA SHOULD BE ADDRESSED IN THE ACT 129 EE&C VERIFICATION PROCEEDINGS.**

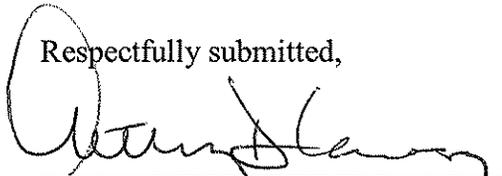
In this proceeding, OTS and SEF request that the Company provide certain information regarding the Company's TOU program in its next TOU filing. (OTS M.B., pp. 5-6; SEF M.B., p. 31). As explained by Mr. Krall, Act 129 has substantial measurement and verification requirements that are in the process of being defined by stakeholders. (Tr. 110). Therefore, as explained in its Main Brief, the Company recommends that the Commission allow this Act 129 process to define the data that must be evaluated and provided to parties.

### III. CONCLUSION

PPL Electric Utilities Corporation is required to offer a TOU program pursuant to Act 129 and is permitted to recover its costs for providing a TOU program. The parties that have challenged the Company's TOU program have not proposed any reasonable methodology that would allow the Company to recover its costs.

The Company's TOU program will give customers the opportunity to shift usage to off-peak periods and to save money by shifting usage. In addition, the TOU program will reduce the Company's peak demand. The TOU program is in the public interest, and the Company requests that the Pennsylvania Public Utility Commission approve the TOU program as filed.

Respectfully submitted,



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