

Deanne M. O'Dell  
717.255.3744  
dodell@eckertseamans.com

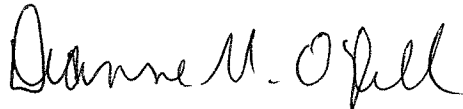
September 2, 2010

**VIA ELECTRONIC FILING**Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265Re: Pennsylvania Public Utility Commission v. Petition of PPL Electric  
Utilities Corporation; Docket No. R-2010-2161694

Dear Secretary Chiavetta:

On behalf of the Retail Energy Supply Association ("RESA") enclosed for filing please find the original of its Main Brief, along with the electronic filing confirmation page, with regard to the above-referenced matter. Copies have been served in accordance with the attached Certificate of Service.

Sincerely yours,



Deanne M. O'Dell, Esq.

DMO/lww

Enclosures

cc: Hon. Susan D. Colwell (w/enc)  
Cert. of Service (w/enc)

## CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy RESA's Main Brief upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

### Via Email and/or First Class Mail

Todd S. Stewart, Esq.  
Hawke McKeon & Sniscak, LLP  
100 North Tenth St.  
PO Box 1778  
Harrisburg, PA 17105-1778  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

Steven Gray, Esquire  
Office of Small Business Advocate  
Suite 1002, Commerce Building  
300 North Second St.  
Harrisburg, PA 17101  
[sgray@state.pa.us](mailto:sgray@state.pa.us)

Jennedy S. Johnson, Esq.  
Darryl A. Lawrence, Esq.  
Aron Beatty, Esq.  
Office of Consumer Advocate  
555 Walnut St.  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
[jjohnson@paoca.org](mailto:jjohnson@paoca.org)  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)  
[abeatty@paoca.org](mailto:abeatty@paoca.org)

Richard Kanaskie, Esq.  
Lawrence Barth, Esq.  
Office of Trial Staff  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17105-3265  
[rkanaskie@state.pa.us](mailto:rkanaskie@state.pa.us)  
[lbarth@state.pa.us](mailto:lbarth@state.pa.us)

Eric J. Epstein, Esq.  
4100 Hillsdale Rd.  
Harrisburg, PA 17112  
[lechambon@comcast.net](mailto:lechambon@comcast.net)

Paul E. Russell, Esq.  
Associate General Counsel  
PPL Electric Utilities Corporation  
Two North Ninth Street  
Allentown, PA 18101-1179  
[perussell@pplweb.com](mailto:perussell@pplweb.com)

John H. Isom, Esq.  
Christopher Wright, Esq.  
Michael Gang, Esq.  
Post & Schell, P.C.  
17 North Second Street  
12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
[jisom@postschell.com](mailto:jisom@postschell.com)  
[cwright@postschell.com](mailto:cwright@postschell.com)  
[mgang@postschell.com](mailto:mgang@postschell.com)

David B. MacGregor, Esq.  
Post & Schell, P.C.  
Four Penn Center  
1600 JFK Blvd.  
Philadelphia, PA 19103  
[dmacgregor@postschell.com](mailto:dmacgregor@postschell.com)

Kenneth L. Mickens, Esquire  
316 Yorkshire Drive  
Harrisburg, PA 17111  
[kmickens11@verizon.net](mailto:kmickens11@verizon.net)

Pamela C. Polacek, Esq.  
Shelby Linton-Kiddie, Esq.  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
[ppolacek@mwn.com](mailto:ppolacek@mwn.com)  
[skeddie@mwn.com](mailto:skeddie@mwn.com)

Joseph L. Vullo, Esq.  
1460 Wyoming Ave.  
Forty Fort, PA 18704  
[jlvullo@bvrrlaw.com](mailto:jlvullo@bvrrlaw.com)

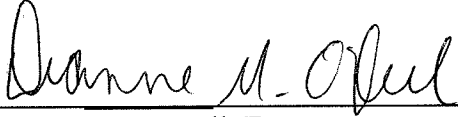
Craig Doll, Esq.  
25 W. Second St.  
PO Box 403  
Hummelstown, PA 17036  
[cdoll76342@aol.com](mailto:cdoll76342@aol.com)

Elaine & Clayton Andrews Jr.  
2014 Evergreen Drive  
Tamaqua, PA 18252

John K. Baillie, Esq.  
Citizens for Pennsylvania's Future  
425 Sixth Ave., Suite 2770  
Pittsburgh, PA 15219-1853  
[baillie@pennfuture.org](mailto:baillie@pennfuture.org)

Scott J. Rubin, Esq.  
333 Oak Lane  
Bloomsburg, PA 17815  
[scott.j.rubin@gmail.com](mailto:scott.j.rubin@gmail.com)

Elaine B. Santarelli  
521 Second Avenue  
Jessup, PA 18434

  
\_\_\_\_\_  
Deanne M. O'Dell, Esq.

Dated: September 2, 2010

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2010-2161694
	:	
PPL Electric Utilities Corporation	:	

**MAIN BRIEF OF  
THE RETAIL ENERGY SUPPLY ASSOCIATION**

Daniel Clearfield, Esquire  
Attorney ID No. 26183  
Deanne M. O'Dell, Esquire  
Attorney ID No. 81064  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Fl.  
Harrisburg, PA 17108-1248  
717 237 6000

Date: September 2, 2010

## TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY OF ARGUMENT .....	1
II.	PROCEDURAL HISTORY.....	3
III.	LEGAL STANDARDS .....	5
	A. Burden of Proof.....	5
	B. Standards applicable to POR programs .....	6
IV.	ARGUMENT.....	8
	A. PPL’s Proposed Recovery of Shopping Customer’s Uncollectible Accounts Expense Through The POR Program Discount Price For Residential Customers Should Be Rejected.....	8
	1. There is no record basis to support PPL’s proposal to allocate to generation service customers its proposed uncollectible accounts expense percentage .....	9
	a. PPL’s uncollectible accounts expense percentage for generation-related services fails to reflect the actual uncollectible cost for the group of customers being required to pay for it.....	10
	b. PPL fails to credit the uncollectible accounts expense for forfeited discounts.....	11
	2. PPL’s proposal creates an unnecessarily restrictive POR program which directly impacts its effectiveness .....	13
	a. PPL’s unstable POR discount rate stymies development of a fully robust competitive retail market.....	14
	b. PPL’s “all-in, all-out” restriction for residential customers stymies the ability of EGSs to offer other innovative products to customers not conducive to EDC-consolidated billing.....	15
	c. PPL’s individual EGS uncollectible cost tracking mechanism for EGSs serving small C&I customers unnecessarily complicates the POR program .....	17
	3. RESA’s proposal, which will stimulate competition and is consistent with the majority of POR programs currently in place in Pennsylvania, should be adopted .....	18

a.	Adopting RESA’s proposal will encourage more competitors to come into the market and provide competitive offers .....	18
b.	Adopting RESA’s proposal is consistent with the way POR programs are currently structured for the majority of EDCs in Pennsylvania .....	19
c.	Adopting RESA’s proposal is an efficient way to minimize and address uncollectible accounts expense for the benefit of all customers .....	21
B.	PPL Should Be Required to Expand its POR Program to Large C&I Customers .....	22
V.	CONCLUSION.....	24

Appendix A	Proposed Findings of Fact
Appendix B	Proposed Conclusions of Law
Appendix C	Proposed Ordering Paragraphs

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
 <b>Cases</b>	
<i>Edan Transportation Corp. v. Pa. PUC</i> , 623 A.2d 6 (Pa. Commw. 1993) .....	6
<i>Erie Resistor Corp. v. Unemployment Compensation Bd. of Review</i> , 166 A.2d 96 (Pa. Super. 1960).....	6
<i>Green Mountain Energy Company, et al. v. Pa. PUC</i> , 812 A.2d 740 (Pa. Commw. 2002) .....	6
<i>Mill v. Pa. PUC</i> , 447 A.2d 1100 (Pa. Commw. 1982) .....	6
<i>Murphy v. Commonwealth, Dep't. of Public Welfare, White Haven Center</i> , 480 A.2d 382 (Pa. Commw. 1984) .....	6
<i>Norfolk and Western Ry. v. Pa. PUC</i> , 489 Pa. 109, 413 A.2d 1037 (1980).....	6
<i>Samuel J. Lansberry, Inc. v. Pa. PUC</i> , 578 A.2d 600 (Pa. Commw. 1990) .....	5
<i>Se-Ling Hosiery v. Margulies</i> , 64 Pa. 45, 70 A.2d 854 (1950).....	5
 <b>Administrative</b>	
<i>Application of Pennsylvania Power &amp; Light Company for Approval of Its Restructuring Plan Under Section 2806 of the Public Utility Code</i> , Docket No. R-00973954, Order entered August 27, 1998.....	3
<i>Joint Petition of Metropolitan Edison Company and Pennsylvania Electric Company for Approval of their Default Service Programs</i> Opinion and Order at Docket Nos. P-2009-2093053 and P-2009-2093054 entered November 6, 2009 .....	20
<i>Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation</i> , Docket No. R-2010-2161694, Order entered May 20, 2010 .....	1, 3
<i>Petition of Direct Energy Service, LLC For Issuance of Emergency Order</i> , Docket No. P-00062205, Final Opinion and Order entered April 20, 2006.....	20

<i>Petition of Duquesne Light Company for approval of a Default Service Plan for the Period January 1, 2008 Through December 31, 2010, Docket No. P-00072247, Order entered June 22, 2007</i> .....	20
<i>Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2011 Through May 31, 2013, Docket No. P-2010-2135500, Opinion and Order entered June 21, 2010</i> .....	20
<i>Petition of PECO Energy Company for Approval of its Revised Electric Purchase of Receivables Program, Docket No. P-2009-2143607, Opinion and Order entered June 18, 2010</i> .....	19, 20
<i>Petition of Pennsylvania Power Company for Approval of its Default Service Programs, Docket No. P-2010-2157862, Joint Petition for Settlement filed July 23, 2010</i> .....	20
<i>Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 Through May 31, 2010, Docket No. P-2008-2060309, Opinion and Order entered June 30, 2009</i> .....	4
<i>Petition of PPL Utilities Corporation Requesting Approval of a Voluntary Purchase of Accounts Receivables Program and Merchant Function Charge Docket No. P-2009-2129502, Opinion and Order entered November 19, 2009</i> .....	3, 8, 17
<i>PPL Electric Utilities Corporation Retail Markets, Final Order entered at Docket No. M-2009-2104271 on August 11, 2009</i> .....	3, 7

**Statutes**

66 Pa. C.S.A. § 332(a) .....	5
66 Pa. C.S.A. §§ 2801 to 2812, as amended by Act 129 .....	6
66 Pa. C.S.A. § 2802(3) .....	6
66 Pa. C.S.A. § 2802(5) .....	6
66 Pa. C.S.A. § 2802(9) .....	6
66 Pa. C.S. § 2806(a) .....	14
66 Pa. C.S.A. § 2807(e) .....	6

## I. INTRODUCTION AND SUMMARY OF ARGUMENT

The Retail Energy Supply Association (“RESA”)<sup>1</sup> is addressing one issue in this proceeding – the structure of the Purchase of Receivables (“POR”) program of PPL Electric Utilities Company (“PPL”) effective January 1, 2011. Through a POR program, the electric distribution company (“EDC”) purchases the accounts receivable of the electric generation supplier (“EGS”), adds the supplier’s charges to the customer’s distribution bill, and sends the customer one bill with all his or her electricity charges. A properly structured POR program enables competitors to efficiently and reasonably reach customers and is a critical component to establishing robust retail competition. The discounted price PPL will pay to purchase the accounts receivable of the EGS as well as which customer classes will be eligible to participate in the POR program are the two key issues in dispute here.

First, PPL is proposing to increase by 37% the discount purchase price for the EGSs’ accounts receivable of residential customers. The discount is made of two components: (1) an uncollectible account expense factor; and, (2) an administrative adder to recover program costs. PPL is proposing to increase the discount rate by upward adjusting the amount allocated for recovery of uncollectible accounts expense for shopping customers from the current 1.32% to 1.805%. However, PPL has provided no evidence to support allocating this increased uncollectible accounts expense factor to shopping customers and, because of its proposal for

---

<sup>1</sup> RESA’s members include ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Gexa Energy; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; PPL EnergyPlus; Reliant Energy Northeast LLC; Sempra Energy Solutions LLC. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

recovering these uncollectible accounts expense costs, PPL has created an unnecessarily restrictive POR program which undermines its potential effectiveness. Instead, RESA's proposal for the recovery of uncollectible accounts expense should be adopted as it does not have the same flaws inherent in PPL's proposal and, on the contrary, will foster the development of a competitive market. Further, RESA's proposal is consistent with the way almost all the other EDCs in Pennsylvania address this issue and should be adopted.

The second issue related to PPL's POR program is PPL's failure to expand the program to large commercial and industrial ("C&I") customers. PPL relies on the application of its *de facto* POR program which was implemented in 1998 and has remained unchanged for the large C&I customers as sufficient. However, as the record shows, almost no EGSs utilize this *de facto* program for the large C&I customers because it is has little value as currently structured. Further, because the generation-related uncollectible accounts expense associated with large C&I customers remains embedded in their distribution rates, EGSs are at a competitive disadvantage because they must factor in the uncollectible accounts expense into their competitive generation service offerings. For these reasons, the *de facto* POR program for large C&I should be restructured consistent with the POR program proposed by PPL for the small C&I customers. While PPL's current POR program for small C&I handles the recovery of uncollectible accounts expense similar to the manner opposed by RESA for the residential customers, RESA is willing to accept PPL's recovery mechanism as proposed for the small C&I customers if the program is expanded to large C&I customers. By expanding the POR program to large C&I customers, these customers will have the opportunity to benefit by receiving a greater variety of competitive offers that would become available only due to the existence of a POR program structured better than the current *de facto* one in place.

## II. PROCEDURAL HISTORY

On March 31, 2010, PPL filed Supplement No. 83 to Tariff Electric-PA. P.U.C. No. 201, containing proposed changes in rates, rules, and regulations calculated to produce approximately \$114.7 million in additional annual distribution service revenues. In its Order referring PPL's filing to the Office of Administrative Law Judge, the Commission stated:

Our investigation and analysis of PPL's proposed general rate increase and the supporting data indicate that the proposed changes in rates, rules, and regulations may be unlawful, unjust, unreasonable, and contrary to the public interest. It also appears that consideration should be given to the reasonableness of the Company's existing rates, rules, and regulations. In this regard we have identified a number of specific issues. . .which we deem to be of particular concern:

\*\*\*

PPL is proposing to continue its currently effective Purchase of Receivables program, with updates to the applicable discount rates and the Merchant Function Charge. Thus, PPL's proposals with regard to its POR program should be closely examined.<sup>2</sup>

PPL's current POR program for residential and small C&I customers became effective January 1, 2010 and was approved by the Commission on November 19, 2009<sup>3</sup> following the Commission's August 11, 2009 Order<sup>4</sup> directing PPL to modify the *de facto* POR program that had been in place since 1998.<sup>5</sup> The 2010 POR program made no changes to the *de facto* POR

---

<sup>2</sup> *Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation*, Docket No. R-2010-2161694, Order entered May 20, 2010 at 6.

<sup>3</sup> *Petition of PPL Utilities Corporation Requesting Approval of a Voluntary Purchase of Accounts Receivables Program and Merchant Function Charge* Docket No. P-2009-2129502, Opinion and Order entered November 19, 2009.

<sup>4</sup> *PPL Electric Utilities Corporation Retail Markets*, Final Order entered at Docket No. M-2009-2104271 on August 11, 2009 at 29.

<sup>5</sup> *Application of Pennsylvania Power & Light Company for Approval of Its Restructuring Plan Under Section 2806 of the Public Utility Code*, Docket No. R-00973954, Order entered August 27, 1998.

program for the large C&I customers. In approving the 2010 POR program structure for residential and small C&I customers of PPL, the Commission stated:

5. That this Opinion and Order is dispositive of PPL Electric Utilities Corporation's Purchase of Receivables Program and Merchant Function Charge **for 2010 only**, and **it shall have no precedential effect** in the context of the Commission's collaborative to be held in 2010 to develop a permanent Purchase of Receivables Program.<sup>6</sup>

The POR program structure to be effective January 1, 2011 was addressed in the settlement approved by the Commission for PPL's most recent default service case.<sup>7</sup> While PPL implemented its 2010 POR program a year prior to the agreed-to implementation date in the default service settlement, all parties reserved their rights to address the appropriate long-term POR program structure to be effective on January 1, 2011. No collaboratives specifically addressing the POR program structure to be effective January 1, 2011 occurred after the Commission's approval of the POR program for 2010.

Rather, in its March 31, 2010 filing in this case, PPL proposed to continue the POR program as structured effective January 1, 2011 including the continuation of the *de facto* POR program from 1998 for large C&I customers. PPL only proposes to change the discount rates associated with the purchase of accounts receivable for the residential class and the small C&I classes. More specifically, PPL proposes to increase the discount rate for the residential class by 37% and to decrease the discount rate for the small C&I class.

PPL submitted its direct testimony with its filing on March 31, 2010 and filed supplemental direct testimony on June 29, 2010 following the Commission order referring the

---

<sup>6</sup> PPL Nov. 2009 Order at 24 (emphasis added).

<sup>7</sup> *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 Through May 31, 2010*, Docket No. P-2008-2060309, Opinion and Order entered June 30, 2009.

case to the Office of Administrative Law Judge. Other parties, including RESA, served direct testimony on July 7, 2010. Rebuttal testimony was served on July 27, 2010. RESA, and other parties, also served surrebuttal testimony on August 5, 2010. Finally, PPL submitted written rejoinder testimony on August 9, 2010. An evidentiary hearing was held on August 11, 2010.

On August 26, 2010, a Joint Petition for Partial Settlement was filed which addresses revenue requirement, revenue allocation, rate design, tariff language and universal service issues. Other remaining issues are reserved for litigation, including all issues related to the POR program. RESA does not oppose the partial settlement and submits this main brief to address the POR issues that were reserved for litigation. Reply Briefs are due September 13, 2010.

### **III. LEGAL STANDARDS**

#### **A. Burden of Proof**

Section 332(a) of the Public Utility Code (“Code”) provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding.<sup>8</sup> It is axiomatic that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.”<sup>9</sup> Preponderance of the evidence means evidence which is more convincing, by even the smallest amount, than that presented by the other party.<sup>10</sup> Additionally, any finding of fact necessary to support the Commission’s adjudication must be based upon substantial

---

<sup>8</sup> 66 Pa. C.S.A. § 332(a).

<sup>9</sup> *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Commw. 1990).

<sup>10</sup> *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

evidence.<sup>11</sup> More information is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.<sup>12</sup>

**B. Standards applicable to POR programs**

The Electric Generation Competition and Customer Choice Act<sup>13</sup> (“Competition Act”) sets forth the obligations of PPL, as an electric distribution company (“EDC”), to provide electric service as a result of the implementation of competition in the retail electric market in Pennsylvania.<sup>14</sup>

The Competition Act mandates that customers have direct access to a competitive retail generation market.<sup>15</sup> This is based on the legislative finding that “competitive market forces are more effective than economic regulation in controlling the costs of generating electricity.”<sup>16</sup> Thus, a fundamental policy underlying the Public Utility Code is that competition is more effective than economic regulation in controlling the costs of generating electricity.<sup>17</sup> Another fundamental policy of the Public Utility Code is that electric service is an essential service and should be available to all customers “on reasonable terms and conditions.”<sup>18</sup>

---

<sup>11</sup> *Mill v. Pa. PUC*, 447 A.2d 1100 (Pa. Commw. 1982); *Edan Transportation Corp. v. Pa. PUC*, 623 A.2d 6 (Pa. Commw. 1993).

<sup>12</sup> *Norfolk and Western Ry. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Commonwealth, Dep’t. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Commw. 1984)

<sup>13</sup> 66 Pa. C.S.A. §§ 2801 to 2812, as amended by Act 129.

<sup>14</sup> See 66 Pa. C.S.A. § 2807(e).

<sup>15</sup> 66 Pa. C.S.A. § 2802(3).

<sup>16</sup> 66 Pa. C.S.A. § 2802(5). See *Green Mountain Energy Company, et al. v. Pa. PUC*, 812 A.2d 740, 742 (Pa. Commw. 2002).

<sup>17</sup> 66 Pa. C.S.A. § 2802(5).

<sup>18</sup> 66 Pa. C.S.A. § 2802(9).

Through a POR program, the EDC purchases the accounts receivable of the competitive supplier, adds the supplier's charges (which have now become the EDC's charges) to the customer's distribution bill, and sends the customer one bill with all their electricity charges. This enables competitors to efficiently and reasonably reach customers and, therefore, is a critical component to establishing robust retail competition.

Concerning POR programs, the Commission has found that:<sup>19</sup>

[Based] on several years' experience during the transition period, it is the Commission's judgment that a viable POR program is an essential element to the creation of a competitive market for generation in Pennsylvania, as envisioned by the Competition Act. 66 Pa. C.S. § 2802(2). Moreover, we are convinced that establishment of a properly structured POR program by the end of the transition period is necessary to faithfully carry out the provisions of Chapter 28. 66 Pa. C.S. § 510(a). And that absent a viable POR program in place to coincide with the expiration of rate caps and substantial increase in default service rates, consumers in [an EDC's] service territory will not likely have the competitive market and customer choice that the legislation intended when the rate caps expire [for that EDC].

The Commission has also stated that:<sup>20</sup>

... any discount in the purchase of receives should, as much as possible, reflect only the Company's actual expenses. This should not be a mechanism for the Company to make money. A properly functioning POR program can reduce costs for shopping customers and, therefore, be an incentive for the Company to minimize its own cost of electricity for DSP customers. This appears to have been the experience of other states, most notably New York and Ohio. We anticipate that our experience will be no different.

---

<sup>19</sup> *PPL Electric Utilities Corporation Retail Markets*, Final Order entered at Docket No. M-2009-2104271 on August 11, 2009 at 27.

<sup>20</sup> *Id.* at pp. 29-30.

#### IV. ARGUMENT

A. **PPL's Proposed Recovery of Shopping Customer's Uncollectible Accounts Expense Through The POR Program Discount Price For Residential Customers Should Be Rejected**

PPL purchases, at a discount, the accounts receivable of EGS customers who participate in the POR program. The discount at which the accounts receivable is purchased is composed of two parts: (1) an uncollectible accounts expense percentage factor, and (2) a POR development, implementation, and administrative factor.<sup>21</sup> Regarding the administrative factor, PPL has agreed to implement an annual reporting requirement on a prospective basis to address RESA's concerns about transparency of this portion of the discount rate and, therefore, this is no longer an issue in dispute.<sup>22</sup>

RESA and PPL, however, disagree regarding how the uncollectible accounts expense should be recovered. PPL proposes to continue its current mechanism of recovering the uncollectible accounts expense related to shopping customers through the discount rate at which it purchases the EGS's account receivable.<sup>23</sup> Currently, that component of the discount rate is 1.32%.<sup>24</sup> In this case, PPL seeks approval to increase it to 1.805% which will result in a 37% increase to the overall discount rate at which an EGS's accounts receivable would be purchased by PPL effective January 1, 2011.<sup>25</sup> PPL's proposal must be rejected for two reasons. First, there is no record basis upon which to support allocating an uncollectible accounts expense

---

<sup>21</sup> PPL St. No. 6 at 8.

<sup>22</sup> PPL St. No. 7-R at 41; RESA St. No. 1 at 6.

<sup>23</sup> PPL St. No. 6 at 14.

<sup>24</sup> *Petition of PPL Utilities Corporation Requesting Approval of a Voluntary Purchase of Accounts Receivables Program and Merchant Function Charge* Docket No. P-2009-2129502, Opinion and Order entered November 19, 2009 at 4.

<sup>25</sup> PPL St. No. 7-R at 32; RESA St. No. 1-SR at 8.

factor of 1.805% to shopping customers. Second, because of the way PPL proposes to recover uncollectible accounts expense, it has created an unnecessarily restrictive POR program which undermines its effectiveness. Instead, RESA's proposal, which will foster the development of a competitive market and is consistent with almost all of the other POR programs currently in place in Pennsylvania, should be adopted.

**1. There is no record basis to support PPL's proposal to allocate to generation service customers its proposed uncollectible accounts expense percentage**

PPL experiences the cost of uncollectible accounts expense when customers receive service and do not pay for it. Historically, PPL has recovered this cost by allocating it among all its ratepayers and reflecting it in regulated utility rates as a typical cost of providing service.<sup>26</sup> In other words, the cost of uncollectible accounts expense – customers who receive service and do not pay for it – is borne by customers who receive service and pay for it. With implementation of its POR program, PPL attempted to develop a mechanism to separate its “distribution-related” uncollectible accounts expense from its “generation-related” uncollectible accounts expense for the residential and small C&I classes only. Distribution-related uncollectible accounts expense is recovered from all customers consistent with historical practice. Since “generation” customers include shopping customers and default service (or “non-shopping”) customers, PPL allocates the cost of generation-related uncollectible accounts expense for the residential and small C&I customers to default service customers through the Merchant Function Charge (“MFC”) and to shopping customers through the discounted rate at which it purchases the EGS’ account receivable for the POR program.<sup>27</sup> PPL’s calculation of an uncollectible accounts expense

---

<sup>26</sup> RESA St. No. 1 at 7.

<sup>27</sup> PPL St. No. 6 at 8-9; PPL St. No. 7 at 35.

percentage, however, does not reflect the actual uncollectible cost for the set of customers to which it is applied nor does it properly credit customers for other revenue PPL receives to reduce its net uncollectible accounts expense. Because the record does not support PPL's proposal to allocate to shopping customers, through application of the discount rate, an amount of uncollectible costs equal to the class average historical uncollectible accounts expense, PPL's request to increase the discount rate must be rejected.

**a. PPL's uncollectible accounts expense percentage for generation-related services fails to reflect the actual uncollectible cost for the group of customers being required to pay for it**

PPL's total uncollectible accounts expense percentage includes an amount for expected write-offs plus changes in the reserve for doubtful accounts due to increase accounts receivable.<sup>28</sup> PPL has made clear that the reason for the increased percentage allocated to uncollectible accounts is due to a projected increase in generation-related revenue which is "a material change in the level of revenues the PPL Electric would have to recognize and provide an uncollectible accounts expense provision for."<sup>29</sup> PPL, however, fails to take into consideration the loss of generation-related revenue from customers who leave PPL's system and receive generation services from EGSs. PPL also fails to account for the fact that customers receiving generation services from EGSs are generally paying something less than the default service rate which would mean that, to the extent these customers are generating any uncollectible accounts expense, the level of this uncollectible accounts expense for these customers would be less.

PPL has admitted in discovery responses that it does not know the uncollectible costs associated with shopping customers notwithstanding the fact that PPL's generation rate cap

---

<sup>28</sup> PPL St. No. 7-R at 30.

expired December 31, 2009.<sup>30</sup> Even though PPL acknowledged that it was capable of gathering information related to the uncollectible accounts expense of shopping customers and that developing such a report is “not a major undertaking,” PPL chose to “delay producing reports on individual EGS uncollectibles.”<sup>31</sup> Because PPL does not know the true uncollectible accounts expense that can be fairly attributed to the shopping customer group, PPL uses the same system-wide uncollectible accounts expense factor for generation-related uncollectible accounts expense and requires both shopping and non-shopping customers to pay this same amount.<sup>32</sup> PPL has not shown that using this same system-wide uncollectible accounts expense fairly allocates the true uncollectible accounts expense associated with either the shopping or the non-shopping customers who fail to pay their bills. In fact, it is quite possible that shopping customers, as a whole, are better paying customers which would justify applying a lower discount rate to purchased EGS receivable to recover the uncollectible accounts expense of shopping customers.<sup>33</sup>

As PPL has not provided any evidence to justify the proposed amount of uncollectible accounts expense it wishes to impose on shopping residential and small C&I customers through the POR program discount rate, its proposal in this regard should be rejected.

**b. PPL fails to credit the uncollectible accounts expense for forfeited discounts**

---

<sup>29</sup> Tr. at 372-373.

<sup>30</sup> RESA Exhibit RJH-2.

<sup>31</sup> PPL St. No. 6-R at 16; PPL St. No. 6-R at 17; PPL St. No. 6-R at 16.

<sup>32</sup> PPL St. No. 7 at 33.

<sup>33</sup> RESA St. No. 1-SR at 6-7.

PPL's proposed uncollectible accounts expense percentage for residential and small C&I shopping customers fails to properly credit those customers for other revenue PPL receives which reduces its net uncollectible expense – for example, forfeiture discounts or late payment charges. PPL admits that late payment charges are used to reduce PPL's accounts receivable balance.<sup>34</sup> In turn, PPL's write-offs are lower (because there is less to write off) yet by failing to unbundle this significant amount – \$14 million in the future test year<sup>35</sup> – PPL gives the entire reduction value to distribution customers.

Even if PPL is permitted to apply its generation related uncollectible accounts expense factor as proposed, the percentage applied must be reduced by the amount of forfeited discounts/late payment charges. Based on PPL's Cost of Service Study, residential customers are responsible for 69% of the late payment charges. Accordingly, 69% of the *pro forma* amount in the future test year (\$14,048,000 as claimed by PPL), which is \$9,686,096, should be applied as an offset to the uncollectible accounts expense ultimately used by PPL to calculate the POR discount rate for residential customers.<sup>36</sup> Netting forfeited discounts results in a revised uncollectible cost discount rate of 1.31% for residential customers<sup>37</sup> After adding in the 0.05% administrative cost, the revised discount rate for residential customers would be 1.36%.<sup>38</sup> A similar reduction would need to be made to the uncollectible accounts expense percentage factor

---

<sup>34</sup> RESA Exhibit RJH-3, PPL Response to RESA I-4.

<sup>35</sup> PPL Filing Requirements II-D-1a at 1.

<sup>36</sup> Exhibit RJH-4.

<sup>37</sup> Note that this unbundling requires that PPL reduce the amount of late payment charge revenue it credits to *pro forma* distribution revenues for the purposes of determining revenue requirement.

<sup>38</sup> RESA St. No. 1-SR at 12.

that PPL proposed to recover through the discounted purchase price for small C&I accounts receivable.

**2. PPL's proposal creates an unnecessarily restrictive POR program which directly impacts its effectiveness**

Consistent with the Commission's determinations, a properly structured POR program stimulates competition for the ultimate benefit of consumers. While PPL's implementation of a POR program in 2010, as developed through the agreement of all stakeholders, was a good first step, it was never intended to be the last step. In adopting the POR program for 2010, the Commission specifically stated:

5. That this Opinion and Order is dispositive of PPL Electric Utilities Corporation's Purchase of Receivables Program and Merchant Function Charge **for 2010 only**, and **it shall have no precedential effect** in the context of the Commission's collaborative to be held in 2010 to develop a permanent Purchase of Receivables Program.<sup>39</sup>

No collaboratives preceded PPL's proposal in this proceeding to maintain its existing POR program structure. In response to RESA's proposals to improve the structure of the POR program, PPL counters that because approximately 31.5% of its total residential customers were shopping as of July 3, 2010, its current POR program "does not appear to have been an impediment to the development of the competitive market" and, therefore, does not need to be changed.<sup>40</sup> As explained by RESA Witness Hudson, however, this response is meaningless as it does not offer anything of substance to show that PPL's proposal is superior, it does not address all of the other factors involved in developing the competitive retail market in PPL's service territory, and it does not explain why 31.5% instead of some higher percentage should be the

---

<sup>39</sup> PPL Nov. 2009 Order at 24 (emphasis added).

<sup>40</sup> PPL St. No. 6-R at 5.

benchmark for declaring competitive success.<sup>41</sup> The purpose of this proceeding should be to improve the POR program and adopt a long-term program structure that best promotes the development of a competitive market consistent with the goals and purpose of the Choice Act to give all EDC customers the “opportunity to purchase electricity from their choice of electric generation suppliers.”<sup>42</sup>

As discussed further below, there are very real structural problems with PPL’s POR program that directly impact its ability to fully fulfill its purpose of stimulating a fully robust competitive market. These include an unstable discount rate, an “all-in, all-out” restriction for the residential customers, and an EGS uncollectible accounts expense tracking mechanism for small C&I customers. These three features are present only because of the way PPL proposes to recover uncollectible accounts expense through the discount rate. If that proposal is rejected, which it should be, then these program features would become unnecessary.

**a. PPL’s unstable POR discount rate stymies development of a fully robust competitive retail market**

An obvious consequence of including an uncollectible accounts expense percentage as part of the POR discount rate is the fact that it is subject to change. In this proceeding, PPL is proposing a 37% increase to the discount rate for residential customers.<sup>43</sup> Uncertainty about what price an EGS will get for its accounts receivable bought by PPL will impact the price and type of product an EGS will offer to customers. In other words, an EGS may hesitate to offer long-term products (such as a 2-year, fixed-price product) because at some point in that term

---

<sup>41</sup> RESA St. No. 1-SR at 4.

<sup>42</sup> 66 Pa. C.S. § 2806(a).

<sup>43</sup> PPL St. No. 7-R at 32.

PPL may pay less for the accounts receivable. For example, EGSs' pricing offers in the fall of 2009 probably could not have anticipated a 37% increase in the discount rate effective January 1, 2011 for their accounts receivable.<sup>44</sup> Such uncertainty, with the potential to significantly impact an EGS's ability to price a product, necessarily impacts an EGS's business decisions which may ultimately result in less choice for consumers.

On the contrary, RESA's proposal to remove the uncollectible accounts expense percentage from the discount rate avoids this problem. Instead of being subject to an unstable uncollectible accounts expense percentage, the discount rate only recovers a known and stated amount for administrative costs. With this stability, EGSs are provided better cost certainty for suppliers which in turn will provide consumers the benefit of better price stability.<sup>45</sup>

**b. PPL's "all-in, all-out" restriction for residential customers stymies the ability of EGSs to offer other innovative products to customers not conducive to EDC-consolidated billing**

A second program feature that PPL requires because of its proposed cost recovery method for uncollectible accounts expense, is the "all-in, all-out" restriction for residential customers whereby an EGS is required to place all of its residential accounts in the POR program or none at all.<sup>46</sup> PPL's stated purpose of this restriction is to address its concerns about a potential under recovery of its generation-related uncollectible accounts expense if EGSs were to enroll only "poor paying" customers in POR which, in theory, would increase PPL's uncollectible accounts expense.<sup>47</sup> While RESA does not agree that EGSs would necessarily

---

<sup>44</sup> RESA St. No. 1-SR at 8.

<sup>45</sup> RESA St. No. 1-SR at 8.

<sup>46</sup> PPL St. No. 7 at 34.

<sup>47</sup> PPL St. No. 6-R at 13.

behave in this manner, such concern would not be present if the generation-related uncollectible accounts expense were treated as a socialized cost recovered on an equal basis from all customers through a nonbypassable charge.<sup>48</sup>

Importantly, the presence of this restriction impedes the development of a fully competitive retail market because it constrains the flexibility of the EGS to serve more residential customers. EGSs using PPL's POR program for any residential customers must use it for all residential customers regardless of the EGS's ability to bill other customers through their own billing systems (i.e. dual bill). There are legitimate reasons why an EGS may want or need to bill customers through its own billing systems, for example, to offer a complex, customized product. PPL acknowledges that there are legitimate circumstances whereby an EGS may want to serve some residential customers through the POR program while dual billing other customers outside the POR program but, nevertheless, presented no evidence to justify continuation of this restriction for the residential class.<sup>49</sup> PPL's restriction, however, forces the EGS to choose either to not participate in the POR program at all or forego offering any innovative products to residential customers that are not conducive to utilizing the POR program.<sup>50</sup> This clearly stymies the ability of EGSs to offer customers a variety of products, thus negatively impacting the development of the competitive market. For all these reasons, RESA recommends that this restriction be removed so that EGSs can choose to use the POR program for some residential customers while also using dual-billing for other customers.<sup>51</sup>

---

<sup>48</sup> RESA St. No. 1 at 10, 12, 14-16. RESA St. No. 1-SR at 14-15.

<sup>49</sup> PPL St. No. 6-R at 13.

<sup>50</sup> RESA St. No. 1 at 14.

<sup>51</sup> RESA St. No. 1 at 14; RESA St. No. 1-SR at 14-15 (RESA is not proposing to allow EGSs to selectively place some residential customers onto EDC consolidated billing and

**c. PPL's individual EGS uncollectible cost tracking mechanism for EGSs serving small C&I customers unnecessarily complicates the POR program**

A third program feature that PPL requires because of its proposed cost recovery method for uncollectible accounts expense, is the mechanism whereby PPL monitors the uncollectible account expense associated with small C&I customers and reserves the ability to charge an EGS-specific discount rate if the EGS's individual, realized uncollectible account expense exceeds a pre-set threshold level. This mechanism was included in the 2010 POR program to address PPL's theoretical concern that EGSs would selectively place all "poor paying" customers to the POR program while serving "good paying" customers outside of the POR program which, may ultimately threaten PPL's ability to fully recover its uncollectible accounts expense.<sup>52</sup> The need for such a mechanism is obviated if RESA's proposal to recover uncollectible accounts expense through a nonbypassable mechanism is adopted because the costs of uncollectible accounts expense would be recovered from all distribution ratepayers as they have been historically.<sup>53</sup>

PPL does not disagree that there are several likely scenarios where PPL's proposal would impose a higher discount rate on an individual EGS in circumstances where the EGS's behavior would not increase uncollectible expense or risk for PPL.<sup>54</sup> PPL also admitted that while it is capturing the data necessary to report on EGS uncollectibles by individual EGS, it has not yet

---

use the POR Program and other customers onto EDC consolidated billing without enrolling them in the POR Program. If an EGS chooses to use EDC-consolidated billing for residential customers, then all customers using EDC-consolidated billing would be required to be enrolled in the POR Program).

<sup>52</sup> *Petition of PPL Utilities Corporation Requesting Approval of a Voluntary Purchase of Accounts Receivables Program and Merchant Function Charge* Docket No. P-2009-2129502, Opinion and Order entered November 19, 2009 at 5.

<sup>53</sup> RESA St. No. 1 at 12.

<sup>54</sup> RESA St. No. 1 at 17; PPL St. No. 6-R at 16.

produced a report on EGS uncollectibles though it still proposes to continue this mechanism.<sup>55</sup> Creating the risk for EGSs that they may be required to receive a lesser amount for their accounts receivable even though they have not engaged in any specific “bad behavior” injects significant uncertainty into an EGS’s business plan which could dissuade the EGS from utilizing the POR program, from marketing service to certain segments of customers or from entering the market altogether.<sup>56</sup> As such a result is unnecessary and impedes the development of a fully competitive market, it should be eliminated.

**3. RESA’s proposal, which will stimulate competition and is consistent with the majority of POR programs currently in place in Pennsylvania, should be adopted**

While PPL has failed to provide convincing evidence to support its proposals to continue recovering generation-related uncollectible accounts expense through the POR program discount rate, RESA has shown why this mechanism should not be continued and why RESA’s proposal should be adopted. These reasons include the fact that RESA’s proposals will encourage more competitors to come into the market thus fulfilling the goals of the Choice Act. Further, RESA’s proposal is consistent with the way POR programs are currently structured for the majority of EDCs in Pennsylvania. Finally, RESA has shown why its proposal is the most efficient way to handle recovery of the cost of uncollectible expense account for the benefit of all customers.

**a. Adopting RESA’s proposal will encourage more competitors to come into the market and provide competitive offers**

As explained above, PPL’s POR program has structural features that impede the development of the competitive market because they may discourage EGSs from entering the

---

<sup>55</sup> PPL St. No. 6-R at 16.

<sup>56</sup> RESA St. No. 1-SR at 16.

market. Adoption of RESA's proposal will not have the same effect. On the contrary, RESA's approach is reasonably calculated to encourage competitors to come into the market. The removal of the all-in, all-out restriction and the non-residential tracking mechanism will result in a simpler and more attractive POR program which will entice more EGSs to enter the market with a wider diversity of product options for customers.<sup>57</sup> Further, stability in the discount rate will provide EGSs with certainty about the purchase price for their accounts receivable and this certainty will lead to a greater variety of competitive offerings.<sup>58</sup>

**b. Adopting RESA's proposal is consistent with the way POR programs are currently structured for the majority of EDCs in Pennsylvania**

The majority of electric POR programs adopted in Pennsylvania are more closely in line with RESA's proposal. Most recently, the Commission specifically approved "includ[ing] the entirety of [generation-related] uncollectible accounts expense within [PECO's] distribution service base rates" just as RESA proposes here.<sup>59</sup> In reaching this decision, the Commission rejected the position that the Commission was legally or otherwise required to order PECO to implement a proposal similar to the one PPL is proposing here. The Commission also rejected arguments that PECO's recovery mechanism was not in the public interest and that PPL's proposal should be the "standard" for all EDC POR programs.<sup>60</sup>

Prior to its decision regarding PECO's POR program, the Commission approved the approach RESA recommends here for the service territories of Pike County Light & Power

---

<sup>57</sup> RESA St. No. 1 at 12; RESA St. No. 1-SR at 8.

<sup>58</sup> RESA St. No. 1-SR at 8.

<sup>59</sup> *Petition of PECO Energy Company for Approval of its Revised Electric Purchase of Receivables Program*, Docket No. P-2009-2143607, Opinion and Order entered June 18, 2010 at 48.

Company (“PCL&P”)<sup>61</sup> and Metropolitan Edison Company and Pennsylvania Electric Company (collectively “Met-Ed/Penelec”).<sup>62</sup> Likewise, a settlement is pending for the service territory of Pennsylvania Power Company (“Penn Power”) to recover the generation-related uncollectible accounts expense through a “Default Service Support Rider” which will be non-bypassable and non-reconcilable.<sup>63</sup>

Even the POR program for Duquesne Light Company (“DLC”), which does utilize a discount rate that includes a component for uncollectible accounts expense, is not similar to what PPL is proposing here.<sup>64</sup> The uncollectible accounts expense factor of .42% that is embedded in the DLC POR program discount rate was the product of a negotiated settlement intended to compensate DLC for the risk of assuming incremental uncollectible account risk for the 20 percent of customers who were shopping. The discount rate does not and was never intended to reflect the class average uncollectible account expense as PPL proposes here.<sup>65</sup> Moreover, also unlike PPL’s proposal, all DLC distribution customers (which include shopping and non-

---

<sup>60</sup> *Id.* at 38-39, 46.

<sup>61</sup> *Petition of Direct Energy Service, LLC For Issuance of Emergency Order*, Docket No. P-00062205, Final Opinion and Order entered April 20, 2006.

<sup>62</sup> *Joint Petition of Metropolitan Edison Company and Pennsylvania Electric Company for Approval of their Default Service Programs* Opinion and Order at Docket Nos. P-2009-2093053 and P-2009-2093054 entered November 6, 2009.

<sup>63</sup> *Petition of Pennsylvania Power Company for Approval of its Default Service Programs*, Docket No. P-2010-2157862, *Joint Petition for Settlement* filed July 23, 2010 at 26, ¶ 56.

<sup>64</sup> *Petition of Duquesne Light Company for approval of a Default Service Plan for the Period January 1, 2008 Through December 31, 2010*, Docket No. P-00072247, Order entered June 22, 2007. The Commission recently approved continuation of DLC’s POR program in its current form including use of the same uncollectible accounts factor in the discount rate. *See Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2011 Through May 31, 2013*, Docket No. P-2010-2135500, Opinion and Order entered June 21, 2010, Attachment at 8.

<sup>65</sup> RESA St. No. 1-SR at 13.

shopping customers) pay for the costs of default service related uncollectibles that may exceed the level of the negotiated uncollectible accounts expense rate.

As the majority of electric POR programs adopted in Pennsylvania are more closely in line with RESA's recommendations herein and PPL has failed to support adoption of its proposal, it should be rejected.

**c. Adopting RESA's proposal is an efficient way to minimize and address uncollectible accounts expense for the benefit of all customers**

RESA's approach is a reasonable to mitigate the overall cost of uncollectible accounts expense for several reasons. First, it consistent with the way in which uncollectible accounts expense has historically been handled from a ratemaking perspective – as a socialized cost paid for by all customers (or customers in the same class).<sup>66</sup>

Second, RESA's proposal treats all customers the same because shopping benefits are always available to both shopping and non-shopping customers. By continuing to recover the same billing and collection expenses from every customer as PPL traditionally did in base rates, regardless of the customer's energy supplier, RESA's proposal would treat all customers the same.

Third, RESA's approach recognizes and addresses the fact that the EDC has certain unmitigated competitive advantages. Unlike the EGS, the EDC has the ability to disconnect service for non-payment, and the support of a vast call center and collections staff that has been paid for through regulated distribution rates. Thus, a direct assignment of uncollectible account expense which requires all providers to bear their respective costs of uncollectible accounts expense is impossible. In light of this, the most efficient alternative is to continue to socialize

---

<sup>66</sup> RESA St. 1 at 12.

the cost of uncollectible accounts and leverage the existing regulated resources – including the ability to disconnect for non-payment and the EDC call center and collection efforts – to minimize the impact of uncollectible accounts expense for all customers.<sup>67</sup>

Thus, in addition to facilitating the development of a competitive market, RESA's proposal eliminates the need for duplicative collection responsibilities, treats all customers the same, and leverages the well-established and powerful system of the EDC to minimize the cost of uncollectible accounts expense for the benefit of all consumers.<sup>68</sup>

**B. PPL Should Be Required to Expand its POR Program to Large C&I Customers**

Currently, PPL's *de facto* POR program implemented in 1998 which has remained unchanged is applicable to large C&I customers. This *de facto* POR program is not structured in the same manner as the POR program for residential and small C&I customers. First, PPL purchases the EGS's accounts receivable at no discount. PPL offers a 0% discount rate because the large C&I POR program does not handle the recovery of generation-related uncollectible accounts expense for large C&I customers the same way it does for residential and small C&I customers. Instead of isolating the generation-related uncollectible accounts expense for large C&I customers as PPL does for residential and small C&I customers, it continues to be recovered through distribution rates.<sup>69</sup> Second, if the large C&I POR customer is in arrears for 90 days or three billing cycles, whichever is shorter, the EGS is then required to bill its own charges. At that point, the EGS may either terminate its generation service to the customer (by

---

<sup>67</sup> RESA St. No. 1-SR at 5-6.

<sup>68</sup> Dominion St. 1-SR at 2-3.

<sup>69</sup> PPL St. No. 7-R at 32.

returning the customer to default service because the EGS has no ability to physically disconnect service) or begin issuing its own bills to the customer.<sup>70</sup>

According to PPL's testimony, no EGSs currently appear to be using this *de facto* POR program for large C&I customers but are instead separately billing their charges directly to the customer.<sup>71</sup> This is because an EGS has no ability to terminate service to the customer and, after 90 days of arrears, the EGS is forced to either absorb the full uncollectible accounts expense or return the customer to default service.<sup>72</sup> Further, the failure to remove generation related uncollectible accounts expense from distribution rates for this class of customers creates a competitive advantage for PPL's provisioning of default service to large C&I customers. This is because EGSs must price offers that reflect the cost of generation-related uncollectible accounts expense whereas PPL's default service does not include this cost in its rate (unlike PPL's proposal to include the MFC in the default service rate of residential and small C&I customers).<sup>73</sup> For these reasons, RESA supports expanding the POR program consistent with its recommendation in this proceeding to large C&I customers.

While RESA would prefer a POR program for all classes that handles the recovery of uncollectible accounts expense through a nonbypassable surcharge on all customers, upon consideration of all the testimony presented in this proceeding and in consideration of the current early stage of retail market development in PPL's service territory, RESA is willing to accept continuation of the current uncollectible expense cost recovery mechanism for the small C&I customers (as proposed by PPL) along with expansion of this POR program structure to the large

---

<sup>70</sup> PPL St. No. 6 at 8; PPL St. No. 6-R at 19.

<sup>71</sup> PPL St. No. 6-R at 19.

<sup>72</sup> RESA St. No. 1-SR at 18.

C&I customers.<sup>74</sup> However, it should be noted that implementation of PPL's proposal for the small C&I class contemplates application of a higher discount rate when an individual EGS's uncollectible accounts expense exceeds a threshold which would be particularly problematic if implemented for the large C&I class. This is because the large C&I class is comprised of fewer, but larger customers. Accordingly, it is more likely that a single EGS may only be serving a handful of large customers. If a single large C&I customer goes bankrupt or otherwise becomes delinquent, it is more likely that the threshold uncollectible account expense level set by the tracking mechanism would be met triggering a higher discount rate for the individual EGS even though the class average uncollectible cost is not increased.<sup>75</sup> Further, if the POR program is expanded to the large C&I class, the incremental costs of implementation and ongoing administration of the large C&I POR program would be paid by EGSs that take advantage of the option through an appropriate administrative adder to the discount rate not to exceed .05% consistent with the administrative adder contained in PPL's proposed discount rate for the small C&I POR customers. Expanding the POR program to large C&I customers, even under RESA's second choice structure, would be a significant improvement over the currently operable *de facto* POR construct unchanged since 1998 and will provide these customers with the benefit of having additional competitive options that could be structured in a variety of ways that are not currently possible.

---

<sup>73</sup> RESA St. No. 1 at 19; RESA St. No. 1-SR at 19.

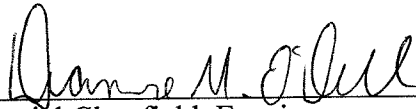
<sup>74</sup> RESA St. No. 1-SR at 22.

<sup>75</sup> RESA St. No. 1-SR at 19.

## V. CONCLUSION

RESA respectfully request that the Administrative Law Judge issue a Recommended Decision which (1) rejects PPL's proposal to recover the cost of uncollectible accounts expense through a component of the POR discount rate for residential customers, (2) removes the all-in, all-out restrictions for EGSs serving residential customers through the POR program, (3) eliminates the EGS uncollectible expense account tracking mechanism for the small C&I customers, and (4) expands the POR program as proposed by PPL for the small C&I customers (without the EGS tracking mechanism) to large C&I customers.

Respectfully submitted,



---

Daniel Clearfield, Esquire  
Deanne O'Dell, Esquire  
Carl R. Shultz, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Fl.  
Harrisburg, PA 17108-1248  
717 237 6000

Date: September 2, 2010

Attorneys for the Retail Energy Supply Association

**Proposed Findings of Fact**

1. PPL Electric Utilities Corporation (“PPL” or “the Company”) provides electric distribution, transmission and provider of last resort services in the Commonwealth of Pennsylvania. PPL is a “public utility” and an electric distribution company (“EDC”) as those terms are defined in the Public Utility Code, 66 Pa. C.S. §§ 102, 2803.

2. PPL’s currently effective Purchase of Receivables (“POR”) program was approved by the Commission in an Order entered on November 19, 2009, at Docket No. P-2009-2129502. This POR program is in effect for 2010 only.

3. It was anticipated that a collaborate would be held in 2010 to develop a POR program for PPL to begin in 2011. *See Petition of PPL Utilities Corporation Requesting Approval of a Voluntary Purchase of Accounts Receivables Program and Merchant Function Charge* Docket No. P-2009-2129502, Opinion and Order entered November 19, 2009, at Ordering Paragraph 5. *See also Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 Through May 31, 2010*, Docket No. P-2008-2060309, Opinion and Order entered June 30, 2009, wherein the parties reserved their rights to determine the appropriate long-term POR structure to be effective on January 1, 2011.

4. No collaboratives addressing the POR structure to be effective on January 1, 2011 were held before March 31, 2010.

5. On March 31, 2010, PPL filed Supplement No. 83 to Tariff Electric-Pa. P.U.C. No. 201, containing proposed changes in rates, rules, and regulations calculated to produce approximately \$114.7 million in additional annual distribution service revenues.

6. In addition to its requested rate increase in this proceeding, PPL proposed to modify and extend its currently effective POR program with updates to the applicable discount rates and the Merchant Function Charge (“MFC”). Specifically, PPL proposed to increase the discount rate for the residential class from 1.32% to 1.805%, which represents a 37% increase, and to decrease the discount rate for the small commercial and industrial (“C&I”) class. PPL St. No. 7-R at 32; RESA St. No. 1-SR at 8; *Petition of PPL Utilities Corporation Requesting Approval of a Voluntary Purchase of Accounts Receivables Program and Merchant Function Charge* Docket No. P-2009-2129502, Opinion and Order entered November 19, 2009 at 4.

7. In the Order referring the subject proceeding to the Office of Administrative Law Judge, the Commission stated that “PPL’s proposals with regard to its POR program should be closely examined.” *Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation*, Docket No. R-2010-2161694, Order entered May 20, 2010 at 6.

8. PPL has admitted that it does not know the uncollectible costs associated with shopping customers, notwithstanding the fact that PPL’s generation rate cap expired December 31, 2009 and that it was capable of gathering this information. RESA Exhibit RJH-2; PPL St. No. 6-R at 16, PPL St. No. 6-R at 17, PPL St. No. 6-R at 16.

9. Because PPL does not know the true uncollectible accounts expense that can be fairly attributed to shopping customers, PPL uses the same system-wide uncollectible accounts expense factor for generation-related uncollectible accounts expense and requires both shopping and non-shopping customers to pay this same amount. PPL St. No. 7 at 33.

10. But, PPL has not shown that using this same system-wide uncollectible accounts expense fairly allocates the true uncollectible accounts expense associated with either the shopping or the non-shopping customers who fail to pay their bills. RESA St. No. 1-SR at 6-7.

11. Because the discount rate in PPL's proposal is subject to change, it creates uncertainty about the future discount rate for purchase of accounts receivables of EGSs serving residential customers, which may impact the price and types of products an electric generation supplier ("EGS") will offer to customers. RESA St. No. 1-SR at 8.

12. PPL's proposal also contains an "all-in, all-out" restriction, which stymies the ability of an EGS to offer innovative products to customers not conducive to EDC-consolidated billing. RESA St. No. 1 at 14. PPL offered no evidence to justify the continuation of this restriction on the residential class. PPL St. No. 6-R at 13.

13. PPL's proposal contains a mechanism whereby PPL monitors the uncollectible account expense associated with small C&I customers and reserves the ability to charge an EGS-specific discount rate if PPL determines that the EGS is "cherry picking" (i.e. sending all "poor paying" customers to the POR program while serving "good paying" customers outside of the POR program). *Petition of PPL Utilities Corporation Requesting Approval of a Voluntary Purchase of Accounts Receivables Program and Merchant Function Charge* Docket No. P-2009-2129502, Opinion and Order entered November 19, 2009 at 5.

14. The need for such a mechanism is obviated if RESA's proposal to recover uncollectible accounts expense through a nonbypassable mechanism is adopted. RESA St. No. 1 at 12.

15. There are several likely scenarios where PPL's proposal would impose a higher discount rate on an individual EGS in circumstances where the EGS's behavior would not increase uncollectible expense or risk for PPL. RESA St. No. 1 at 17; PPL St. No. 6-R at 16.

16. PPL is capturing the data necessary to report on EGS uncollectibles by individual EGS, it has not yet produced a report on EGS uncollectibles though it still proposes to continue this mechanism. PPL St. No. 6-R at 16.

17. Creating the risk for EGSs that they may be required to receive a lesser amount for their accounts receivable even though they have not engaged in any specific “bad behavior” injects significant uncertainty into an EGS’s business plan which could dissuade the EGS from utilizing the POR program, from marketing service to certain segments of customers or from entering the market altogether. RESA St. No. 1-SR at 16.

18. In the majority of other electric POR programs in the Commonwealth, the discount rate is either 0% or contains a nominal percentage to recover administrative costs and it is not subject to change based on recalculations of generation-related uncollectible accounts expense. *See, e.g., Petition of PECO Energy Company for Approval of its Revised Electric Purchase of Receivables Program*, Docket No. P-2009-2143607, Opinion and Order entered June 18, 2010; *Petition of Direct Energy Service, LLC For Issuance of Emergency Order*, Docket No. P-00062205, Final Opinion and Order entered April 20, 2006; *Joint Petition of Metropolitan Edison Company and Pennsylvania Electric Company for Approval of their Default Service Programs* Opinion and Order at Docket Nos. P-2009-2093053 and P-2009-2093054 entered November 6, 2009. *See also Petition of Pennsylvania Power Company for Approval of its Default Service Programs*, Docket No. P-2010-2157862, Joint Petition for Settlement filed July 23, 2010 at 26, ¶ 56.

19. The Retail Energy Supply Association (“RESA”)\* proposed that PPL’s POR program be without discount after an initial temporary POR discount of 0.5% to purchase of accounts receivables of EGSs serving residential customers for the recovery of PPL’s implementation costs of the revised POR program.

20. As a compromise position, RESA is willing to accept the PPL proposal regarding the POR program applicable to small C&I class customers, with the exception of the cost tracking mechanism, if expanded to the large C&I class. RESA St. No. 1 at 12.

21. RESA further proposed that PPL expand the POR program as proposed by PPL for small C&I customers to large C&I customers. This would minimize the impact of uncollectible accounts on all customers. RESA St. 1-at 5-6. It would also facilitate the development of a competitive market, by eliminating the need for duplicative collection responsibilities, treating all customers the same, and leveraging the well-established and powerful system of the EDC to minimize the cost of uncollectible accounts expense for the benefit of all consumers. PPL St. 1-SR at 2-3.

22. Application of PPL’s proposal for the small C&I class tracking mechanism and application of a higher discount rate when an individual EGS’s uncollectible accounts expense exceeds a threshold would be particularly problematic if implemented for the large C&I class. If a single large C&I customer goes bankrupt or otherwise becomes delinquent, it is more likely that the threshold uncollectible account expense level set by the tracking mechanism would be

---

\* RESA’s members include ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Gexa Energy; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; PPL EnergyPlus; Reliant Energy Northeast LLC; Sempra Energy Solutions LLC. The

met triggering a higher discount rate for the individual EGS even though the class average uncollectible cost is not increased. RESA St. No. 1-SR at 19.

23. If the POR program is expanded to the large C&I class, the incremental costs of implementation and ongoing administration of the large C&I POR program would be paid by EGSs that take advantage of the option through an appropriate administrative adder to the discount rate not to exceed .05% consistent with the administrative adder contained in PPL's proposed discount rate for the small C&I POR customers.

---

comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

**Proposed Conclusions of Law**

1. The Commission has jurisdiction over the parties and subject matter in this proceeding.
2. Pursuant to 66 Pa. C.S. § 332(a), the burden of proof in this proceeding is upon PPL (as the petitioner).
3. PPL has failed to meet its burden of proof establishing that the proposed POR program discount rate for the residential class of 1.805% is just and reasonable. PPL has not shown that using this same system-wide uncollectible accounts expense fairly allocates the true uncollectible accounts expense associated with either the shopping or the non-shopping residential customers who fail to pay their bills.
4. Adopting RESA's proposal will encourage more competitors to come into the market and provide competitive offers consistent with the requirements of the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. § 2801 et. seq.
5. Adopting RESA's proposal is consistent with the way POR programs are currently structured for the majority of EDCs in Pennsylvania.
6. Adopting RESA's proposal is an efficient way to minimize and address uncollectible accounts expense for the benefit of all customers
7. It is just, reasonable and in the public interest for PPL to apply a temporary 0.05% discount rate to its purchase the accounts receivables to recover administrative expenses.
8. With the exception of the cost tracking mechanism, applying PPL's proposed POR program applicable to small C&I customers to large C&I customers is just, reasonable and in the public interest.

**Proposed Ordering Paragraphs**

IT IS ORDERED:

1. That except to the extent modified by the Joint Petition for Settlement and the following Ordering Paragraphs, PPL's Petition is approved as just, reasonable and in the public interest.

2. That effective January 1, 2011, PPL will recover all generation-related uncollectible accounts expense associated with residential customers through a nonbypassable surcharge on all customers.

3. That effective January 1, 2011, PPL will apply a .05% discount rate to its purchase the accounts receivables of EGSs to recover administrative expenses.

4. That, with the exception of the uncollectible accounts expense tracking mechanism, PPL's proposal regarding the POR program applicable to small commercial and industrial customers shall be adopted as filed and expanded to large commercial and industrial customers.

6. That, to the extent PPL deems necessary, the incremental costs of implementation and ongoing administration of the large C&I POR program will be paid by EGSs that take advantage of the option through an appropriate administrative adder to the discount rate not to exceed .05% consistent with the administrative adder contained in PPL's proposed discount rate for the small C&I POR customers

7. That PPL will file an annual report by December 31 of each year detailing its administrative costs for the POR program and justifying any intended changes to the rate. The

first report regarding the 2011 POR Program shall be filed December 31, 2011 and annually every year thereafter.

8. That PPL shall file a tariff supplement not later than 60 days after the Commission's Order which supplement shall incorporate all of the changes needed to implement the Commission approved electric POR program.

9. That upon acceptance and approval by the Commission of the tariff supplement filed by PPL consistent with the Commission's Order, this proceeding shall be marked closed.