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November 15, 2010

BY E-FILE

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

Dear Secretary Chiavetta:

Enclosed please find the original Replies of PPL Electric Utilities Corporation to the Exceptions of Other Parties in the above-referenced proceeding.

Copies have been provided to the persons in the manner indicated by the certificate of service.

Respectfully Submitted,

John H. Isom

JHI/jl
Enclosures
cc: Honorable Susan D. Colwell
Certificate of Service

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Replies of PPL Electric Utilities Corporation to the Exceptions of Other Parties** has been provided to the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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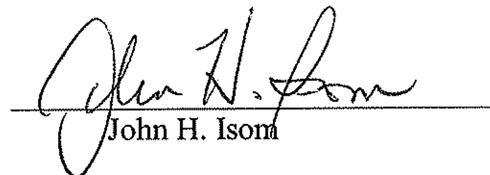

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**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|---|
| Pennsylvania Public Utility Commission | : | |
| | : | |
| v. | : | Docket Nos. R-2010-2161694, *et al.* |
| | : | |
| PPL Electric Utilities Corporation | : | |
| | : | |

# REPLIES OF PPL ELECTRIC UTILITIES CORPORATION TO THE EXCEPTIONS OF OTHER PARTIES


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## I. INTRODUCTION

On October 15, 2010, the Pennsylvania Public Utility Commission (the "Commission" or "PUC") issued the Recommended Decision ("RD") of Administrative Law Judge Susan D. Colwell ("ALJ"). The ALJ, having received substantial expert and public input testimony and exhibits: (1) recommended that the Commission approve the Joint Petition for Partial Settlement ("Partial Settlement") that was filed on August 26, 2010; and (2) provided a thorough and well-reasoned analysis and proposed resolution of those issues reserved for litigation. On November 4, 2010, the Office of Consumer Advocate ("OCA"), Office of Small Business Advocate ("OSBA"), PP&L Industrial Customer Alliance ("PPLICA"), Sustainable Energy Fund ("SEF"), Retail Energy Supply Association ("RESA") and Commission on Economic Opportunity ("CEO") submitted Exceptions to the RD. Below, PPL Electric Utilities Corporation ("PPL EU") responds to these parties' Exceptions.

## II. ARGUMENT

### A. THE OCA'S EXCEPTIONS ARE WITHOUT MERIT AND SHOULD BE REJECTED.

#### 1. The ALJ Properly Rejected OCA's Cost of Service Studies.

The ALJ properly recommended that PPL EU's preferred class cost of service study ("COSS") be used as a guide to the allocation of revenue requirement among the rate classes. RD, pp. 36-46; PPL EU IB, pp. 13-34; PPL EU RB, pp. 5-14.

PPL EU's COSSs were prepared by Mr. Joseph M. Kleha, who has more than thirty years of experience in preparing such studies, which have been repeatedly accepted by the Commission. PPL EU's preferred COSS is set forth in PPL EU Ex. JMK-2A. This study follows essentially the same methodology PPL EU has used in its base rate cases for the past 30 plus years. Under this methodology, the distribution system is first classified as demand-related

or customer-related, based on the results of a minimum system study.[1] The demand component of the distribution system then is allocated among rate classes based on each class' contribution to the system's non-coincident peak, and the customer component is allocated based on the number of customers in each rate class. PPL EU St. 7-R, p. 7. PPL EU's preferred COSS also is fully consistent with the National Association of Regulatory Utility Commissioners' ("NARUC") Electric Utility Cost Allocation Manual ("Manual"). PPL EU St. 7-R, pp. 11-12; PPLICA St. 2-R, pp. 6-7; PPLICA Ex. RAB-1R.

As more fully explained in PPL EU's IB (pp. 14-21), PPL EU made two refinements to its COSS in this case: (1) PPL EU determined the "no load" portion of transformers that is customer-related; and (2) separated the primary voltage system[2] into its demand and customer components. In addition, PPL EU presented Ex. JMK-2B, which does not reflect the above-referenced refinements and follows precisely the methodology used by PPL EU in prior cases. PPL EU St. 7-R, pp. 9-10.

All parties that addressed cost allocation issues supported PPL EU's preferred COSS, except OCA. OSBA St. 3, p. 2; PPLICA St. 2-R, pp. 1-5. PPL EU, as a neutral party regarding cost allocation, has taken a reasonable, moderate position in allocating costs among the rate classes. OCA, in contrast, has proposed substantial revisions to PPL EU's COSS, which, if adopted, would represent a radical departure from COSSs in prior PPL EU rate proceedings, would be unprecedented in Pennsylvania, and would assign far too few costs to the residential class and far too many costs to commercial and industrial customers. PPL EU St. 7-R, p. 3.

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[1] A minimum system study quantifies the customer component of the distribution system based on the cost of connecting customers to the transmission system using the smallest equipment currently being installed.

[2] Primary voltage facilities are those three-phase facilities that operate at 12 kV or above and single-phase facilities that operate at 7.2 kV (phase to ground). Secondary voltage facilities operate at 600 volts or lower.

OCA presented two COSSs. Each study took the completely unprecedented approach of classifying the entire distribution system as demand-related (except for meters and services). Its preferred study allocated the distribution system entirely based on class non-coincident peak demands. The second study employed a peak and average methodology that allocated the distribution system 50% based on class non-coincident peaks and 50% based on average demand.[3]

OCA's COSSs are fundamentally flawed because they are based on the erroneous, unsupportable and unprecedented premise that no portion of the distribution system (other than meters and services) is customer-related. Costs should be classified and allocated based on the factors that cause the cost to be incurred, *i.e.*, cost causation. Under OCA's view, the number of customers is irrelevant to the size and design of a distribution system. In other words, the design and cost of a utility distribution system, in OCA's view, would be exactly the same whether it had one customer or a million customers. For example, assume two utilities with identical peak demands, but one system has one customer and the other has one million customers. Under OCA's view, the cost and design of the two systems would be exactly the same. Every expert COSS witness, except OCA's, agreed that the distribution system has a large customer component. The NARUC Manual, itself, specifically states:

> "Distribution Plant Accounts 364 through 370 involve demand and customer cost. The customer component of distribution facilities is that portion of costs which varies with the number of customers. Thus, the number of poles, conductors, transformers, services, and meters are directly related to the number of customers on the utility's system. As shown in Table 6-1, each primary plant account can be separately classified into a demand and customer component. Two methods are

[3] The ALJ rejected OCA's peak and average COSS because it does not follow principles of cost causation and PUC precedent. The peak and average COSS should be summarily rejected because investment in plant is not made to meet average customer loads. The NARUC Manual gives no recognition to energy as a basis for allocating distribution costs. Therefore, the peak and average COSS is not based on cost causation. PPLICA St. 2-R, pp. 5-6; OSBA St. 2, p. 6. Indeed, adopting the peak and average method for an electric distribution system would be unprecedented, and it has been specifically rejected. *Pa. P.U.C. v. Pennsylvania Power Co.*, 85 PUR 4th 323 (1987).

> used to determine the demand and customer components of distribution facilities. They are the minimum-size-of-facilities method, and the minimum-intercept cost (zero-intercept or positive-intercept cost, as applicable) of facilities." NARUC Manual, p. 30, PPLICA St. 2-R.

OCA's contention, that the distribution system has no customer component (other than meters and services) also is unprecedented. Every prior PPL EU rate case, and to the best of PPL EU's knowledge, every other Pennsylvania electric utility rate case has allocated a substantial portion of distribution costs on a customer basis. By failing to classify any portion of the distribution system as customer related (other than meters and services), OCA disregards the indisputable fact that investment in distribution plant is made not only to meet peak demands of customers, but also to connect customers with the transmission system. OSBA St. 2, pp. 2-3.[4]

To avoid this fundamental flaw in its own studies, the OCA offers several criticisms of PPL EU's COSSs. First, OCA criticizes PPL EU's minimum system study on the grounds that it classifies "too much" of the distribution system as customer-related. OCA Exc., pp. 14-16. OCA's contention is baseless. The customer component of the PPL EU distribution system is relatively large due to the rural nature of PPL EU's service territory, *i.e.*, it is more costly to connect customers to the system when they are further apart. PPL EU St. 7-R, pp. 20-21.[5]

Second, OCA argues that PPL EU's refinements to its COSS represent a major departure from prior proceedings, alleging that these changes increased investment allocated on a customer basis by $1.1 billion. OCA Exc., pp. 1-3. This is simply not the case. A more appropriate comparison is the increase in rate base allocated to the residential rate classes resulting from

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[4] OCA attempts to support its hypothesis that there is no customer component of the distribution system through a "zip code" analysis. This analysis was fully refuted in PPL EU's IB, pp. 23-25 and RB, p. 14.

[5] OCA also claims that there are shortcomings in PPL EU's record keeping. OCA Exc., p. 16. PPL EU has explained thoroughly that OCA's criticisms are misplaced and based upon a lack of understanding of PPL EU's system and how such data are used. PPL EU IB, pp. 27-30. OCA also slants the results of its COSS more favorably for the residential rate class by substituting allocators of certain costs for allocators used by PPL EU. The allocators selected by OCA, however, are not appropriate because they do not reflect how costs being allocated are incurred. PPL EU IB, pp. 32-33.

these refinements, which is approximately $235 million, slightly less than 10% of PPL EU's $2.245 billion rate base claim in this proceeding. Compare PPL EU Ex. JMK-2A, p. 47, line 13 with the same portions of PPL EU Ex JMK-2B; PPL EU Ex. Future 1, Sch. C-1.

Third, the OCA contends that PPL EU's changes to its COSSs in this proceeding "moved the goal line" and have made it more difficult to move residential rates to cost of service. On the contrary, the changes proposed by PPL EU in this proceeding are simply refinements to the COSSs presented by PPL EU in prior base rate cases and represent a more accurate allocation of costs to the rate classes. For example, in prior rate cases, PPL EU was criticized for classifying the primary distribution system as 100% demand-related because it had not performed the detailed analysis required to identify the customer component of this investment. PPL EU acknowledged that a 100% demand allocation was not precisely correct because the primary distribution system clearly had a customer component. In this case, PPL EU completed the necessary analysis and more properly classified its primary distribution system as both demand- and customer-related, consistent with the NARUC Manual. Similarly, in prior rate cases, several parties had criticized PPL EU's treatment of transformers on the secondary voltage system as customer-related. Again, PPL EU in this case prepared additional analyses addressing this criticism and has provided a more accurate COSS.

As the ALJ properly recognized, such refinements are perfectly acceptable:

> "OCA's point that bringing rate schedules as close to their cost of service over a three case period requires that there be some consistency among the three methods of evaluation, is well-taken. However, there is no requirement that the COSS used in this proceeding be identical to the others, and if there is an opportunity to make it more accurate, then that opportunity should be taken. Therefore, as the most accurate, the Company's JMK-2A is the COSS which should be used to allocate rates as it conforms most closely with the NARUC Manual." RD, p. 46.

Finally, it must be recognized that the OCA COSSs, if adopted, would themselves represent a fundamental and radical departure from the methods used by PPL EU and approved by the Commission in prior rate cases and the methods used by other Pennsylvania EDCs. As explained above, each of the OCA's COSSs classifies all of the distribution system (other than meters and services) as demand-related and none of the distribution system as customer-related. Contrary to OCA's contentions, PPL EU's COSSs in its 2004 and 2007 base rate cases, as well as prior rate cases, always have classified a substantial portion of its joint use secondary distribution plant as customer-related using the minimum system method to quantify the portion of such plant that is customer-related. See PPL EU RB, pp. 5-7. If any party in this proceeding is attempting to "move the goal line" by changing COSS methodologies, it is OCA, not PPL EU.

OCA's preferred COSS was properly rejected by the ALJ because it does not follow principles of cost causation, it disregards accepted, standard industry practices in preparing COSS set forth in the NARUC Manual and disregards prior decisions of this Commission in base rate cases of PPL EU and other electric distribution companies.

### 2. OCA's Proposed Allocation of Revenue Requirement Among the Rate Classes was Properly Rejected by the ALJ.

The ALJ approved PPL EU's proposed allocation of the settlement revenue increase. RD, p. 58; PPL EU IB, pp. 34-37,40-42; RB, pp.14-19. She approved this allocation because it was based on PPL EU's preferred COSS, which she adopted as the most appropriate guide for revenue allocation. Further, as shown in the following table, under PPL EU's revenue allocation, there would be substantial movement toward the cost of providing service for every rate class.

| Rate Classes | Relative Return at Present Rates | Relative Return at Proposed Rates[6] |
|---|---|---|
| System | 100.00% | 100.00% |
| RS | 53.10% | 78.61% |
| RTS | -59.94% | -2.65% |
| GS-1 | 163.91% | 113.17% |
| GS-3 | 360.73% | 250.06% |
| LP-4 | 212.88% | 145.20% |
| ISP | 140.06% | 135.83% |
| LP-5 | -372.02% | -237.33% |
| LP-6 | -1064.39% | -831.53% |
| LPEP | 237.36% | 163.51% |
| GH | 217.81% | 150.94% |
| SL/AL | 145.47% | 100.77% |

RD, pp. 49-50; PPL EU IB, p. 37.

The OCA's proposed allocation of the revenue increase, not surprisingly, would allocate a substantially smaller increase to the residential class. As the ALJ indicated, the OCA's revenue allocation was strongly influenced by its two COSSs, which were properly rejected by the ALJ because they are inconsistent with all relevant precedent and principles of cost causation.

PPL EU's proposed allocation of the revenue increase is superior to that proposed by OCA because it substantially moves all rate classes toward the system average rate of return. OCA's proposed allocation, in contrast, should be rejected because it is founded upon flawed COSSs which are not based on cost causation.

Further, PPL EU's proposed allocation of the rate increase to the residential rate classes does not violate OCA's application of the principle of gradualism. OCA proposed an even greater increase to the residential rate classes at originally proposed rates than PPL EU has

[6] The percentages in this column are at originally proposed rates. The ALJ's recommended allocation of the revenue increase under the partial settlement would still produce substantial movement toward the cost of providing service. PPL EU St. 8-RJ, p. 9.

proposed under the Partial Settlement. Therefore, as a result of the Partial Settlement, residential customers would receive less than the rate increase they would have resulted under OCA's allocation at originally proposed rates.

If, however, the PUC wishes to afford some relief to residential customers and give some weight to PPL EU's alternative COSS that is set forth in PPL EU Ex. JMK-2B, which follows exactly the less accurate COSS methodology used by PPL EU in prior rate cases, then a somewhat different allocation could be considered. The starting point would begin with OSBA's proposed allocation of the initial rate increase. See PPL EU IB, p. 38; OSBA St. 1, p. 27. Then, OSBA's proposed allocation of the originally proposed increase would be arithmetically scaled back. The allocation of the increase to the residential classes would have to be adjusted to reflect the Partial Settlement under which the increase to the RTS rate class is limited to 150 percent of the increase to RS rate class, with any shortfall being reallocated to Rate RS. One more refinement would be appropriate. OSBA's initial allocation of revenue requirement to Rates LP-5 and LP-6 was $1.2 million. The scale back amount would produce $811,000. Even this amount, however, would produce a substantial percentage increase (52%) to Rate LP-5 and LP-6 customers because their combined distribution revenues at present rates is only $1.57 million. PPL EU Ex. JMK-2B, p. 8, ln. 8. This increase should be moderated to approximately the same percentage increase as the increase to residential customers. The resulting shortfall could be recovered from customers served under Rates LP-4 and ISP, which would have only a small effect on the percentage increase to these rate classes. PPL EU Ex. JMK-2B, p. 8, ln. 8. This alternative allocation is shown in detail at PPL EU RB, p. 19.

## B. OSBA'S REVENUE ALLOCATION SHOULD BE REJECTED.

The ALJ properly rejected the allocation of the revenue increase proposed by OSBA. RD, pp. 50-55; PPL EU IB, pp. 37-40; PPL EU RB, pp. 14-19. In general, OSBA criticizes the

RD's proposed allocation of the revenue increase because, in OSBA's opinion, it does not sufficiently track the COSS adopted in the RD. OSBA contends that the revenue allocation recommended by the RD does not comply with the Commonwealth Court's teachings in *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 (Pa. Cmwlth. 2006), *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007) ("*Lloyd*"). OSBA also contends that the RD's recommended allocation does not comply with the PUC-approved settlement of PPL EU's 2004 base rate case, after that case was remanded back to the PUC by the Commonwealth Court.

Initially, it should be observed that the OSBA has overstated the effect of *Lloyd* and the 2004 remand settlement. Contrary to OSBA's contention, the 2004 remand settlement does not require that PPL EU's rates at the conclusion of three base rate cases produce exactly the system average rate of return from all rate classes. Even in the 2004 remand proceeding, PPL EU explained that, although there would be movement toward cost of service, achieving rates that produce the system average rate of return by all rate classes may not be practical:

> "First, for certain rate classes, most notably Rate Schedule RTS (Residential Thermal Storage) and street lighting rates, one or two more rate cases may be required because these rates currently are so far below cost of service that it would take very disproportionate increases to move them to full cost of service in three rate cases. Second, as explained by Mr. Kleha, cost of service is an art, not a science, and while the Company will attempt to move rates reasonably close to full cost of service, some modest differences may remain. Further, the Company would reserve the right to apply principles of gradualism to ameliorate individual customer rate impacts to the extent necessary in future proceedings." PPL EU St. 6, pp. 18-19, quoting PPL EU's St. No. Remand-1 in the 2004 proceeding.

Nor does *Lloyd* compel the result advocated by OSBA. After *Lloyd*, COSSs are to be the "polestar" of revenue allocations, but other factors have not disappeared. In fact, in *Lloyd*, the Commonwealth Court recognized that many factors influence rates:

> "Rate structure, which is an essential, integral component of rate-making, is not merely a mathematical exercise applying theoretical principles. Rate structure must be based on the hard economic facts of life and a complete and thorough knowledge and understanding of all the facts and circumstances which affect rates

and services; and the rates must be designed to furnish the most efficient and satisfactory service at the lowest reasonable price for the greatest number of customers, i.e., the public generally. While the cost to serve is important, other relevant factors may also be considered." *Lloyd*, 1016.

The Commonwealth Court, in *Lloyd*, also expressly recognized that gradualism, in order to avoid "rate shock," has a proper place in utility ratemaking. *Lloyd*, 1018, fn. 14. It is well established that slavish adherence to COSSs is not required. Although a COSS may appear to have great precision, the PUC has repeatedly recognized that the cost of service is only a guide to designing rates and is only one factor, albeit an important one, to be considered in the rate setting process.[7] Significantly, all of the witnesses in this proceeding, including OSBA's witness, agreed that a COSS is a guide and that no one COSS is absolutely correct. PPL EU St. 7, pp. 24-25; OSBA St. 1, p. 22; OCA St. 3, p. 4; PPLICA St. 2-R, p. 7. Even OSBA did not recommend moving all rate classes to the system average rate of return.

The reasonableness of the ALJ's recommended allocation in this case can be demonstrated by comparing its results with the allocation in PPL EU's 2004 rate case, which was appealed by OSBA to the Commonwealth Court and led to the *Lloyd* decision. In the 2004 case, small commercial customers (Rate GS-1) received a rate increase that was above the system average rate increase even though these customers were already contributing more than the system average rate of return at present rates. OSBA Exc., p. 3. In the current case, by contrast, under the ALJ's recommended allocation, the small commercial customers would receive no increase at all.

[7] *See, e.g., Pa. P.U.C. v. Pa. Power & Light Co.*, 55 PUR 4th 185, 249 (1983); *Pa. P.U.C. v. Aqua of Pa., Inc.*, R-0072711, 2008 Pa. PUC LEXIS 50 (July 31, 2008); *Pa. P.U.C. v. West Penn Power Co.*, R-00973981, 1998 Pa. PUC LEXIS (May 29, 1998). Further that there is no one single absolutely correct method for preparing COSSs. In fact, the PUC has referred to COSSs as more of an art than a science. *Application of Metropolitan Edison Co.*, R-00974008 (June 30, 1998); *Pa. P.U.C. v. Pa. Power & Light Co.*, 55 PUR 4th 185 (1983).

Under the settlement of the 2004 rate case on remand, in which OSBA joined, Rate GS-1 received a below average rate increase even though, at present rates, it was paying rates that produced more than the system average rate of return. Here, the rate classes which OSBA represents, would receive no rate increase at all. OSBA Exc., p. 4.

As explained above, the ALJ's recommended allocation would produce substantial movement toward the system average rate of return for all rate classes. RD, pp. 49-50; PPL EU IB, p. 37; PPL EU Ex. JMK-2A, pp. 8-11. The ALJ's recommended allocation therefore fully complies with the principles enunciated in *Lloyd*. It uses the adopted COSS as the polestar in allocating the revenue increase and relies on principles such as gradualism to moderate the principle that rates are to be cost-based. Indeed, the RD is not tepid about moving toward cost-based rates. Allocating 100 percent of a substantial rate increase to a single rate class is a bold action, demonstrating a strong commitment to moving toward cost-based rates. OSBA's criticisms of the RD are based upon excessive adherence to the results of the COSS and should be rejected.

Regarding OSBA's First Dollar Relief ("FDR") proposal, the ALJ cogently explained why it is not appropriate, as follows:

> "The basic flaw in OSBA's reasoning is that it assumes that the Company was entitled to the full amount it originally sought, and that, therefore, the amount of the reduction is available for application to existing rates. This is incorrect. Because the PUC has not approved the initial request, neither it nor the reduction amount has any value in determining the allocation of the approved revenue requirement. As OCA points out, "a reduced amount of a rate increase does not provide a source of 'funding' as OSBA assumes. Rather, it is simply nonexistent. Therefore, using it to *reduce* existing rates for classes which were not slated to incur an increase, thus increasing the rate of those which were slated for increases, is inconsistent with traditional ratemaking principles. The OSBA's first dollar reduction proposal is rejected." RD, p. 55, (Citations omitted).

Further, simple fairness dictates that, if residential customers are to receive almost the entire increase, they should be the primary beneficiary of any scale back. In addition, OSBA's

proposed FDR approach to produce rate decreases is unprecedented. Although the FDR approach has been accepted by the PUC in a few cases, those cases involved lesser increases in rates, not rate reductions. PPL EU RB, pp. 15-16.

OSBA also expresses concerns that the ALJ's recommendation to reject the FDR approach is tantamount to a *per se* rule against rate decreases. OSBA Ex., p. 10. PPL EU does not interpret the RD in that manner. The ALJ rejects the FDR approach as a justification for reductions from existing rates. She does not, however, prohibit PPL EU or other parties from proposing rate reductions in order to move toward cost-based rates. Instead, the ALJ simply concluded that, based upon the facts of this case, PPL EU's proposed allocation of the rate increase produced significant and sufficient movement toward cost-based rates.

OSBA also expressed its concern that, absent rate reductions, subsidies in existing rates will continue for "an extended period of time." OSBA Exc., pp. 4, 8-9. PPL EU cannot state when all rate subsidies will be eliminated, partly because the overall cost of service changes over time and partly because there is no perfect methodology to produce an absolutely correct COSS. It can be said, however, that the ALJ's recommended allocation shows vigorous movement toward cost-based rates, substantially reduces existing subsidies, and is fully consistent with the *Lloyd* decision.

### C. DONSCO SHOULD NOT RECEIVE A SPECIAL RATE SCHEDULE

Donsco's proposal, that it should receive a special rate schedule, should be rejected. RD, pp. 95-103; PPL EU IB, pp. 42-56; PPL EU RB, pp. 20-22. Two initial observations are appropriate. First, Donsco is not complaining about any rate proposed by PPL EU in this proceeding. Instead, Donsco seeks relief from the expiration of certain generation-related discounts in distribution rates, primarily the time-of-day option under Rate LP-4, which expired on December 31, 2009, with PPL EU's generation rate caps. As a result, Donsco bears the

burden of proving that it is entitled to a special rate. 66 Pa.C.S. § 315(a). Donsco failed to meet its burden of proof, so its request for a special rate should be denied.

Second, Donsco's claim that it is unique and deserves a special rate is not an issue of first impression. The PUC and the Pennsylvania appellate courts have routinely rejected such claims for good reason. As the Commonwealth Court stated:

> "In support of its argument for a separate mass transportation rate, SEPTA points to its unique service characteristics. The Commission, in adopting the ALJ's decision, rejected SEPTA's claim for a separate rate. The ALJ noted that SEPTA attempted to show its uniqueness without examining other High Tension (HT) customers. The ALJ further noted that the mere fact SEPTA may contribute a rate of return greater than the system average does not mean it deserves a special rate. We agree. We rejected a similar argument in *United States Steel Corp. v. Pennsylvania Public Utility Commission*, 37 Pa. Cmwlth. Ct. 195, 390 A.2d 849 (Pa. Cmwlth. 1978). There, U.S. Steel requested a separate rate, presenting two substantial factors demonstrating its uniqueness: (1) its average gas usage was more than eighty-seven times higher and thirty times higher than the average usage of the two rate classes with which it was to be combined, and (2) it received gas service directly from the gas transmission pipeline. What we stated in U.S. Steel is equally applicable to the case before us. A large volume of use does not entitle a customer to a preferred rate. Questions concerning the reasonableness of rates and the differences between rates are factual questions for the Commission whose findings must be upheld if supported by competent evidence. *U.S. Steel* at 211, 390 A.2d at 859. Moreover, the mere fact that SEPTA may contribute a rate of return greater than the class average does not mean that it deserves a special rate. *See, e.g., Park Towne v. Pennsylvania Public Utility Commission*, 433 A.2d 610, 614 (Pa. Cmwlth. 1981)." *Southeastern Pennsylvania Transportation Auth. v. Pa. P.U.C.*, 470 A.2d 1092, 1094-95 (Pa. Cmwlth. 1984).

Donsco is a customer of PPL EU under Rate LP-4, which applies to large customers receiving customers at 12 kV. Donsco's principal plant is located in Wrightsville, Pennsylvania. Donsco claims that it requires distribution rate reductions to reduce hardship and remain competitive. *See, e.g.*, PPLICA St. 1-S, p. 6. Donsco's claims are meritless.

Reduced to its essence, Donsco, a Rate LP-4 customer served at 12 kV, seeks distribution rates that are similar to rates charged to Rate LP-5 customers served at 69 kV. Distribution rates under Rate LP-5 are significantly lower than under Rate LP-4 because Rate LP-5 customers are

served at 69 kV and do not use and are not assigned any part of the cost of the 12 kV system that is used to serve Rate LP-4 and other rate classes. These differences in the conditions of service fully justify the rate differential between these rates. Donsco, a customer served at 12 kV, in essence, wants PPL EU and this Commission to "pretend" that Donsco receives service at 69 kV so it can obtain the benefits of lower LP-5 rates. The problem and basic unfairness of this approach, however, is that Donsco has not paid the cost required to be served at 69 kV. Other LP-5 customers have paid the cost to bypass the 12 kV system and receive service directly at 69 kV, which can be substantial, and receive the resulting benefit of the lower LP-5 rate. Donsco wants the benefit but is not willing to pay the associated cost. This is obviously not appropriate and should be summarily rejected.

Equally troubling is the fact that, under Donsco's proposal, the cost of providing it a rate discount it does not deserve and for which it has not paid would be paid for by other LP-4 customers, including, as explained below, competitors of Donsco. Donsco's witness stated: "I recommend that any lost revenues from Donsco's Wrightsville facility be kept within the LP-4 rate class if a rate is negotiated prior to the effectiveness of the new rates so as to minimize the impact on other customers." Donsco St. 2-S, p. 4. Donsco's proposal may provide some comfort for other rate classes but it provides none for remaining LP-4 customers.

Importantly, Donsco is not experiencing any significant hardship as a result of distribution rate increases. Even after the substantial increases in distribution rates that are the subject of Donsco's concerns, distribution rates comprise only about 20% of Donsco's total cost of electricity. PPL EU St. 8-RJ, p. 7. Moreover, the restructuring of the electric industry that led to an increase in distribution rates for Donsco has also provided offsetting benefits in the price for generation service.

Although Donsco has resisted disclosing the benefits it has received from electric restructuring (PPLICA St. 1-S, p. 8), it is clear that such benefits are substantial. Although the time of day option utilized by Donsco prior to January 1, 2010, has expired, PPL EU currently offers a "Real Time Price" option for generation supply charges for large commercial and industrial customers such as Donsco. PPL EU Ex. OGK-1A, p. 19Z.3C.-19Z.3D. Under this option, customers pay the actual cost of electric generation when they utilize generation supplies. Therefore, a customer such as Donsco, which can shift its operations to off peak periods, when cost of generation supplies is lower, would substantially benefit through lower charges for generation services from PPL EU. Despite the availability of such services from PPL EU, Donsco chose instead to purchase its electric generation supplies from an Electric Generation Supplier. PPL EU St. 8-R, p. 7. Presumably, the benefits to Donsco from shopping are even more favorable to it than PPL EU's Real Time Price option, which provides benefits similar to the time of day option that expired at the end of 2009.

Donsco should not be allowed to have it "both ways." In essence, Donsco wants the benefits of restructuring and competition in prices for generation services and at the same time wants to retain the generation-related benefits that were available under fully regulated and fully bundled rates before the rate caps expired. Limiting Donsco to generation price discounts will cause no hardship. It merely prevents Donsco from "double dipping" for generation discounts in both regulated distribution services and competitive generation services.

Donsco complains at length that it is at a competitive disadvantage *viz.* other forges receiving service under Rate LP-5. PPLICA Exc., pp. 11-12. The rate differential is fair and appropriate because Donsco actually takes service at 12 kV, not 69 kV, and customers served under Rate LP-5 actually take service at 69 kV. Differences in conditions of service justify differences in rates. *Lloyd*, 1016; RD, p. 47. Moreover, those customers served under Rate LP-5

actually paid for the cost of receiving service at 69 kV, in some instances, millions of dollars. PPL EU St. 8-R, p. 6. As noted above, Donsco simply wants the benefit of a 69 kV rate without paying for the cost.

Donsco also ignores the fact that, under its proposal, it would receive a substantial and unfair competitive advantage *viz.* other forges receiving service under Rate LP-4. Under Donsco's proposal, only customers with peak loads of 4 MW or greater would be allowed to "pretend" that they are receiving service at 69 kV or greater. Other, smaller forges would be left behind even though they are actually served at the same voltage level as Donsco. Donsco's proposal would not eliminate discrimination; it would create an unjustified discrimination benefiting Donsco and harming smaller forges served at 12 kV under Rate LP-4. PPL EU St. 8-R, p. 6; PPL EU St. 8-RJ, pp. 2-3.

Donsco proposes criteria for its proposed rate schedule which Donsco states would limit its availability due to its "unique" circumstances. Unfortunately, this is not the case. First, Donsco would limit the availability of its "special" rate schedule to those LP-4 customers with peak loads of 4 MW or greater. In fact, there are approximately 20 such customers. Tr. 415. Donsco then lists four additional criteria. A customer would qualify for the special rate if its peak load was 4 MW or more and it met any one of the other four factors. Donsco Exc., p. 8. As PPL EU explained, most, if not all, of these twenty customers would qualify for Donsco's so-called "special rate."[8] PPL EU IB, pp. 54-56.

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[8] Most LP-4 customers would meet more than one of the remaining three alternative criteria proposed by Donsco. The first of the four alternative criteria is that the rate discount would encourage "economic development, load retention and employment." Lower distribution rates for every business customer, however, would make resources available for other purposes including, for example, economic development, load retention and employment. Donsco's first alternative criteria would not exclude any business customer from the proposed rate schedule. The second alternative criteria proposed by Donsco is that conversion to 69 kV service is not economically or environmentally feasible. Again, this circumstance does not distinguish Donsco from other LP-4 customers of PPL EU because all LP-4 customers would benefit from switching to Rate LP-5 if there were no economic or environmental impediments. Tr. 415. The third alternative criteria proposed by Donsco is the proximity of 69 kV (Continued on next page...)

Finally, it must be emphasized that Donsco has not even proposed a specific special rate. Instead, it has proposed a vague concept and a rate schedule that would allow it to negotiate for a rate reduction. There is no known rate design and no known revenue effect on other customers. Donsco Exc., pp. 12-13. Further, approving Donsco's proposed rate schedule would accomplish nothing. As a practical matter, PPL EU perceives no reason to agree to a rate reduction for Donsco and thereby impose greater costs and higher rates on other customers. Therefore, even approving a rate schedule with a negotiable rate for which Donsco could qualify would not result in any negotiated rate reduction for Donsco.

## D. SEF'S EXCEPTIONS ARE MERITLESS AND SHOULD BE DENIED.

The ALJ recommended that the Commission approve PPL EU's proposed revisions to its Net Metering Renewable Customer-Generators Rider ("Net Metering Rider"). SEF contends that the calculation of compensation for kWh generation in excess of kWh used under PPL EU's proposed Net Metering Rider fails to fully credit Net Metering customers for distribution charges. Under PPL EU's current Commission-approved tariff, customers receive full credit against all energy (per kWh charges), but are responsible for the customer and demand charges. PPL EU has proposed no change from the present tariff.[9] Notwithstanding, SEF asserts that the PUC's Regulations and Final Omitted Rulemaking Order in *Implementation of Act 35 of 2007;*

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(...continued from previous page.)
or higher facilities. Again, this criteria does not distinguish Donsco from any other large LP-4 customer of PPL EU. Donsco's Wrightsville plant is approximately two miles from the closest 69 kV facility, but it is not unusual for LP-4 customers to be close to 69 kV or other transmission facilities. Tr. 415-16. The fourth alternative criteria for qualifying for Donsco's special rate schedule is that a customer made a contribution or a revenue guarantee for the line extension that serves it. Such payments are made under standard tariff provisions and are common. PPL EU IB, pp. 54-56.

[9] Under the Net Metering Rider, the kilowatt-hours generated by the customer are automatically credited against the kilowatt-hours of usage by the two-way net metering equipment which nets customer usage and customer generation. The customer is given full retail value for the kilowatt-hours generated for distribution (if kilowatt-hour charges exist in the rate schedule), Act 129, transmission, energy & capacity, and competitive transition charges. Pursuant to PPL EU's current tariff, customers are responsible for the customer charge, the minimum bill, and any demand registered on the meter, even if customer generation was equal to or exceeded customer usage. These requirements have not changed. PPL EU IB, pp. 65-66.

*Net Metering and Interconnection*, Docket No. L-00050174 (July 2, 2008) ("*Net Metering Regulations Order*") requires PPL EU to credit customer-generators for both generation and distribution charges, and that the credit for distribution charges should apply to all distribution charges, including customer and demand charges. PPL EU and the ALJ disagree.

The credit for distribution charges should apply to energy charges but not to customer or demand charges. PPL EU IB, pp. 64-66. SEF relies heavily on 52 Pa. Code § 75.13(c), but only quotes a portion of the relevant provisions. When read in its entirety, Sections 75.13(c) and (d) of the PUC's regulations provide that an EDC is obligated to credit or compensate customer generators only for the excess energy or kilowatt-hours of electric usage, and not for the customer or demand component of a customer's bill. PPL EU IB, p. 65. Similarly, the Net Metering Regulations Order clearly provides that the credit or compensation for excess generation is for the excess energy or kWh of electric usage only.[10] SEF simply ignores the plain language of Section 75.13. This result is contrary to well-established rules of construction and should be rejected.

SEF also makes the somewhat surprising assertion that demands placed on PPL EU's system by net metering customers as a result of receiving service are canceled out when these customers provide energy in excess of their usage. SEF Exc., p. 11. SEF's contention is premised on a fundamental misunderstanding of electric service and the function of customer

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[10] The relevant portion of the Commission's Order provides as follows:

> "To summarize, the Commission is amending 52 Pa. Code § 75.13(d) such that, for any unused kilowatt-hours accumulated at the end of the annualized period, compensation to the customer-generator shall equal the price-to-compare rate, as defined in 52 Pa. Code § 54.182, which includes the retail generation and transmission components of the retail rate, and which consumers also utilize when choosing whether or not to obtain supply services from an EGS. Since the EDC retail generation and transmission rates may fluctuate during a year, such compensation shall be calculated by using the weighted average generation and transmission rates, with the weighting based on the rates in effect when the monthly excess generation actually was delivered by the customer-generator to the EDC." *Net Metering Regulations Order*, Slip Op. at p. 20.

and demand charges.[11] Net Metering customers continue to be fully connected to PPL EU's distribution system and continue to impose electrical demand on that system, both as a consumer and as a generator of electricity. As noted by the ALJ, the PUC has held that it would not be in the public interest for these Net Metering customers "to use those systems free of charge by shifting the costs for their use of those systems onto other customers." R.D, pp. 64-65 (citing *Net Metering Regulations Order*, Slip Op. at p. 20). SEF's proposal would do just that and should be rejected.

SEF also contends that the term "PJM planning period" is confusing and, therefore, recommends that PPL EU insert into the Net Metering Rider the actual dates for the planning period, *i.e.*, June 1 through May 31. SEF's contention was fully addressed by PPL EU and was properly rejected by the ALJ. PPL EU IB, pp. 66-67; PPL EU RB, p. 24; RD, p. 67.

### E. RESA'S EXCEPTIONS ARE MERITLESS AND SHOULD BE DENIED.

A thorough explanation of PPL EU's POR program is set forth in PPL EU's Initial Brief.[12] PPL EU IB, pp. 76-82. Beyond a minor change in the discount percentage factors, PPL EU has not proposed any other material changes to the structure of its current, Commission-approved POR program. RESA opposed the uncollectible accounts expense percentage factors proposed by PPL EU and recommended several substantial modifications to the structure of PPL EU's current POR program. The ALJ carefully considered the evidence of record and

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[11] The customer charge is designed to recover costs of connecting a customer to the system regardless of customer usage (either as a buyer or as a seller). The demand charge is designed to recover the costs associated with the maximum demand a customer places on the system (again either as a buyer or as a seller). PPL EU IB, p. 66.

[12] PPL EU's current POR program was approved by the Commission in *Petition of PPL Utilities Corporation Requesting Approval of a Voluntary Purchase of Accounts Receivables Program and Merchant Function Charge*, Docket No. P-2009-2129502, 279 PUR4th 539, 2009 Pa. PUC LEXIS 266 (November 19, 2009). Because the current POR program expires on December 31, 2010, the Company was faced with three options: (1) allow the current program to expire and not offer a POR program; (2) voluntarily offer an entirely new redesigned POR program; or (3) voluntarily offer to extend the current, Commission-approved POR program. PPL EU RB, pp. 29-30. Herein, PPL EU is proposing to extend the current POR program to operate beyond December 31, 2010.

recommended that the PUC approve PPL EU's proposal to extend the current POR program to operate beyond December 31, 2010, and reject RESA's proposed modifications.

**1. The Evidence Supports the Proposed Discount Percentage Factor.**

In its Exception Number 1, RESA argues that PPL EU's proposed discount percentage factors should be rejected because they do not reflect the actual uncollectible accounts expense experienced for shopping customers. RESA further asserts that the actual uncollectible accounts expense for shopping customers is available but was not provided by PPL EU. RESA Exc., Sections III.A.1, IIIA.2.. RESA simply ignores the fact that PPL EU's POR program has only been in effect since January 1, 2010, *i.e.*, three months prior to the initiation of this proceeding, and that there are insufficient data at this time to determine separate uncollectible accounts expenses for shopping and non-shopping customers. PPL EU IB, pp. 81-82. Although PPL EU currently is capturing the data necessary to determine uncollectible accounts expense by individual EGS, it has not yet produced a report on EGS uncollectibles due to limited data and implementation issues. PPL EU IB, p. 94; PPL EU RB, pp. 42, 45.

The use of historic actual bad debt write-offs to develop the budgeted uncollectible accounts expense is reasonable and appropriate because the POR program only became effective January 1, 2010. Prior to this date (when generation rate caps expired) virtually all customers, including those currently shopping, were POLR customers of PPL EU. On these facts, reliance on historical data, adjusted to reflect the effect of the substantial, one time increase in POLR rates, is reasonable and appropriate.[13] PPL EU RB, pp. 31-32.

[13] It should also be noted that RESA's request to base the POR discount factor on shopping customer data is directly contrary to its proposal to eliminate the tracking mechanism for the small C&I POR program, which is designed to do just that -- track the actual uncollectible accounts expense associated with small C&I customers enrolled in the POR program. PPL EU RB, pp. 32-33.

RESA also contends that PPL EU's proposed uncollectible accounts expense discount percentage factors fail to properly credit customers for revenue received from late payments. RESA Exc., Section III.A.3. As PPL EU fully explained, late payments have no relationship to uncollectible accounts expense. Late payment charges are received from customers who pay late but remain customers on the system. This is completely separate and distinct from uncollectible accounts expense, which is incurred when a customer does not pay his/her bill and service is terminated. Late payment charges are not included in net write-offs used to determine the uncollectible accounts expense; rather, they are appropriately recorded as other operating revenue and thereby reduce PPL EU's distribution revenue requirement. PPL EU RB, pp. 33-34.

### 2. The PUC Previously Approved The Structure Of The POR Program Under PPL EU's Proposal To Extend The Current POR Program

In its Exception Numbers 2 and 3, RESA contends that the ALJ erred in relying on the PUC's approval of the settlement adopting the current POR program to support PPL EU's proposal to extend the current program and improperly shifted the burden of proof to RESA. RESA Exc., Sections III.B, III.C. These arguments disregard the fact that, other than the minor change in the discount percentage factor discussed above, PPL EU has proposed no significant changes to the structure of its existing Commission-approved POR program Contrary to RESA's assertion, the ALJ did not imply that the PUC's prior approval of the current POR program was binding on the parties. Rather, the ALJ held that RESA, as the party proposing modifications to a PUC-approved program, bears the burden to demonstrate that the PUC's prior approval of the POR program is no longer justified.[14] RD pp. 83-84. Moreover, regardless of who bears the burden with respect to RESA's proposed modifications, RESA's proposed modifications to the

[14] Although the ultimate burden of proof does not shift from the utility seeking a rate increase, tariff provisions previously approved by the Commission are deemed just and reasonable and, therefore, a party challenging a previously approved tariff provision bears the burden to demonstrate that the Commission's prior approval is no longer justified. *See* PPL EU IB, pp. 5-6.

current POR program are not reasonable as explained immediately below and more fully in PPL EU's Briefs and were properly rejected by the ALJ. PPL EU IB, pp. 82-97; PPL EU RB, pp. 36-48; RD, pp. 70-95.

### 3. RESA's Modifications to PPL EU's Proposed Purchase of Receivables Program Should be Rejected

In reviewing RESA's proposed modifications, it must be remembered that PPL EU's POR program is a voluntary program; *i.e.*, PPL EU is not required to offer it. PPL EU IB, p. 84. RESA's proposed modifications are not acceptable to PPL EU for the reasons explained in PPL EU's IB and RB and, therefore, should be rejected.

RESA's Exceptions are restatements of the numerous arguments raised in its Briefs. PPL EU fully responded to and addressed each of RESA's proposed modifications to the current POR program. PPL EU IB, pp. 82-97; PPL EU RB, pp. 36-48. Similarly, the ALJ fully considered and addressed each of RESA's proposed modifications to the POR program. RD, pp. 84-95. In short, RESA has not presented any evidence of change in circumstances, facts, or law that would justify or otherwise necessitate a departure from PPL EU's current PUC-approved POR program. The PUC should deny RESA's Exceptions.

#### a. RESA's Proposal To Eliminate The Uncollectible Accounts Expense Factor Should Be Rejected.

The discount percentage factor reflects the risks associated with the collection of amounts owed by the shopping customer to EGSs. PPL EU IB, p. 77. An EGS has a collection risk when it sells electricity and incorporates this risk into its pricing, which is passed on to shopping customers through the EGS's competitive offers. RESA improperly seeks to shift this risk to PPL EU and its customers by rebundling the shopping and non-shopping uncollectible accounts expenses and recovering it through a non-bypassable charge assessed to all distribution customers regardless of whether they shop. PPL EU IB, pp. 85-89. If RESA's proposal were

adopted and the uncollectible accounts expense was recovered through a non-bypassable charge to all customers, the discount factor would be eliminated from the POR program, at which point there would be no reason for a POR program.[15] PPL EU IB, pp. 77, 91. Further, RESA's reliance on the POR programs of other EDCs disregards that there is no state-wide standard "voluntary" EDC POR program, and that each EDC is different, has different capabilities, and serves different customers located in different service territories. PPL EU IB, pp. 90-91; PPL EU RB, pp. 43-45. Finally, RESA's proposal is inconsistent with PUC's policy regarding unbundling generation-related costs from distribution rates, as well as directly contrary to RESA's position in PPL Electric's most recent Default Service Plan proceeding. PPL EU IB, pp. 88-90.

**b. The "All-in/All-out" Requirement For Residential Customers Should Be Retained.**

The "all-in/all-out" requirement is a mechanism under PPL EU's current POR program designed to address the potential for EGS "cherry-picking" and placing high-risk, poor-paying residential customers in the POR program. PPL EU IB, pp. 92-93. RESA concedes that there is a risk that PPL EU could under recover its generation uncollectible accounts expense if EGSs were permitted to selectively enroll poor-paying customers. RESA St. 1, p. 10. This risk is even greater for residential customers as compared to other customer classes. PPL EU IB, pp. 92-93. Further, the large number of residential shopping customers who are shopping within PPL EU's service territory does not suggest that the "all-in/all-out" requirement has been an impediment to the development of a competitive market. PPL EU St. 6-R, pp. 5-6, 13.

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[15] RESA also ignores that its rebundling proposal is directly contrary to the position it maintained in PPL EU's' most recent Default Service Plan proceeding, PPL EU St. 6-RJ, p. 9 (quoting RESA St. 1, p. 33 from Docket No. P-2008-2060309), as well as directly contrary to its position regarding large C&I customers -- that PPL EU's failure to unbundle generation-related uncollectible accounts expense from distribution rates for the large C&I customer class puts EGSs at a competitive disadvantage. RESA Exc., p. 22.

#### c. RESA's Proposal To Eliminate The Tracking Mechanism For The Small C&I Customer POR Program Should Be Rejected.

An EGS may selectively enroll small C&I customers in the POR program through consolidated billing, while serving other customers through dual billing. To discourage "cherry-picking," the parties to the settlement agreed to a tracking mechanism to monitor individual EGS uncollectible accounts expense for small C&I customers when the EGS does not enroll all accounts in the POR program. PPL EU IB, pp. 93-94. If EGSs do not "cherry-pick" small C&I customers, then EGSs have little to worry about.[16] PPL EU RB, p 38.

#### d. RESA's Proposal To Expand The POR Program To Apply To Large C&I Customers Should Be Rejected.

PPL EU's large C&I POR program is not part of, and is separate in design from, the current POR program for the residential and small C&I customers. PPL EU IB, p. 95. Approximately 78.7% of large C&I customers were taking service from an EGS, and RESA disregards that many of these customers are enrolled in complex, customized products that, as conceded by RESA, are not compatible with the EDC consolidated billing format under the POR program. RESA St. 1, p. 14; RESA IB, p. 16. Further, the proposal to expand the POR program to large C&I customers would create significant risk for PPL EU, as well as other customers, if a large C&I customer were to declare bankruptcy. PPL EU IB, p. 96.

### F. CEO'S PROPOSAL TO INCREASE FUNDING OF THE WRAP AND HELP PROGRAMS SHOULD BE REJECTED.

CEO has proposed that PPL EU be required to increase annual funding for the WRAP program from $8 million to $9.5 million and increase funding for Operation HELP, which is not paid for by ratepayers, from $1.3 million to $1.6 million. CEO St. 1, p. 6. The ALJ properly

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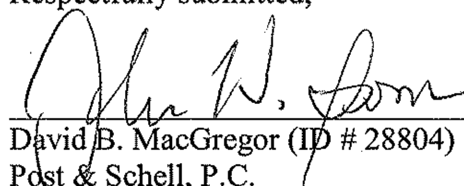
[16] Further, RESA's proposal to eliminate the tracking of the actual uncollectible accounts expense for small C&I customers is directly contrary to RESA's argument that the proposed discount percentage factors do not reflect the actual uncollectible accounts expense. RESA Exc., p. 8.

rejected CEO's proposal for several good and valid reasons. RD, pp. 66-70; PPL EU IB, pp. 97-101; PPL EU RB, pp. 28-29.

## III. **CONCLUSION**

WHEREFORE, for all the foregoing reasons, PPL EU Utilities Corporation respectfully requests that the Exceptions of other parties be denied and that the Pennsylvania Public Utility Commission adopt the Recommended Decision of Administrative Law Judge Susan D. Colwell.

Respectfully submitted,



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