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September 13, 2010

VIA HAND DELIVERY

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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


Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") are the original and nine (9) copies of the Reply Brief of the PP&L Industrial Customer Alliance ("PPLICA") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document. Please date stamp the extra copy of this transmittal letter and Reply Brief and kindly return them for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Shelby A. Linton-Keddie

Counsel to the PP&L Industrial Customer Alliance

SLK/km
Enclosures

c: Administrative Law Judge Susan D. Colwell (via E-mail and Hand Delivery)
Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY BRIEF OF THE
PP&L INDUSTRIAL CUSTOMER ALLIANCE**

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Dated: September 13, 2010

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I. INTRODUCTION

On March 31, 2010, PPL Electric Utilities Corporation ("PPL" or "Company") filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") Supplement No. 83 to Tariff-Electric-Pa. P.U.C. No. 201 ("Supplement No. 83"), to become effective on June 1, 2010. Supplement No. 83 proposed to increase PPL's distribution rates by approximately \$114.7 million, or 16.5% over the Company's present annual distribution revenues. The Company stated that the requested distribution rate increase was necessary in order to attract capital, expand investment for its distribution system and maintain strong reliability for its customers. If approved, the Company's distribution rate increase request would produce an overall rate increase of approximately 2.5%.

On September 2, 2010, the PP&L Industrial Customer Alliance ("PPLICA") filed a Main Brief ("M.B.") on behalf of its Large Commercial and Industrial ("C&I") members, addressing portions of Retail Energy Supply Association's ("RESA") proposal to expand the Company's current Purchase of Receivables ("POR") program, supporting PPL's Cost of Service Study and proposed revenue allocation and establishing the basis and justification for PPL to institute Rate Schedule LP-4 SI in order to address the inequities of Donsco, Incorporated's ("Donsco") unreasonable distribution charges. PPLICA received Main Briefs from PPL, RESA, the Office of Trial Staff ("OTS"), the Office of Small Business Advocate ("OSBA"), the Office of Consumer Advocate ("OCA"), the Sustainable Energy Fund of Central Pennsylvania ("SEF"), Richards Energy Group, Inc., and the Commission on Economic Opportunity ("CEO"). Pursuant to the procedural schedule, PPLICA files this Reply Brief in response to arguments raised in the Main Briefs of these parties.¹

¹ PPLICA's Reply Brief will not respond to every argument contained in all of the parties' Main Briefs, but only those issues necessitating an additional response. PPLICA's decision not to respond to all arguments should not be

II. SUMMARY OF REPLY ARGUMENT

First, consistent with PPLICA's Main Brief and as further set forth in this Reply Brief, with the modifications articulated in RESA's Main Brief regarding the expansion of the Company's PPL POR program Large C&I customers, such as removing the non-bypassable uncollectible charge and assuring that EGSs will bear the costs of implementation and administration with an appropriate discount rate, PPLICA does not object the expansion of the POR program to the Large C&I class.

Second, PPLICA continues to advocate for the adoption of the Company's Customer Cost of Service Study ("CCOSS") JMK-2A that properly allocates primary and secondary distribution facility costs into customer and demand components, consistent with NARUC Manual recommendations. The OCA has not provided adequate support to justify the continued allocation of primary distribution plant costs on a 100% demand basis. As a result, the OCA's proposed CCOSS should be rejected.

Third, instead of adopting the recommendations of either the OCA or the OSBA, the Commission should approve PPL's proposed revenue allocation methodology, which reasonably continues to move all classes toward the system average rate of return.

Finally, the Commission should reject PPL's numerous attempts to discount and discredit PPLICA's proposed Rate Schedule LP-4 SI. As explained more fully herein, PPLICA has satisfied its burden of proof to show why a negotiated rate option under Section 2806(h) is necessary and proper, in order to address Donsco's specific needs. As articulated in both PPLICA's Main and Reply Brief, the implementation of Rate Schedule LP-4 SI is the appropriate legal and policy resolution of this matter.

construed as agreement with the positions raised by any of the parties on any of the issues currently outstanding in this proceeding.

III. ARGUMENT

A. PPLICA Does Not Oppose RESA's Purchase of Receivables Proposal for Large Commercial and Industrial Customers as Articulated in RESA's Main Brief

As explained more fully in PPLICA's Main Brief, with the removal of the non-bypassable uncollectible charge and the agreement that Electric Generation Suppliers ("EGSs") will bear the incremental costs of implementation and administration of a Large C&I Purchase of Receivables POR Program, PPLICA would not oppose the expansion of PPL's current Small C&I POR program to Large C&I customers. See PPLICA M.B. pp. 6-8.

In RESA's Main Brief, RESA has fulfilled both requirements. First, although RESA would prefer a POR program that recovers uncollectible accounts expense through a nonbypassable charge applicable to all customers, RESA states that it "is willing to accept continuation of the current uncollectible expense recovery mechanism for the small C&I customers (as proposed by PPL) along with expansion of this POR program structure to Large C&I customers." RESA M.B. at 23-24. Second, consistent with PPLICA's understanding, RESA has clarified that, if the POR program is expanded to include Large C&I customers, EGSs will pay the incremental costs of implementation and ongoing administration of the program through a discount rate administrative adder that would not exceed .05%, consistent with PPL's proposed adder for program costs for its Small C&I POR program. See id. at 24.

Consistent with PPLICA's position in its Main Brief, with the removal of RESA's non-bypassable uncollectible charge proposal and the agreement that EGSs will bear the incremental costs of implementation and administration through application of an appropriate discount rate, PPLICA does not oppose the implementation of an optional POR program for EGSs serving the Large C&I class that is similar to PPL's POR program offered to EGSs serving the Small C&I class.

B. PPL's Cost of Service Study That Utilizes the Minimum Size System Methodology and Develops Customer and Demand Components for Joint Use Distribution Plant Is Reasonable and Should be Accepted

As stated in PPLICA's Main Brief, PPLICA supports the Company's Class Cost of Service Study ("CCOSS"), which uses the class maximum non-coincident peak ("NCP") and, for the first time, uses the "minimum size system" methodology for both primary and secondary voltage level distribution facilities to classify costs into customer and demand components. See PPLICA M.B. at 8-9. While the Company, PPLICA and OSBA agree that, consistent with the NARUC manual, joint-use distribution costs (with the exception of substation costs) should be classified into both demand-related and customer-related components, the OCA first argues in its Main Brief that classification of distribution plant (other than services and meters) as partially customer-related and partially demand-related is unsupportable. See OCA M.B. at 21. Second, the OCA questions the use and accuracy of the "minimum system methodology." See id. at 27-30. Third, the OCA contends that changing CCOSS in this proceeding when compared to PPL's previous two distribution base rate proceedings is unfair because it moves the residential class further away from the system average. See id. at 30-33. As a result, the OCA advocates for use of its own CCOSS, which substantially benefits the residential class to the detriment of PPL's large non-residential users. See id. at 30-33. Each of these arguments should be rejected.

I. PPL has Adequately Supported the Classification of Joint-Use Distribution Plant Investment Based Partially on Customer Counts.

Rather than classify primary and secondary distribution plant on both a customer and demand basis, the OCA attempts to have all distribution plant classified on a demand basis, in contravention of NARUC Manual standards. Specifically, OCA contends that "the only reason to classify a portion of joint distribution plant expenses based on customer counts..., rather than based on the demands placed on the system, would be due to the customer mix and density in the

service territory." OCA M.B. at 23. Further, OCA Witness Watkins claims that, "if all customer classes are equally represented in all portions of a utility's service territory, there is no basis for classifying or allocating distribution plant based on customer counts." Id. at 24. Based on an analysis conducted by OCA Witness Watkins, finding that "customer classes are well represented throughout" PPL's service territory, the OCA concludes "that based on the mix of customers throughout PPL's service territory, there is no sound reason to classify or allocate Primary and Secondary Distribution plant on a customer-count basis." Id. at 25, 26.

In addition, the OCA argues that PPL failed to account for how the distribution system is engineered in classifying primary facility costs. Id. at 26. Specifically, the OCA contends that, because the Primary distribution system is built so that its majority of costs are incurred for reasons other than to simply connect customers (such as to prevent outages to carry additional load during emergencies or interruptions from other line segments), the Company lacks the rationale for allocating costs, in part, on a customer basis. Id. at 26.

Both arguments should be rejected. Importantly, and as noted by OSBA in its Main Brief, "the simple fact of the matter is that the primary concept advocated by the OCA in this proceeding – that joint-use distribution plant costs should not have a customer component – has not been adopted by the Commission in any previous PPL base rate case." OSBA M.B. at 8. Additionally, the NARUC Manual clearly states that joint-use electric distribution plant costs should be classified as both customer-related and demand-related. See id. at 7. Specifically, the NARUC manual explains, "As previously indicated, distribution plant is a fixed investment in facilities which does not vary with the consumption of energy and which is closest to the point of use. Therefore, distribution plant is classified as demand and customer-related cost." PPL M.B. at 22 (citing NARUC Manual). The NARUC Manual further provides:

When the utility installs distribution plant to provide service to a customer and to meet the individual customer's peak demand requirements, the utility must classify distribution plant data separately into demand- and customer-related costs.

PPLICA St. No. 2-R at 3. As can be seen from both excerpts, NARUC has recognized that various distribution costs are fixed and do not vary based on consumption. As a result, it would be inappropriate to allocate these distribution system costs only on a demand basis. The Company's CCOSS, which classifies primary and secondary distribution plant costs on both a customer and demand basis, takes into account the fact that "PPL's distribution costs are incurred and vary based on the number of customers connected to the system and the demand imposed by those customers on the system." PPL M.B. at 25.

As explained above, the cost incurred to provide distribution service is a fixed cost and should be allocated on the basis of demand and on the basis of the number of customers taking distribution service on the rate schedule. Consistent with the NARUC manual, PPL's CCOSS that allocates Primary and Secondary distribution plant costs into both customer and demand components should be accepted and OCA's attempt to have all distribution costs (with the exception of services and meters) allocated on a demand basis should be rejected.

2. PPL's Use of the Minimum System Is Reasonable and Consistent With the NARUC Manual

In addition to its claims that classifying the majority of Primary and Secondary costs based on the number of customers is not supported by the Company, the OCA finds fault with PPL's use of the "minimum system study" as inappropriate. See OCA M.B. at 27. Generally, while the OCA first finds faults with the minimum system study in general (See id. at 28), the OCA also criticizes PPL record keeping practices and other measurements, stating that the Company's shortcomings have limited its ability to perform a "true 'minimum' system study." While the Company more than adequately refutes these arguments on Pages 27-30 of its Main

Brief, PPLICA reiterates its position that the Company's use of minimum size methodology in this proceeding is consistent with the accepted methods discussed in the NARUC manual. See PPLICA St. 2-S pp. 2-4. As a result, and consistent with the Company's explanation on Pages 27-30 of its Main Brief, PPL has adequately shown the reasonableness of its minimum system study. Accordingly, the Company's study should be accepted.

3. The Commission Should Reject OCA's Argument that Modifying CCOSS Methodology in This Proceeding Would Be Unfair

In contravention of the Company's CCOSS, the OCA submitted two CCOSS, one allocating demand-related costs using NCP demand and one allocating demand-related costs using the "Peak & Average" methodology. See OCA M.B. at 30. In both CCOSS, all joint-use distribution plant costs were classified as 100 percent demand-related. Id. at 6. The OCA advocates for its CCOSS that uses NCP demand² (and classifying costs as 100% demand-related) by claiming that its study "is more closely aligned with the PPL 2004/2007 Method study performed by the Company in this case [which classifies all Primary costs as demand related]." Id. at 33. As explained above, because this CCOSS is not consistent with NARUC manual standards, it should be rejected.

The OCA notes that using the PPL 2004/2007 Method, where Primary distribution plant was classified as 100% demand-related, the residential return at current rates was 5.23%. See id. at 23. Conversely, under the PPL 2010 Method, where Primary distribution is classified as approximately 2/3 customer related and 1/3 demand related, the residential return was 3.12%. Id. As a result, the OCA argues, "the Company has proposed a major modification in its CCOSS

² The OCA's preferred CCOSS also "corrects" certain allocators used by the Company. These adjustments are not the focus of PPLICA's concern, and therefore, will not be discussed in this Reply Brief; however, for the Company's position on each of these corrections, please refer to Pages 32-34 of PPL's Main Brief.

that is not reasonable at this time." Id. at 34. In essence, because PPL's 2010 CCOSS has a detrimental impact on the residential class, the OCA is not supporting it.

While PPLICA acknowledges that this CCOSS modification has a substantial impact on the residential class' return, this impact, without more, should not be enough for the Commission to use generalized assumptions when specific data is available. Rather, the Commission must look at the underlying disputed allocation to determine what is more appropriate. The NARUC Manual and the record here fully supports classifying PPL's Primary distribution system as partially customer-related and partially demand-related. The OCA's 100% demand allocation of all Primary distribution costs should be rejected.

C. PPL's Revenue Allocation Should Be Accepted

As discussed more fully in PPLICA's Main Brief, the Company has presented a revenue allocation methodology that, in line with its previous distribution cases, continues to move all classes "at or near" the full cost of providing service while also moving all classes toward the system average rate of return. As a result, PPLICA agrees with the Company that allocating the distribution increase primarily to residential customers is reasonable and should be accepted by the Commission. See PPLICA M.B. at 11-12.

1. The OCA's Revenue Allocation Proposal Should be Rejected

The OCA has presented a reallocation of the settlement revenue requirement based on its alternate (and flawed) CCOSS. See OCA M.B. at 46. Under PPL's CCOSS, Rate Schedule LP-4 shows a return at present rates of 13.39%. See PPL Exhibit JMK-2A at 103. As such, Rate Schedule LP-4 is allocated no portion of the increase. Under the OCA's alternate CCOSS, Rate Schedule LP-4 is allocated an increase of \$4.755 million, or 14.65%. Because the OCA's proposal is based on a flawed CCOSS, allocating Rate Schedule LP-4 customers the increase

proposed by OCA would be unjust and unreasonable. See 66 Pa. C.S. §1301. The OCA's proposal to allocate \$4.755 million to Rate Schedule LP-4 should be rejected.

The OCA also proposes to allocate \$196,000 of the increase to customers on Rate Schedules LP-5 and LP-6. See OCA M.B. at 46. This class of customers, which takes service at transmission voltage and use very little of the distribution system, currently pays \$1.131 million at present rates. See PPL Exhibit JMK-2A at 104. Although PPL's CCOSS shows that these rate schedules are earning a return that is below the system average return, the 17.37% increase that the OCA proposes for these customers is higher than any other class under the OCA's proposal. Any rate increase assigned to Rate Schedules LP-5 and LP-6 must comport with gradualism. See PPLICIA St. No. 2-R, p. 9. PPLICIA respectfully questions whether the OCA's treatment of Rate Schedules LP-5 and 6 is appropriate.

2. The OSBA's Proposed Revenue Allocation Proposal Should be Rejected

While the OSBA, in general, agrees with the Company's CCOSS, the OSBA has proposed a revenue allocation that uses the simple average of the prior PPL methodology and the OSBA's updated results, which allocates substation costs based solely on demand. See OSBA M.B. at 16. As explained by PPLICIA Witness Mr. Baudino, PPLICIA does not agree with Mr. Knecht's approach of using the "simple average" of these two CCOSSs. Specifically, Mr. Baudino stated:

Although I support the use of gradualism, if the Commission is asked to make a determination of whether PPL's revised allocation for Primary plant is correct (either as proposed by the Company or revised by Mr. Knecht), then the Commission should base its allocation of the rate increase among customer classes on the cost of service study results using that decision, rather than masking the impact by averaging the prior and revised CCOSS results. As Mr. Knecht's tables show, this allocator choice produces large swings in the rate of return ("RoR") as present rates for RS, GS-3 and LP-4 customers. The Commission may ultimately decide to reflect

gradualism in its allocation of the proposed increase among customer classes by assigning increases to classes that already exhibit above-average returns, but the Commission should adopt one allocator or the other in establishing the CCOSS that will be used to determine which classes are paying rates above and below the system average return.

PPLICA St. No. 2-R at 8-9. PPLICA continues to support the CCOSS and revenue allocation proposals of the Company, which do not attempt to "split the difference" by averaging, as the OSBA suggests.

In addition, the OSBA's proposed increase for Rate Schedules LP-5 and LP-6 is clearly inappropriate and excessive. The OSBA's proposed allocation of the \$77.5 million settlement revenue requirement allocates \$1.211 million to Rate Schedules LP-5 and LP-6. See OSBA M.B. at 21. This represents a 107% increase for the Rate Schedule LP-5 and LP-6 customers.³ This is clearly unjust, unreasonable and excessive. No other class is being subjected to such an excessive increase. Although OSBA claims that this is appropriate because the overall distribution rates paid by these customers are low when viewed on a cents per kWh basis (see OSBA St. No. 1 at 27), this does not change the reality that proper ratemaking principles should be followed. These customers did not get immediate reductions to cost-based rates in prior cases when the CCOSS showed that the classes were providing excessive returns. See PPLICA St. No. 2-R at 9. These customers should be entitled to the benefits of gradualism in this proceeding. The OSBA proposal should be rejected.

D. Rate Schedule LP-4 SI Is an Appropriate Contract-Based Tariff Under Section 2806(h) of the Public Utility Code.

In its Main Brief, PPL goes to great lengths to dispute the necessity and implementation of distribution rate relief for Donsco through the creation of Rate LP-4 SI. See PPL M.B. pp. 42-56. As explained by PPLICA in its Main Brief, the Company's reluctance to amicably resolve

³ The increase for Rate Schedules LP-5 and LP-6 was calculated as follows: $(1,211,000/1,131,000) * 100 = 107\%$

Donsco's desire to obtain 69 kV service has been ongoing for approximately 10 years. See generally PPLICA M.B. pp. 16-19. The inability to convert Donsco to LP-5 service due to environmental and economic impediments that exist due to Donsco's location in connection with the nearest 69 kV substation has had detrimental effects on Donsco since the expiration of the LP-4 Time-of-Day option and other distribution discounts as of January 1, 2010. As a result, Donsco has experienced monthly distribution charges of \$30,000, which is an increase of approximately 1100%. See PPLICA M.B. at 12.

Despite PPLICA's clear demonstration and explanation of why relief is necessary for Donsco and other similarly situated Rate Schedule LP-4 customers through Testimony and its Main Brief, the Company argues that: (1) Donsco has not met its burden of proof and is not in a unique situation; (2) the implementation of Rate LP-4 SI would be unfair to other customers; (3) Donsco's rates are not unreasonably discriminatory; (4) Donsco is purchasing generation at a favorable price; (5) Donsco's factors for proposed Rate LP-4 SI are not "special"; and (6) Donsco has not provided cost justification or a specific rate for its proposed Rate LP-4 SI. See generally PPL M.B. pp. 42-56. As discussed below, each of these arguments lack merit and should be rejected. Significantly, PPL agrees that providing 69 kV service to Donsco's Wrightsville facility is impractical due to the location of PPL's existing 69 kV facilities in relation to the plant. See PPL M.B. at 47. Although additional factors justify the negotiation of a contract-based rate for Donsco, this impracticality of converting to 69 kV service demonstrates the need for flexible pricing to meet Donsco's specific needs.

1. PPLICA Has Met Its Burden of Proof and Has Shown that Donsco Has Unique Needs that Justify the Creation of a Negotiated Contract Based Tariff Schedule.

In an attempt to persuade the Commission to reject PPLICA's recommendation for the creation of a negotiated contract-based tariff schedule (Rate Schedule LP-4 SI) under Section

2806(h) of the Public Utility Code as well as the negotiation of a rate for distribution service that is more commensurate with the distribution rates charged to other foundries in PPL's territory, the Company makes the claim that Donsco, in requesting the creation of a different distribution rate "has failed to meet its burden of proof" and that "other customers have presented such claims in the past, the standards for recovering such requests are well established, and such requests have been rejected repeatedly." PPL M.B. at 43.

In support of these arguments, PPL cites the Commonwealth Court decision of *Southeastern Pennsylvania Transportation Authority v. Pa. P.U.C.*, for the proposition that "a large volume of use does not entitle a customer to a preferred rate...[and that] the mere fact that [Donsco or other similarly situated customers] may contribute a rate of return greater than the class average does not mean that it deserves a special rate." PPL M.B. at 44. This simplification of Donsco's claims are inaccurate and should be rejected. Donsco has not limited its request for a negotiated rate based solely on its usage, but rather has argued that when considering (1) Donsco's usage (and attendant rates) under the LP-4 Rate Schedule; (2) the fact that conversion to 69 kV service is economically and environmentally impractical because of its location next to the Susquehanna River and (3) the fact that Donsco's dedicated facilities do nothing to enhance the PPL distribution system, Donsco needs relief.

First, Donsco has met its burden of proof in this proceeding to show that it qualifies under Section 2806(h) of the Public Utility Code for consideration of a special rate. The Public Utility Code states that public utilities' rates must be just and reasonable and cannot result in unreasonable rate discrimination. See 66 Pa. C.S. §§ 1301 and 1304. Although customers such as SEPTA historically argued for negotiated rates based on size, the General Assembly provided explicit guidance in Section 2806(h) for when the Commission should consider flexible pricing,

flexible rates and negotiated contract-based tariffs under the 1996 Competition Act. See 66 Pa. C.S. § 2806(h). Specifically, such rates are allowed to address "the specific needs of a utility customer" and "to address competitive alternatives." Id. PPLICA's M.B. explains, in great detail, why Donsco's distribution rates are unreasonable and also explains that, due to its location next to the Susquehanna River across from the Company's 69 kV substation, it is unique in that the Donsco has significant environmental and economic obstacles that prevent its conversion to 69 kV service and eligibility for Rate Schedule LP-5. All of the other alternatives suggested by Donsco to date have similarly proven to be unworkable, such as leasing or selling the North Columbia 69 kV to 12 kV transformer to Donsco for a monthly fee, or allowing Donsco to rent space in the North Columbia substation to install a 69 kV to 12 kV transformer. See PPLICA M.B. at 19 (citing PPLICA St. No. 1 at 11-12). As a result, PPLICA has shown why Donsco should be eligible under Rate Schedule LP-4 SI for alternative relief to address its specific needs.

The Company attempts to refute Donsco's request by stating that "Donsco is not complaining about any rate *proposed* by PPL Electric in this proceeding" (PPL M.B. at 42) (emphasis in original)) and that "Donsco has not contended that 12 kV service furnished by PPL Electric has been inadequate or unreliable. Donsco is here is seeking only lower rates for service and not any improvement in service" (PPL M.B. at 48). These contentions are wrong. Throughout this proceeding, Donsco has expressed concern not only about its current distribution rates but also those proposed by the Company and other parties for Rate Schedule LP-4. PPLICA M.B. at 22 (citing PPLICA St. No. 2 at 6). In addition, Donsco has also questioned the adequacy of its service. Specifically, in Surrebuttal Testimony, after noting the Company's failure to address Donsco's request for 69 kV service in connection with its joint project with Metropolitan-Edison to backfeed the Wrightsville area, Mr. Buck stated that

"[g]iven PPL's apparent failure to consider Donsco's service needs in undertaking that project, we at Donsco must question whether PPL is fulfilling its obligation to provide adequate and reliable service." PPLICA St. No. 1-S at 2-3. Donsco's distribution service, whether it is provided at 12.47 kV or 69 kV, remains under the jurisdiction of this Commission. 66 Pa. C.S. §§ 1501, 1301 and 1304; PPLICA Cross Examination Exhibit No. 3. The inability (and unwillingness) of PPL to adequately address Donsco's concerns to convert to 69 kV is troubling and inadequate, especially when considering the various approaches Donsco has undertaken to resolve its concern prior to this litigated proceeding. See, e.g. PPLICA M.B. at 17-19. PPL has ignored the thrust of Donsco's arguments in this proceeding, has inappropriately tried to simplify Donsco's issues, and has inappropriately attempted to discount Donsco's characterization of its situation as unique. *As a result, PPL's arguments should be disregarded.*

Notably, when summarizing the background of PPL's service to Donsco and the physical location of Donsco's Wrightsville facility, the Company does not dispute the fact that "the option of serving Donsco's Wrightsville facility at 69 KV from the North Columbia substation has proven to be impractical." PPL M.B. at 47. In fact, PPL, on pages 47-48 of its Main Brief, succinctly summarizes Donsco's difficulty of converting to 69 kV. PPL M.B. at 47-48. Specifically, the Company notes:

- The environmental and siting difficulties associated in crossing the Susquehanna River;
- The cost of two miles of new 69 kV transmission line and additional cost Donsco would incur to transform the electric energy to 69 kV;
- The prohibition by PennDot of running 69 kV lines across an existing bridge and the problems associated with construction of an overhead stand-alone project;
- The fact that tunneling under the Susquehanna River is neither feasible nor practical from an engineering or economic perspective; and
- The costs associated with providing service from a Metropolitan Edison transmission line near the proposed "Red Front" substation to Donsco are prohibitive.

See PPL M.B. at 47-48. At no time does the Company indicate its disagreement with any of these realities. In fact, after summarizing all of these factors (none of which the Company purportedly believes are "unique" or "special"), and conceding that "69 kV service to Donsco has proven to be impractical," the Company simply states that "Donsco and PPL decided that 12 kV service would be provided pursuant to Rate Schedule LP-4." PPL M.B. at 48. What PPL does not acknowledge, however, is that this decision was made in 2000, during a time that Donsco was converting its cupola melting process to electric melt. See PPLICA M.B. at pp. 13-14. As explained in PPLICA's M.B., this decision was made in part because PPL voiced concern whether 69 kV service could be installed on a timeframe that satisfied DEP's requirements and without realization that the Time of Day option would expire ten years later and cause detrimental impacts to Donsco (such as an increase in distribution rates of approximately 1000%). See id. at 14. As explained by PPLICA witness Buck, if Donsco had known of the dramatic change to the Rate Schedule LP-4 distribution rates that would occur in 2010, Donsco would never have agreed to be served on Rate Schedule LP-4. See PPLICA St. No. 1-S at 7.

Throughout this proceeding, PPL has neither shown that PPLICA has not satisfied its burden of proof nor adequately refuted the "uniqueness" of Donsco's situation. As explained in more detail below, the Commission should reject PPL's attempts to refute Donsco's position and, instead, accept PPLICA's recommendation to implement Rate Schedule LP-4 SI to provide relief to Donsco.

2. Not Implementing Rate Schedule LP-4 SI Would be Unfair to Donsco and Other Similarly Situated Rate Schedule LP-4 Customers.

The Company asserts that the implementation of proposed Rate Schedule LP-4 SI is unfair to other customers in at least three respects. See PPL M.B. at 50. First, PPL notes, under PPLICA/Donsco's proposal, other Rate Schedule LP-4 customers' rates would have to be

increased to offset a rate reduction for Donsco and other similarly-situated customers. Id. Further, PPL posits, "under Donsco's proposal, other LP-4 customers would be required to pay higher rates even though they would not receive any additional benefits." PPL M.B. at 50. While PPLICA sufficiently addressed these contentions on Pages 24 through 26 of its Main Brief (see PPLICA M.B. pp. 24-26), PPLICA reiterates that, under hypothetical calculations, the increase to other Rate Schedule LP-4 customers would be minimal and that it is unfair to force Donsco to pay such a large portion of the distribution facilities for other Rate Schedule LP-4 customers when those facilities do not serve Donsco's Wrightsville facility and Donsco has already provided a line extension guarantee for its own facilities. Id.

Second, PPL continues, implementation of Rate Schedule LP-4 SI would be unfair to the former LP-4 customers that paid costs of installing 69 kV facilities in order to be eligible for service on Rate Schedule LP-5. See PPL M.B. at 50. In support of this argument, the Company again claims (although proven wrong by its own Interrogatory response) that "such payments have at times [sic] exceeded \$10 million." Id. Again, PPLICA sufficiently refuted this argument on Pages 26 and 27 of its Main Brief, and will not reproduce its arguments here. Instead, PPLICA asserts that the practice of requiring customers to make actual upfront payments for a 69 kV extension changed since the adoption of the Competition Act (see PPLICA M.B. at 26-27), and, as a result, other customers on Rate Schedules LP-5, LP-6 and IS-T (at least one of which is Donsco's competitor) did not have to pay the costs that Donsco is being asked to absorb. Id. While not discounting the investments that three other customers have made to convert to Rate Schedule LP-5 since 1996, none of these projects had the geographic constraints that exist here. Id.; see also PPLICA Cross Examination Ex. No. 3. As stated above, the Commission has the power to approve negotiated, contract-based tariffs designed to meet the specific needs of a

utility customer and to address competitive alternatives. 66 Pa. C.S. § 2806(h). This is exactly what Donsco is seeking in this proceeding.

Third, the Company asserts, that "even Section 2806(h), which PPLICA cites in favor of its contentions, recognizes the competitive effect of rate reductions." PPL M.B. at 50. PPL further argues:

A rate reduction would be unfair to its competitors, *i.e.*, other forges, unless similar rate reductions were made available to the other forges, which would have the effect of increasing the burden to be shifted to other customers of PPL Electric under Rate Schedule LP-4, which are not forges.

PPL M.B. at 50. First, PPL is incorrect in its interpretation of Section 2806(h). Specifically, Section 2806(h) supports the use of negotiated contract-based rates to address both the specific needs of a customer and competitive alternatives. See 66 Pa. C.S. § 2806(h). Although the rate requested here may assist in Donsco's competitiveness, that is clearly endorsed by Section 2806(h). Second, as proposed, Rate Schedule LP-4 SI would be available to all similarly-situated LP-4 customers, regardless of the type of business they perform. See PPLICA M.B. at 22-23. Accordingly, this rate would be made available to other forges as well as any LP-4 customer that is able to meet the factors enumerated by Mr. Baudino, which are listed on Page 23 of PPLICA's M.B. See PPLICA M.B. at 23. The Rate Schedule proposed by PPLICA provides these customers with the ability to show their specific needs or competitive alternatives justifying the negotiated rate.

Finally, as noted above, any forges that converted to Rate Schedule LP-5 "free of charge" prior to 1996 did so because the conversion was done prior to the enactment of the Competition Act. See PPLICA M.B. pp. 26-27. As a result, those customers will be paying a total of approximately \$400,000 less this year for the same distribution service that Donsco receives

from PPL. See id. at 16 (citing PPLICA St. No. 1, pp. 8-9). That is not fair to Donsco, nor does it make Donsco competitive with other forges in the PPL territory as it would with lower distribution rates.

While PPLICA and Donsco concede that the implementation of Rate Schedule LP-4 SI would not be without some impact to other Rate Schedule LP-4 customers, this result is unavoidable when addressing the unreasonableness of Donsco's distribution rates.

3. Donsco's Present Distribution Rates are Unjust and Unreasonable.

The Company claims that Donsco's proposed "special rate" is "because present rates have caused it to experience hardships and because special circumstances apply to it." PPL M.B. at 50. Accordingly, PPL characterizes PPLICA/Donsco's proposal as a claim that its present rates are unreasonably discriminatory. Id. To prove unreasonable discrimination, customers must show that "its rates are unreasonably high and that the rates of other customers are unreasonably low." Id. at 51 (citations omitted). The Company then goes on to state that, "Donsco has presented no cost basis for any conclusion that existing rates are unreasonable as to it or that any other customers are paying unreasonably low rates." Id. PPLICA disagrees.

PPLICA has shown that Donsco's current distribution rates are unjust and unreasonable. PPLICA's Direct Testimony presents the cost basis to illustrate that Donsco's existing rates are unreasonable. Specifically, Mr. Buck stated, that as of January 1, 2010, "Donsco's monthly distribution charges increased from approximately \$2,500 per month to \$20,000 to \$35,000 per month, an increase of 700 to 1,300 percent." PPLICA St. No. 1 at 7. In addition, while Donsco's annual distribution costs under Rate Schedule LP-5 would be \$8,466, Donsco's projected annual distribution costs (assuming a 16 MW demand) would be \$441,408 or \$410,496 under proposed rates. See id. at 8. While PPL cites the \$1 million that it paid in 1999 to install the two dedicated 12.47 kV lines for Donsco, without relief, Donsco will pay nearly \$1 million every two

years going forward for its distribution service at Wrightsville. This, and the vastly disproportionate amount of the LP-4 revenue requirement that is assigned to Donsco under PPL's current and proposed rates (see PPLICA M.B. at 21), demonstrates that Donsco's rates are unjust, unreasonable and unduly discriminatory.

4. Donsco's Price for Generation and Any Attendant Generation Issues are Outside the Scope of This Distribution Base Rate Proceeding.

PPL attempts to discount Donsco's "claimed economic hardship" from its increase in distribution rates by explaining that distribution rates make up a small percentage of Donsco's overall electric bill and Donsco is receiving generation service from an EGS. See PPL M.B., pp. 53-54. Specifically, the Company states:

Clearly, the "hardship" claimed by Donsco is not as great as Donsco would have the ALJ and the Commission believe for at least two reasons. First, even after all the distribution rate increase about which Donsco complains, distribution rates are only about 20 percent of Donsco's total cost of electricity. Prior to January 1, 2010, and the 900 percent distribution rate increases about which Donsco complains, it was paying closer to 2 percent of its total electric bill for distribution costs.

Second, although the record does not reflect the level of Donsco's generation charges, it is clearly purchasing generation at a favorable price....

Id. at 53. These facts, regardless of their truth, have no place in a **distribution base rate proceeding**. The only issues before the Commission are related to PPL's distribution service. Any issues attendant to generation service are not properly before the Commission in this proceeding. As Mr. Buck explained:

Donsco faced a significant increase in the generation portion of its electricity charges as of January 2010. Notably, because generation supply and distribution have been unbundled, we have not discussed this increase in generation costs when discussing the impact of this case on our operations. This increase was compounded by over a 900% increase in our distribution charges.

We sought to recover those additional costs from our customers, but faced resistance. Unlike PPL, our business is not a monopoly and our customers can seek other suppliers if our prices are not competitive.

PPLICA St. No. 1-S at 8. Moreover, the "favorable" generation rules that Donsco is obtaining from its EGS did not prevent Donsco from cutting back operations and laying off 12 workers in response to the dramatic increase in distribution costs that it is experiencing. See PPLICA M.B. at 16. The Commission should disregard any information about Donsco's generation service as irrelevant to the outcome of this distribution base rate proceeding.

5. PPLICA Has Adequately Shown That Donsco's Situation Is Special and Is in Need of Rate Relief.

After questioning PPLICA/Donsco's burden of proof, the uniqueness of Donsco's situation, the supposed "unfairness" to customers if Rate Schedule LP-4 SI were implemented, and Donsco's claims of "economic hardship," the Company next attempts to refute PPLICA's proposed factors for Rate Schedule LP-4 SI, claiming that these factors are not "special circumstances." PPL M.B. at 54.

Before addressing PPL's criticisms of each factor, please find below PPLICA's summary of the factors that would qualify a customer for Rate Schedule LP-4. As summarized on Page 23 of PPLICA's Main Brief:

Mr. Baudino suggested specific factors that would justify the negotiation of rate under this contract-based tariff:

- The customer's demand must be reasonably consistent with LP-5 (i.e., 4 MW or greater) compared to LP-4;
- Factors such as economic development, load retention and employment could be considered;
- The economic and/or environmental feasibility of converting the account to transmission voltage service in Rate Schedule LP-5 could be considered;

- The proximity to 69 kV (or higher) facilities and/or the ability to specifically identify the lines and equipment used to serve the facility could be considered; and
- If the customer paid a contribution in aid of construction or provided a guarantee for the line extension, they should be eligible for this negotiated rate option.

If any of these criteria were met (and the customer's demand exceeds 4 MW) the option would be available. Obviously, a customer would be able to qualify under multiple criteria.

PPLICA M.B. at 23 (internal citations omitted). Addressing each factor, the Company responds as follows:

- PPL serves approximately 20 customers under Rate Schedule LP-4 with demands of 4 MW or greater;
- Lower distribution rate for every business customer...would make additional resources available to the customer for other customers would make additional resources available to the customer for other purposes, including economic development, load retention and employment; this factor does not distinguish it from any other PPL customer;
- All larger LP-4 customers would benefit switching to LP-5 service if there was no economic or environmental impediments;
- It is not unusual for LP-4 customers to be within 2 miles of 69 kV facilities; and
- The fact that Donsco entered into a line extensions should not matter because (1) line extension guarantees do not cover the cost of the facility; (2) Donsco did not fulfill its obligations under the extension guarantee; and (3) Donsco paid nothing for the 69-12 kV transformer that has been dedicated to its service since 2000.

See PPL M.B. at 54-55. PPLICA will address each item in turn.

First, PPL claims that it is not "special" for a Rate Schedule LP-4 customer to have a demand of 4 MW or greater, because 20 Rate Schedule LP-4 customers currently have demand in this range. When considering that Rate Schedule LP-4 has approximately 1100 customers, 20 would equal a maximum of 1.8% of customers that could be eligible for this rate, before considering PPLICA's other proposed factors. Despite PPL's claim otherwise, the fact that over

98% of LP-4 customers do not have a demand of 4 MW or greater proves the "uniqueness" of this trait.

Second, PPLICA suggests that factors such as economic development, load retention and employment could be considered. While PPLICA agrees with PPL's proposition that "lower distribution rate[s]...would make additional resources available to the customer for other customers would make additional resources available...for other purposes, including economic development, load retention and employment," Donsco has had to lay off workers due to the dramatic increase in its distribution rates. See PPLICA M.B. at 16. Moreover, Section 2806(h) specifically discusses "competitive alternatives" as a potential justification for a negotiated contract-based rate. 66 Pa. C.S. §2806(h).

The third factor would be that conversion to 69 kV service is not economically or environmentally feasible. While PPL notes that "all larger LP-4 customers would benefit switching to LP-5 service if there was no economic or environmental impediments," the Company misses the point regarding the inclusion of this factor as a way to qualify for a negotiated rate. As discussed at length in PPLICA's testimony, PPLICA's Main Brief and PPL's Main Brief, Donsco's Wrightsville facility's location has made it economically and environmentally difficult if not impossible to convert to 69 kV service without undue hardship. This impediment (Donsco's location in comparison to PPL's 69 kV facility), combined with the unreasonable distribution rates Donsco is experiencing as a result of this impediment is what makes the current situation unique and in need of a negotiated contract to meet Donsco's special needs. To qualify under proposed Rate Schedule LP-4 SI, a customer would have to show an economic and/or environmental impediment which is preventing the conversion to Rate Schedule LP-5. If this type of impediment does not exist, then presumably the customer can

convert to service at 69 kV and pay distribution rates that are a fraction of what they would pay on Rate Schedule LP-4, while recouping the conversion costs in a reasonable payback period.

Fourth, PPLICA notes that a customer's proximity to one of PPL's 69 kV facilities could be considered. In response, the Company states that it is not unusual for a LP-4 customer to be in close proximity to a 69 kV facility (see PPL M.B. at 55), but, as proposed, this factor, by itself, would not be determinative of whether a customer qualifies for Rate Schedule LP-4 SI. As explained by Mr. Baudino, the existence of identifiable lines and equipment is necessary to develop the negotiated rate. See PPLICA St. No. 2 at 7. Accordingly, even though this factor, by itself, could apply to many LP-4 customers, it is still a valid and reasonable consideration when evaluating the appropriateness of utilizing Rate Schedule LP-4 SI to address a customer's specific needs.

Finally, PPLICA states that, in consideration with the other enumerated factors, if a customer has paid either contributions in aid of construction or provided a guarantee for a line extension, the customer should be eligible for the negotiated rate. In response, the Company gives three reasons why Donsco's line extension guarantee should not matter in this instance:

- (1) line extension guarantees do not cover the cost of the facility;
- (2) Donsco did not fulfill its obligations under the extension guarantee; and
- (3) Donsco paid nothing for the 69-12 kV transformer that has been dedicated to its service since 2000.

PPL M.B. at 55. These arguments are without merit.

First, PPL claims that line extension guarantees do not cover the cost of the facility. While this may be true regarding the total cost of the facility, the Company cannot claim that line guarantees are not designed to produce an adequate return on the Company's investment. As established through cross-examination, the Company sets the amount of an annual revenue guarantee based on PPL's calculated return on investment. As explained by Mr. Kasper:

We take the investment, we calculate basically a return on that investment, and that's all we do. We don't put in there depreciation or anything else, just the return on investment. And for [Donsco's] line extension guarantee, it came out to about \$180,000 a year, so we asked for a five-year guarantee on that.

Tr. at 401. Surprisingly, PPL now believes it is reasonable for Donsco to pay over two times that amount in its annual distribution payments at Wrightsville.

Moreover, both PPL's Tariff Rule Number 3 and Section 57.19 of the Commission's regulations indicate that costs beyond the return on the investment are included in the guarantee, including material costs and labor costs. See 52 Pa. Code § 57.19; See also PPLICA Cross Exhibit No. 1. As articulated in PPL's Tariff, guarantees for multi-phase extensions are based on "estimated fully allocated costs." PPLICA Cross Examination Exhibit No. 1. Similarly, if a line were considered speculative, the minimum revenue guarantee would cover PPL's estimated fully allocated installation and removal costs. Id. In fact, despite testifying that \$180,000 was the return on the investment in the Donsco project, Mr. Kasper did not base his testimony on an accurate calculation of the original project cost. Mr. Kasper purportedly calculated an estimate of the cost of Donsco's facilities as \$2.5 million based on the amount of Donsco's line guarantee (Tr. at 416); however, upon review the actual information associated with this project, the amount spent by PPL was a little over \$1 million. See PPLICA Cross Examination Exhibit No. 5.

Second, PPL alleges that "Donsco did not fulfill its obligations under the extension guarantee," arguing that "Donsco requested relief from the last two years of the line guarantee agreement, thereby saving itself approximately \$280,000 in total." PPL M.B. at 55. These allegations are plainly wrong. As explained more fully in PPLICA's M.B., while Donsco and PPL renegotiated the line guarantee contract to remove the final two years of the annual

guarantee, in exchange Donsco agreed that PPL could use of Donsco's dedicated lines, when necessary, for reliability purposes. See PPLICA M.B. at 14. PPL has not alleged, because it cannot, that Donsco did not have this line available to PPL to use for reliability purposes when called upon. In addition, before renegotiating the contract in 2003, Donsco paid over \$548,000 to PPL towards the line guarantee. Id. The Company's claim that Donsco did not fulfill its obligations under the line guarantee contract because it was renegotiated is disingenuous and incorrect. As such, this argument should be rejected.

Finally, the Company states that the line extension guarantee should not matter because Donsco paid nothing for the 69-12 kV transformer that has been dedicated to its service since 2000. PPL M.B. at 55. This point should be rejected out of hand. As explained by PPLICA witness Buck, Donsco had offered to lease or buy its transformer, but PPL refused. Specifically, Mr. Buck explained:

We suggested that PPL could lease or sell the North Columbia 69 kV to 12 kV transformer to Donsco for a monthly fee, or allow us to rent space in the North Columbia substation to install a 69 kV to 12 kV transformer. PPL indicated that it would not lease or sell the equipment to us because it would limit future expansion and present possible reliability issues.

PPLICA M.B. at 19. The Company should not be allowed to prevent Donsco from buying or leasing the 69-12 kV transformer and then assert that because Donsco has not paid for this transformer, Donsco should be refused a negotiated rate. PPL cannot have it "both ways." Similar to numerous arguments contained herein, PPL's position should be rejected and the Commission should implement PPLICA's recommended Rate Schedule LP-4 SI. Furthermore, because PPL was able to use an older transformer for the project (see PPLICA Cross Examination Exhibit No. 5), the value of the transformer was depreciated.

6. PPLICA's Lack of a Definitive Rate Is Not an Impediment to Approving the Implementation of Rate Schedule LP-4 SI.

Finally, PPL argues that PPLICA has not provided cost justification for any rate discount or special rate. PPL M.B. at 55. While that argument has soundly been refuted in Section II(A)(3) supra, the justification for a discount or special rate is the 1000% increase (or an approximately \$360,000 annually) that Donsco has experienced since January 1, 2010.

PPLICA witness Baudino describes how the rates under this Rate Schedule LP-4 SI will be calculated:

The rates for LP-4 SI would consist of Rate Schedule LP-5's \$696 minimum charge plus a facilities charge to cover operation and maintenance of the distribution lines used to directly serve the customer. Depending on the nature of the facilities, the second component may be a fixed charge per month or a kW demand charge.

PPLICA St. No. 2 at 7. This is no different than any other tariff provision that allows flexible pricing. If the rate negotiations can be completed before PPL submits its compliance filing, then the amount can be reflected. If not, then PPL will be forced to wait until its next rate case to recoup the lost revenue.

As stated numerous times throughout PPLICA's testimony and briefs, PPLICA is seeking, pursuant to Section 2806(h) of the Public Utility Code, implementation of a negotiated rate option between PPL and Donsco in order to resolve this issue. Because this negotiated rate does not currently exist, PPLICA does not have a specific rate to include at this time.


PPLICA, on behalf of Donsco, has fulfilled both its burden of proof and persuasion that its proposal to implement Rate Schedule LP-4 SI is just and reasonable. As a result, the Commission should reject PPL's arguments and implement Rate Schedule LP-4 SI to ensure that Donsco's Wrightsville facility pays just and reasonable distribution rates.

IV. CONCLUSION

WHEREFORE, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission accept the Company's Class Cost of Service Study and Revenue Allocation without Modification as well as adopt the PP&L Industrial Customer Alliance's Recommendation to implement Rate Schedule LP-4 SI.

Respectfully submitted,

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Dated: September 13, 2010

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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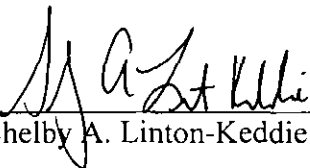
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