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December 10, 2010

**VIA FEDERAL EXPRESS**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
Post Office Box 3265, 400 North Street  
Harrisburg, PA 17105-3265

**RE: Robert F. Diehl v. PPL Electric Utilities Corporation**  
**Docket No. C-2009-2149261**

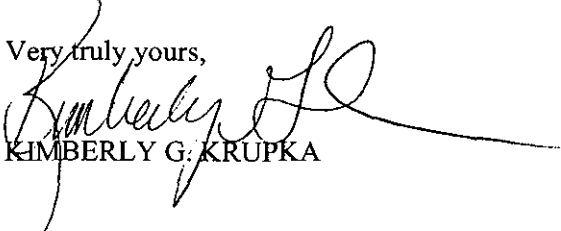
Dear Ms. Chiavetta:

Enclosed for filing in the above-captioned matter are an original and nine (9) copies of Replies of PPL Electric Utilities Corporation to Complainant's Exceptions to the Initial Decision of Administrative Law Judge Susan D. Colwell issued November 4, 2010, along with the attached Certificate of Service.

Pursuant to 52 Pa. Code §1.11, the enclosed document is to be deemed filed on or before December 10, 2010, which is the date it was deposited with an overnight express delivery service as shown on the delivery receipt attached to the mailing envelope.

I am also enclosing an extra copy of PPL's Replies to Complainant's Exceptions. Please time-stamp this copy and return it to my office in the envelope provided.

Thank you for your cooperation in this matter.

Very truly yours,  
  
KIMBERLY G. KRUPKA

KGK:dm

Enclosures

cc: Administrative Law Judge Kandace F. Melillo (w/enc); *via FedEx*  
Mr. Robert Diehl (w/enc)  
Ms. Kimberly A Galligani (w/ enc); *via email only*

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COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ROBERT E. DIEHL

Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

COMPLAINT DOCKET

NO. C-2009-2149261

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**REPLIES OF PPL ELECTRIC UTILITIES CORPORATION TO COMPLAINANT'S  
EXCEPTION TO THE INTITAL DECISION OF ADMINISTRATIVE LAW JUDGE  
KANDACE F. MELILLO DATED NOVEMBER 4, 2010**

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KIMBERLY G. KRUPKA, ESQUIRE  
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*Attorney for PPL Electric Utilities Corporation*

Date: December 10, 2010

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**I. INTRODUCTION**

Respondent PPL Electric Utilities Corporation (“PPL”) files the within Replies to Complainant’s Exception to the Initial Decision of Administrative Law Judge Kandace F. Melillo issued November 4, 2010. PPL respectfully submits that ALJ Melillo correctly dismissed the Complaint of Robert Diehl based on the substantial testimony of record and established law of the Commission and the Commonwealth Court.

For the reasons more fully set forth below, the Exception of Complainant should be denied.

**II. REPLIES TO COMPLAINANT’S EXCEPTION**

1. Complainant’s Exception 1: Complainant excepts on the basis that ALJ Melillo found that Mr. Diehl did not meet his burden of production.

PPL’s Reply:

ALJ Melillo properly applied the facts to the established law in finding that Complainant, Robert Diehl, did not meet his burden of production. Although Complainant’s Exception letter attempts to introduce additional facts concerning his neighbor’s experiences, such facts are not part of the official record and should not be considered by the Commission. In reviewing the official record, there are no facts to support a claim that PPL violated a Public Utility Code provision, regulation, or Order of the Commission in revising the RTS rates to transition to a rate based upon cost of provision of service.

Complainant has been a customer of PPL receiving service under the RTS rate since approximately 1984. Complainant testified that when building his home, his selection of his heating unit was based upon PPL’s promotions (rebates) for thermal storage systems and preferential rates. Complainant testified that the off-peak prices under the RTS rates have

historically been 33% to 50% less than under the RS rate. Complainant realized this beneficial rate for approximately twenty-six (26) years, until December 31, 2009, when PPL's rate caps expired. Complainant alleges that he signed a contract with PPL when he built his home in 1983-1984 wherein PPL promised that RTS rate, and the 50% discount off of the RS rate, would remain for the life of the building. However, Complainant acknowledged that he does not have any copies of the alleged contract, or even portions of the alleged contract. Moreover, Complainant testified that he did not challenge the terms of PPL's current RTS Tariff, but limited his issues to PPL's compliance with the alleged 1984 contract.

To the extent Complainant challenges the present RTS rate, ALJ Melillo correctly stated that Complainant has failed to prove that PPL has violated any Public Utility Code provision, regulation or Order of the Commission. Rather, the evidence of record is clear that PPL's RTS tariff complies with the law, and PPL has properly charged pursuant to the terms of the tariff.

Moreover, ALJ Melillo correctly concluded that the changes to the RTS rates comply with the law. The RTS first became available to customers January 31, 1981, under the tariff filing at Docket No. R-80031114. The tariff provided for a contract period of one year, with a \$20 per month reimbursement to RTS customers if PPL withdrew the rate in less than ten years. In 1987, a tariff supplement at Docket No. R-870600C001, changed the reimbursement amount to \$50 per month. Thereafter, in 1995, the Commission granted PPL's request to close the RTS rate to new customers, effective January 1, 1996. Accordingly, as of December 31, 2009, all RTS customers had received the benefits of the referential rate for at least fourteen (14) years.

Moreover, in 1996, the General Assembly passed the Electricity Generation Customer Choice and Competition Act. Pursuant to electric restructuring, generation rates would be transitioned over time so that rates would be based on the market, and non-cost based rates


would be discontinued. In 2006, the Commonwealth Court ruled, in Lloyd v. Pa. P.U.C. et al, 904 A.2d 1010 (Pa. Cmwlth. 2006), that subsidized rates that do not cover the cost of service must be transitioned to cost based rates. PPL's witness, Oliver Kasper, testified that the RTS rates prior to 2010 were subsidized rates that did not cover the cost of service. Accordingly, with the RTS rates applied in 2010 and forward, PPL is transitioning to cost of service based rates for all RTS customers. Accordingly, while PPL is not discontinuing the RTS rate, the historical differential between RTS and RS rates is much less. Such change in rate is in compliance with the existing law, and is reasonable in that all customers have received the RTS rate for more than ten (10) years and will be paying rates based upon cost of the provision of service.

**III. CONCLUSION**

PPL respectfully requests that the Initial Decision of ALJ Melillo, dated November 4, 2010, be affirmed and made final.

Respectfully submitted,

PPL ELECTRIC UTILITIES CORPORATION

BY:   
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Dated: December 10, 2010  
at Allentown, Pennsylvania  
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ROBERT E. DIEHL

Complainant,

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Respondent.

COMPLAINT DOCKET

NO. C-2009-2149261

**CERTIFICATE OF SERVICE**

THIS IS TO CERTIFY THAT THE REPLIES OF PPL ELECTRIC UTILITIES CORPORATION TO COMPLAINANT'S EXCEPTION TO THE INITIAL DECISION OF ADMINISTRATIVE LAW JUDGE KANDACE F. MELILLO DATED NOVEMBER 4, 2010 ON BEHALF OF PPL ELECTRIC UTILITIES CORPORATION, WAS MAILED TO COUNSEL/COMPLAINANT OF RECORD ROBERT E. DIEHL ON BEHALF OF COMPLAINANT BY FIRST CLASS UNITED STATES MAIL, POSTAGE ON THIS THE 10<sup>TH</sup> DAY OF DECEMBER, 2010:

Mr. Robert E. Diehl  
500 Redco Drive  
Enola, PA 17025

**VIA FEDERAL EXPRESS**

Administrative Law Judge Kandace F. Melillo  
PENNSYLVANIA PUBLIC UTILITIES COMMISSION  
KEYSTONE BUILDING  
400 North Street  
Harrisburg, PA 17120

By:

  
KIMBERLY G. KRUPKA, ESQUIRE  
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