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File #: 2507/140056

August 18, 2010

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**RE: Petition of PPL Electric Utilities Corporation for a Declaratory Order Regarding the Release of Certain, Limited Customer Information for Non-Competitive, Academic Purposes or, in the Alternative, a One-Time Limited Waiver of 52 Pa. Code § 54.8
Docket No. P-2010-**

Dear Secretary Chiavetta:

Enclosed please find the Petition of PPL Electric Utilities Corporation for the above-referenced proceeding. Copies will be provided as indicated on the certificate of service.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "C. Wright".

Christopher T. Wright

CTW/skr

Enclosures

cc: Certificate of Service

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).

VIA FIRST CLASS MAIL

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555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Office of Trial Staff
Commonwealth Keystone Building
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Office of Small Business Advocate
Commerce Building, Suite 1102
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Harrisburg, PA 17101

Wayne L. Mowery, Jr.
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McQuaide Blasko
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State College, PA 16801
*Counsel for The Pennsylvania State
University*

Date: August 18, 2010



Christopher T. Wright

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities :
Corporation for a Declaratory Order :
Regarding the Release of Certain, Limited : Docket No. P-2010-_____
Customer Information for Non-competitive, :
Academic Purposes or, in the Alternative, a :
One-time Limited Waiver of 52 Pa. Code § :
54.8. :

PETITION OF PPL ELECTRIC UTILITIES CORPORATION

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

PPL Electric Utilities Corporation (“PPL Electric”) hereby petitions the Pennsylvania Public Utility Commission (“Commission”), pursuant to 66 Pa.C.S. § 331(f) and 52 Pa. Code § 5.42, and respectfully requests a declaratory order to remove uncertainty regarding the application of 52 Pa. Code § 54.8 to PPL Electric’s proposal for a one-time release of certain, limited customer information, on a confidential basis, to The Pennsylvania State University College of Earth and Mineral Sciences’ Energy Institute, Electricity Markets Initiative (“PSU”) for the purpose of conducting an academic study on competitive markets in Pennsylvania following the expiration of generation rate caps. In the alternative, PPL Electric respectfully requests, pursuant to 52 Pa. Code §§ 5.42 and 56.222, a limited one-time waiver of the customer notification provisions, 52 Pa. Code § 54.8, for PPL Electric’s proposed one-time release of certain limited customer information, on a confidential basis, to PSU. The information sought to be released herein will facilitate the preparation of a publicly available academic study of competitive markets in Pennsylvania, which will be beneficial to customers, Pennsylvania

electric distribution companies (“EDCs”), electric generation supplies (“EGSs”), the Commission, and the general public. For the reasons that follow, the release of the information requested herein is reasonable, likely to promote competition, and in the public interest. In support thereof, PPL Electric states as follows:

I. INTRODUCTION

1. PPL Electric is a “public utility” and an “electric distribution company” (“EDC”) as those terms are defined under the Public Utility Code, 66 Pa.C.S. §§ 102 and 2803, subject to the regulatory jurisdiction of the Commission. PPL Electric furnishes electric distribution, transmission, and provider of last resort (“POLR”) electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

2. PPL Electric’s address is Two North Ninth Street, Allentown, Pennsylvania 18101.

3. PPL Electric’s attorneys are:

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PPL Electric's attorneys are authorized to receive all notices and communications regarding this Petition.

4. On January 1, 1997, the Electricity Generation Customer Choice and Competition Act ("Competition Act"), 66 Pa.C.S. Chapter 28, became effective. The Competition Act deregulated the generation of electricity, established caps on rates charged by EDCs, allowed EDCs to recover their stranded costs over a transition period, and created the framework for a competitive retail market by which customers could choose competitive generation supplies from EGSs.¹

5. A primary innovation mandated by the Competition Act is to provide customers with direct access to a competitive generation market. 66 Pa.C.S. § 2802(3). A fundamental rationale for this change is the legislative finding that "competitive market forces are more effective than economic regulation in controlling the costs of generating electricity." 66 Pa.C.S. § 2802(5); *see also Green Mountain Energy Company. v. Pa. P.U.C.*, 812 A.2d 740, 742 (Pa. Cmwlth. 2002). Another fundamental policy of the Competition Act is that electric service is an essential service and should be available to all customers "on reasonable terms and conditions." 66 Pa.C.S. § 2802(9).

6. On December 31, 2009, PPL Electric's generation rate caps expired.² On January 1, 2011, the transition periods will end for other major EDCs in Pennsylvania: Metropolitan

¹ To implement these changes, the Competition Act required all EDCs in Pennsylvania to file restructuring plans with the Commission. On April 1, 1997, PPL Electric's predecessor, Pennsylvania Power & Light Company, filed a comprehensive restructuring plan with the Commission. After extensive litigation, the Company and almost all active parties reached a settlement of that case ("Restructuring Settlement"). By Order entered August 27, 1998, the Commission approved the Restructuring Settlement.

² On May 17, 2007, the Commission approved a plan for acquisition of supply for POLR service as a one-year "bridge" between the expiration of PPL Electric's POLR rate caps on December 31, 2009, and a fully competitive, statewide market beginning January 1, 2011. *Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan*, Docket No. P-00062227.

Edison Company, Pennsylvania Electric Company, PECO Energy Company, and West Penn Power Company.³

7. A consortium of EGSs have contracted with PSU to conduct an academic study of issues related to competitive markets in Pennsylvania following the expiration of generation rate caps, including an analysis of customer shopping.⁴ The results of the study will be posted as a publicly available working paper. However, the success of the study is dependent upon the availability of data at the customer level.

8. To provide the data necessary for this academic study, PPL Electric proposes a one-time release of certain, limited customer information directly to PSU, subject to the terms of an appropriate confidentiality agreement, for the purpose of conducting an academic study on competitive markets in Pennsylvania following the expiration of generation rate caps. Specifically, PPL Electric proposes a one-time, limited release of the following information for each of its Residential and Small C&I customers:

- (a) Rate Schedule;
- (b) Customer zip codes;
- (c) Historical usage data limited to kWh (kilowatt hour) used beginning January 1, 2009, if available, or usage data from the account start date;
- (d) Meter read dates;
- (e) Whether the customer has switched to an EGS and, if so, the date of the switch; and
- (f) Whether the customer is a heating or non-heating customer.

³ Transition periods already have ended for other EDCs in Pennsylvania, which currently are operating under various Commission-approved POLR supply acquisition plans.

⁴ The consortium includes the following EGSs: Exelon, Constellation, Direct Energy, FirstEnergy, PPL EnergyPlus and RRI. Also part of the initiative, as non-paying members, are the Pennsylvania Public Utility Commission and PJM Interconnection LLC.

Further, PPL Electric will not provide any of the following information:

- (a) Customer name;
- (b) Customer telephone number;
- (c) Customer address;
- (d) Customer Social Security Number;
- (e) Customer account number; or
- (f) Customer historical billing data.

Importantly, under the terms of the confidentiality agreement, PSU will not provide any of the customer information to any other person or entity, including other EDCs or EGSs.

9. PPL Electric believes that the results of the study may foster increased EGS participation and more effective competition in the retail electric market and, therefore, the proposed release of certain customer information, under the circumstances and limitations described below, is in the public interest.

10. Section 54.8 of the Commission's regulations provides as follows:

(a) An EDC or EGS may not release private customer information to a third party unless the customer has been notified of the intent and has been given a convenient method of notifying the entity of the customer's desire to restrict the release of the private information. Specifically, a customer may restrict the release of either the following:

- (1) The customer's telephone number.
- (2) The customer's historical billing data.

(b) Customers shall be permitted to restrict information as specified in subsection (a) by returning a signed form, orally or electronically.

(c) Nothing in this section prohibits the EGS and EDC from performing their mandatory obligations to provide electricity service as specified in the disclosure statement and in the code.

52 Pa. Code § 54.8

11. For the reasons that follow, PPL Electric believes that its proposed release of certain, limited customer information to PSU, on a confidential basis, complies with Section 54.8, and requests a declaratory order from the Commission to that effect. Alternatively, PPL Electric respectfully requests that the Commission issue an order granting a one-time waiver of Section 54.8 to permit PPL Electric to release certain, limited customer information to PSU for the purpose of conducting an academic study to foster increased EGS participation and more effective competition in the retail electric market following the expiration of generation rate caps.

II. APPLICABLE LAW AND REGULATIONS

A. Declaratory Order.

12. Section 331(f) of the Code, 66 Pa.C.S. § 331(f), and the Commission's regulations at 52 Pa. Code § 5.42 provide that the Commission may issue a declaratory order to terminate an actual controversy or to remove uncertainty.

13. Declaratory judgment is a means to declare rights, status, and other legal relations. *See* 42 Pa.C.S. §§ 7532, 7533. Declaratory judgment “is to be liberally applied to afford relief from uncertainty and insecurity.” *Township of Derry v. Pa. Dep't of Labor & Industry*, 593 Pa. 480, 485, 932 A.2d 56, 59 (2007) (citing 42 Pa. C.S. § 7541(a)). In order to establish a claim for declaratory relief, a petitioner “must allege an interest by the party seeking relief which is direct, substantial and present ... and must demonstrate the existence of an actual controversy related to the invasion or threatened invasion of one's legal rights.” *Council 13, AFSCME v. Cmwlth.*, 954 A.2d 706, 716 (Pa. Cmwlth. 2008)(quotation omitted). Stated otherwise, “declaratory judgment must not be employed to determine rights in anticipation of events which may never occur or for consideration of moot cases or as a medium for the

rendition of an advisory opinion which may prove to be purely academic.” *Id.* (quoting *Gulnac v. South Butler County School District*, 526 Pa. 483, 488, 587 A.2d 699, 701 (1991)).

14. For the reasons that follow, there is uncertainty regarding whether the requirement that an EDC provide customers with notice and an opportunity to opt out of a release of private customer information to a third party would permit PPL Electric to release certain, limited customer information, on a confidential basis, to PSU for the purpose of conducting an academic study on competitive markets in Pennsylvania following the expiration of generation rate caps, under the circumstances described below. PPL Electric has a substantial interest in the resolution of this question prior to releasing the proposed information, in order to avoid the potential for subsequent complaints alleging a failure to comply with Section 54.8 of the Commission’s regulations.

B. Waiver of Regulations.

15. Alternatively, if the Commission concludes that PPL Electric’s proposal to release certain, limited customer information, on a confidential basis, to PSU for the purpose of conducting an academic study on competitive markets in Pennsylvania following the expiration of generation rate caps, under the circumstances described below, is not permitted under Section 54.8, PPL Electric respectfully requests that the Commission grant a limited, one-time waiver for the proposed release of certain limited customer information.

16. Section 5.43 of the Commission’s regulations permits a party to petition the Commission for a waiver of a regulation. The petition must provide the purpose and facts that constitute the grounds requiring waiver of the regulation. 52 Pa. Code § 5.43(a). Similarly, Section 56.222 of the Commission’s regulations permits a party to seek a modification or temporary exemption from a provision of Chapter 56 of the Commission’s regulations. 52 Pa. Code § 56.222.

17. The Commission has explained that it has the authority to waive its regulations when it is necessary and in the public interest. *Petition of Direct Energy Services, LLC for Emergency Order Approving a Retail Aggregation Bidding Program for Customers of Pike County Light & Power Company*, Docket No. P-00062205, 2006 Pa. PUC LEXIS 3, 249 P.U.R.4th 327 (April 20, 2006); *Petition of ALLTEL Pennsylvania, Inc. for Declaratory Order*, Docket Nos. P-00950955, *et al.* (June 10, 1996).

18. For the reasons explained below, PPL Electric believes that the results of the study may foster increased EGS participation and more effective competition in the retail electric market and, therefore, the proposed release of certain customer information, under the circumstances and limitations described below, is in the public interest. A limited waiver of Section 54.8 will facilitate the academic study.

III. DISCUSSION

A. Overview of the Proposed Release of Customer Information.

19. The academic study to be conducted by PSU seeks to analyze the various retail products available to consumers. The study also seeks to examine the effectiveness of competition following the expiration of generation rate caps. Specifically, the study will examine and analyze issues related to customers that switch from an EDC to an EGS for generation service.

20. The results of the study will be posted as a publicly available working paper, with intentions of formal publication. The study will provide insight and data regarding customers that switch from an EDC to an EGS, and whether the current marketing and sales activities have been effective in increasing EGS competition in the retail market after the expiration of generation rate caps. Such information compiled in one convenient, publicly available document may be valuable to EGSs and EDCs, as well as the Commission, in their collective efforts to

promote competition in retail electric markets. Ultimately, customers of EDCs and EGSs in Pennsylvania will benefit from the energy choices and cost savings made possible by a more robust competitive retail electricity market in the Commonwealth.

21. Although PSU was contracted by a consortium of EGSs to conduct the academic study described above, PSU will not engage in any marketing or sales activities on behalf of or for the benefit of any EGS or EDC. Further, under the terms of the confidentiality agreement, PSU will not provide the customer information to any other person or entity, including other EDCs or EGSs. Rather, the study will be conducted entirely on an independent basis, subject to certain limitations set forth herein and any other reasonable conditions that the Commission may impose upon the release of such information.

22. The success of PSU's independent academic study is dependent upon the availability of certain customer information. PPL Electric believes that a one-time release of certain, limited customer information explained above for each of its Residential and Small C&I customers, subject to an appropriate confidentiality agreement, will facilitate the study and its usefulness, which, in turn, will benefit all EGSs, EDCs, and the Commission in promoting competition in the retail electric market. Ultimately, all customers will see benefits from a more robust competitive retail electricity market in Pennsylvania.

B. The Proposed Release of Certain, Limited Customer Information for Non-competitive, Academic Purposes Complies with Section 54.8.

23. PPL Electric proposes to release the information identified above for each of its Residential and Small C&I customers, subject to the limitations and conditions discussed herein. With respect to the release of customer information, Section 54.8 of the Commission's Customer Choice regulations requires that an EDC or EGS provide customers with the opportunity to opt out of the release of customers' telephone numbers and historical billing data. For the reasons

that follow, PPL Electric believes that its proposed release of certain customer information, subject to the limitations provided herein, complies with the requirements of Section 54.8.

24. Based on discussions with representatives of PSU, PPL Electric herein proposes a one-time release of certain, limited information explained above for each of its Residential and Small C&I customers. Importantly, PPL Electric will delete or redact any customer-specific identifiers or information. Specifically, PPL Electric will not provide any of the following customer information: name; telephone number; address; Social Security Number; account number; or historical billing data.

25. Further, PPL Electric will require PSU and any employees, agents, representatives, or other individuals that may have access to the customer information proposed to be released herein to execute the confidentiality agreement attached hereto as "Appendix A." By executing the attached confidentiality agreement, PSU will agree not to disclose for any purpose any customer information provided by PPL Electric. PSU will further agree that it will not use the proposed information to market to any customers on behalf of or for the benefit of any EDC or EGS. Additionally, PSU will agree to either return or destroy any and all customer information provided by PPL Electric prior to the date that the academic study becomes publicly available or upon a mutually agreed upon time after publication of the study.

26. PPL Electric believes that release of the information described above, subject to the limitations and conditions set forth herein, complies with the requirements of Section 54.8. The information sought to be released will not provide any customer-specific identifiers or customer-specific information, including customers' telephone numbers and historical billing data. As a result, PPL Electric believes that it is not required by Section 54.8 to provide customers with the opportunity to opt out of the release of the limited customer information

proposed herein. The limited nature of the information proposed to be released, together with the confidentiality agreement discussed above, will adequately protect customers' private information.

27. For these reasons, PPL Electric believes that its proposal to provide certain customer information for each of its Residential and Small C&I customers to PSU for the purpose of an independent, academic study of competitive markets in Pennsylvania following the expiration of generation rate caps, subject to the limitations and conditions discussed herein, is consistent with and in compliance with the requirements and purpose of Section 54.8 of the Commission's Customer Choice regulations.

C. In the Alternative, PPL Electric Requests a Limited Waiver of Section 54.8.

28. To the extent that the Commission concludes that PPL Electric's request to release certain, limited customer information for each of its Residential and Small C&I customers as explained above, fails to meet the requirements of Section 54.8, PPL Electric respectfully requests a waiver of the requirement that it must provide customers with the opportunity to opt out of the release of the proposed customer information.

29. The success of PSU's independent academic study is dependent upon the availability of certain customer information. PPL Electric believes that a one-time release of certain, limited customer information, subject to an appropriate confidentiality agreement, will facilitate the study and its usefulness. PPL Electric further believes that the results of the study may foster increased EGS participation and more effective competition in the retail electric market and, therefore, the proposed release of certain customer information, under the circumstances and limitations set forth herein, is in the public interest.

30. As explained above, the information sought to be released will not provide any customer-specific identifiers or customer-specific information, including customers' telephone

numbers and historical billing data, and will be subject to a confidentiality agreement. These consumer safeguards will adequately protect private customer information from disclosure.

31. Based on the foregoing, the proposed release of certain, limited customer information for each of PPL Electric's Residential and Small C&I customers for the purposes of a publicly available, non-competitive, academic study will be beneficial for EGSs and EDCs, their respective customers, and the Commission in analyzing the competitive retail electric markets following the expiration of generation rate caps. Accordingly, in the event that the Commission determines that PPL Electric's proposal to release limited customer information, subject to certain confidentiality safeguards explained above, is not in compliance with the requirements of Section 54.8, PPL Electric respectfully requests that the Commission grant a one-time limited waiver from 52 Pa. Code § 54.8.

IV. CONCLUSION

32. PPL Electric believes that its proposal for a one-time release of certain, limited customer information for each of its Residential and Small C&I customers to PSU for the purpose of conducting an academic study on competitive markets in Pennsylvania following the expiration of generation rate caps, together with an appropriate confidentiality agreement, is consistent with and in compliance with the requirements and purpose of Section 54.8 of the Commission's Customer Choice regulations. Accordingly, PPL Electric requests that the Commission enter an order approving the proposed release of customer information, subject to the limitations and conditions set forth herein.

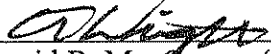
33. In the alternative, to the extent that the Commission concludes that PPL Electric's request to release certain, limited customer information as explained above fails to meet the requirements of Section 54.8, PPL Electric respectfully requests a one-time waiver of the requirement that it must provide customers with the opportunity to opt out of the proposed

release of customer information. The requested release and one-time waiver of Section 54.8 is reasonable, may help promote competition in the retail electric market, and is in the public interest.

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Commission approve a one-time release of limited customer information to The Pennsylvania State University, subject to certain limitations and conditions, for the purpose of conducting an academic study on competitive markets in Pennsylvania following the expiration of generation rate caps or, in the alternative, a limited one-time waiver of the opt-out requirement of 52 Pa. Code § 54.8.

Respectfully submitted,

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Of Counsel:

Post & Schell, P.C.

Date: August 18, 2010

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Attorneys for PPL Electric Utilities Corporation

Appendix A

CONFIDENTIALITY AGREEMENT

BETWEEN

PPL ELECTRIC UTILITIES CORPORATION

AND

THE PENNSYLVANIA STATE UNIVERSITY

Dated _____, 2010

CONFIDENTIALITY AGREEMENT

This CONFIDENTIALITY AGREEMENT (“Agreement”) is entered into as of the ___ day of _____, 2010, by and between PPL Electric Utilities Corporation (“PPL Electric”) and The Pennsylvania State University on behalf of its College of Earth and Mineral Sciences’ Energy Institute, Electricity Markets Initiative (“PSU”) (collectively, PPL Electric and PSU are hereinafter referred to as the “Parties”). This Agreement will be effective upon the “Effective Date” as the term is defined in Article 2.

In consideration of the mutual covenants contained herein and/or other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, hereby agree as follows:

1. BACKGROUND

1.1 PPL Electric is a public utility and electric distribution company (“EDC”) certificated by the Pennsylvania Public Utility Commission (“Commission”), that provides electric distribution, transmission, and provider of last resort electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

1.2 PSU is a multi-campus public research university located in the Commonwealth of Pennsylvania that educates students and improves the well-being and health of individuals and communities through integrated programs of teaching, research, and service.

1.3 PSU has been contracted by a consortium of electric generation suppliers (“EGSs”) to conduct an academic study of issues related to competitive markets in Pennsylvania following the expiration of generation rate caps, including an analysis of customer shopping (“Study”), the results of which will be publicly available.

1.4 The Parties believe that the Study will be beneficial to Pennsylvania utility customers, EDCs, EGSs, the Commission, as well as the general public. The Parties further believe that the success of the study is dependent upon the availability of data at the customer level.

(a) The Study to be conducted by PSU will analyze the various retail products available to consumers. The Study also will examine the effectiveness of competition following the expiration of generation rate caps. Specifically, the Study will examine and analyze issues related to customers that switch from an EDC to an EGS for generation service.

(b) The results of the Study will be posted as a publicly available working paper, with intentions of formal publication. The Study will provide insight and data on customers that switch from an EDC to an EGS, and whether the current marketing and sales

activities have been effective in increasing EGS competition in the retail market after the expiration of generation rate caps.

1.5 Subject to appropriate approval by the Commission, PPL Electric will provide a one-time release of certain, limited customer information, as set forth in Article 3, directly to PSU, subject to the terms of this Agreement and any other conditions imposed by the Commission, for the purpose of studying the competitive markets in Pennsylvania.

2. **TERM**

2.1 **Effective Date.**

(a) The Effective Date of this Agreement shall be the date first written above, subject only to the receipt of any required regulatory approvals from the Commission.

(b) The Parties acknowledge and agree that this Agreement is subject to and contingent upon the prior approval of the Commission.

2.2 **Termination and Modification.**

(a) The Parties agree that this Agreement and the Parties' respective obligations hereunder are by their nature intended to continue beyond the date which the Study becomes publicly available and will be binding on the Parties for as long as PSU shall retain any of the customer information set forth in Section 3. This Agreement shall terminate upon PSU's destruction or return of any and all customer information provided by PPL Electric. The Parties agree that such destruction or return of customer information shall be undertaken no later than seven (7) years from the effective date of this Agreement, unless such period is extended by mutual consent of the Parties.

(b) This Agreement shall be subject to termination or modification only if and to the extent that performance under this Agreement may conflict with any state or federal statute, or any rule, decision, or order of any state or federal court or regulatory agency having jurisdiction over one or more of the Parties.

2.3 **Computing Time.** When computing any time under this Agreement, the day of the act, event, or default beginning the period shall be excluded. When any period of time is specified to be less than 30 days, intervening weekends and legal holidays recognized by the United States federal government will not be included in the computation. When the period of time is specified to be 30 days or more, all intervening calendar days will be included except the first day beginning the period.

3. **INFORMATION TO BE RELEASED**

3.1 Subject to the approval of the Commission and the terms of this Agreement, PPL Electric will release the following information for each of its Residential and Small C&I customers all of which shall be clearly marked "CONFIDENTIAL":

- (a) Rate Schedule;
 - (b) Customer zip codes;
 - (c) Historical usage data limited to kWh (kilowatt hour) used beginning January 1, 2009, if available, or usage data from the account start date;
 - (d) Meter read dates;
 - (e) Whether the customer has switched to an EGS and the date of the switch;
- and
- (f) Whether the customer is a heating or non-heating customer.

3.2 PPL Electric will delete or redact any customer specific identifiers or information. Specifically, PPL Electric will not provide any of the following information:

- (a) Customer name;
- (b) Customer telephone number;
- (c) Customer address;
- (d) Customer Social Security Number;
- (e) Customer account number; or
- (f) Customer historical billing data, except as to any such information specifically provided for release under this Agreement pursuant to the language in Paragraph 3.1 above.

4. CONFIDENTIAL TREATMENT OF INFORMATION

4.1 PSU agrees to treat as confidential and not to disclose for any purpose any customer identifiers or customer-specific information that may be determined from the information provided by PPL Electric, as set forth in Article 3. PSU further agrees that it will not disclose for any purpose any of the customer information provided by PPL Electric, as set forth in Article 3, to any other EDC or EGS.

(a) To the extent that disclosure of such customer information is required by a court or other governmental entity of competent jurisdiction, the Parties shall work together in good faith to seek the most restrictive method of disclosure to third parties.

4.2 PSU agrees that it will not use the information set forth in Article 3 to market to any customers on behalf of or for the benefit of any EDC or EGS.

4.3 PSU agrees to either return or destroy any and all customer information, including any and all copies, provided by PPL Electric, as set forth in Article 3, prior to the date that the

Study becomes published. However, upon written approval by PPL Electric, which approval shall not be unreasonably withheld, PSU may retain the information set forth in Article 3 for an agreed upon time after publication of the Study, subject to the provisions of Section 2.2(a), after which time PSU shall either return or destroy the customer information.

4.4 PSU agrees that any employees, agents, representatives, or other individuals that may have access to the customer information set forth in Article 3 will be required to execute a Non-Disclosure Certificate, as designated in "Appendix A," an executed copy of which will be returned to PPL Electric. No other persons may have access to the customer information set forth in Article 3, except as authorized by order of the Commission. By executing the attached Non-Disclosure Certificate, the employees, agents, representatives, or other individuals of PSU agree:

(a) To treat as confidential and not to disclose for any purpose any customer identifiers or customer-specific information that may be determined from the information provided by PPL Electric as set forth in Article 3;

(b) Not to use the information set forth in Article 3 to market any customers on behalf of or for the benefit of any EDC or EGS; and

(c) To either return or destroy any and all customer information set forth provided by PPL Electric, as set forth in Article 3, prior to, but no later than, the date that the Study becomes publicly available.

4.5 No person who is afforded access to any information set forth in Article 3 shall use or disclose that information for the purposes of business or competition, or any purpose other than the Study as agreed herein.

5. EVENTS OF DEFAULT

5.1 Event of Default. A failure by a Party to comply with any provision of this Agreement that remains uncured 30 days after receipt of written notice of non-compliance from the other Party is an event of default. Provided, however, that if any such failure is not capable of being cured within such 30-day period and the defaulting Party has commenced and diligently proceeded to complete such cure, then such additional amount of time to cure as the defaulting Party shall reasonably require shall be provided.

5.2 Force Majeure. The consequences, direct or indirect, of fires, accidents, war, failure of supply of raw materials, vandalism, unusually severe weather, flood, and any like or different causes which are beyond the reasonable control a Party hereto shall excuse performance hereunder in whole or in part, to the extent performance has been prevented by such consequences. Upon removal of the cause of any such interruption, performance shall be resumed as specified herein. The Party whose performance is prevented shall take all reasonable steps to overcome the consequences of said causes.

5.3 Rights and Remedies for Event of Default.

(a) In the event of default, the Parties agree that a non-breaching Party is entitled to seek indemnification or reimbursement for any and all fines, penalties, and costs assessed against a non-breaching Party due to a breaching Party's failure to perform under this Agreement.

(b) The Parties agree that breach of this Agreement may cause damages to which a dollar amount would be difficult or impossible to ascribe, or that such a breach would be irremediable by damages alone and specifically agree to equitable relief as appropriate. The non-breaching Party shall be entitled to request specific performance or other equitable relief by way of injunction or otherwise, if the other Party or any of its employees, agents, representatives, or other individuals breach or threaten to breach any of the provisions of this Agreement. Such remedy shall not be deemed to be the exclusive remedy available to the non-breaching Party, but shall be in addition to all other remedies.

(c) The Parties shall have all other remedies and rights available under laws of the Commonwealth of Pennsylvania to enforce the obligations under this Agreement or any breach thereof.

(d) Neither failure nor delay by the non-breaching Party, in exercising any of its rights or privileges herein, shall operate as a waiver nor shall any single or partial exercise preclude any other or further exercise of any right, power, or privilege.

6. NOTICES

6.1 Any notice, demand or communication required, permitted or desired to be given under this Agreement shall be in writing and shall be deemed effectively given when personally delivered or mailed by prepaid certified mail, return receipt requested, or when sent by nationally-recognized overnight carrier addressed as follows:

If to PPL Electric:

If to PSU:

7. MISCELLANEOUS

7.1 Governing Law. This Agreement shall be governed by the law of the Commonwealth of Pennsylvania, exclusive of conflicts of law provisions.

7.2 Compliance with Laws.

(a) *General.* PPL Electric and PSU shall comply, at their own cost and expense, with the provisions of all federal, state and local laws, ordinances, regulations and orders pertaining to their individual performances under this Agreement.

(b) *Remediation.* Each Party shall take all necessary measures to remedy promptly its violations of laws, ordinances, regulations and orders. The Parties will cooperate to eliminate to the maximum extent possible such violations. The Parties shall notify each other promptly upon the discovery of any violation of law, ordinance, regulation, or order and shall cooperate in the investigation and defense of any resulting liability.

7.3 Reservation of Rights. The rights and remedies set forth in this Agreement shall be in addition to all of the rights and remedies the Parties otherwise may have in law or equity.

7.4 Parties Bound. This Agreement, including any amendments or modifications, shall be binding upon, inure to the benefit of, and be enforceable by or against, the heirs, successors, legal representatives and assigns of the Parties; provided, however, that nothing contained in this Agreement shall be deemed to authorize any assignment or sublease in violation of any other provision of this Agreement.

7.5 Assignment. No Party shall either assign or otherwise transfer this Agreement (or any right or obligation contained herein) without the prior written consent of the other Party, and any assignment, subletting or other transfer without such consent shall be void. Subject to the restrictions on transfers set forth herein, this Agreement shall inure to the benefit of, be binding upon, and be enforceable by and against the Parties and their respective successors and assigns.

7.6 No Third-Party Beneficiaries. This Agreement is solely for the benefit of the Parties and their successors and assigns, and nothing in this Agreement is intended, nor shall it be construed, to confer upon any other person or entity any right to insist upon or to enforce the performance or observance of any of the obligations in this Agreement.

7.7 Titles. Titles of Sections are for convenience only, and neither limit nor amplify the provisions of this Agreement. This Agreement always shall be deemed to mean this Confidentiality Agreement and any Appendices thereto.

7.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but all of which when taken together shall constitute one agreement. It shall not be necessary that any counterpart be signed by all Parties as long as each Party shall have executed a counterpart.

7.9 Draftsmanship. None of the Parties shall be considered to be the drafter of this Agreement and no ambiguity in this Agreement shall be construed against either Party based on

a claim that such Party was the drafter of the Agreement. This Agreement was drafted with substantial input by all Parties, and no reliance was placed on any representations other than those contained herein.

7.10 Invalidity. If any provision of this Agreement shall to any extent be held invalid, then the remainder of this Agreement shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

7.11 Entire Agreement. This Agreement represents the entire agreement of the Parties with respect to its subject matter. Except as otherwise provided in this Agreement, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties unless made in a writing signed by all Parties.

IN WITNESS WHEREOF, the Parties have caused this CONFIDENTIALITY AGREEMENT to be executed by their duly authorized representatives on the date first above written.

[Name and Title]
PPL Electric Utilities Corporation

Date: _____

[Name and Title]
The Pennsylvania State University,

Date: _____

APPENDIX A

NON-DISCLOSURE CERTIFICATE

The undersigned is an employee, agent, representative, or other individual associated with The Pennsylvania State University College of Earth and Mineral Sciences' Energy Institute, Electricity Markets Initiative ("PSU"), that is entitled to have access to certain customer information subject to the Confidentiality Agreement entered between PSU and PPL Electric Utilities Corporation. The undersigned has read and understands that the Confidentiality Agreement deals with the treatment of certain confidential customer information. By executing this Non-Disclosure Certificate, the undersigned agrees to be bound by, and comply with, the terms and conditions of said Confidentiality Agreement.

SIGNATURE

PRINT NAME

TITLE/POSITION

DATE: _____

ADDRESS