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January 5, 2011

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

VIA HAND DELIVERY

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 Commission is the original and three (3) copies of the Petition for Reconsideration of the PP&L Industrial Customers 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 Petition for Reconsideration and kindly return them for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Pamela C. Polacek

Counsel to the PP&L Industrial Customer Alliance

/lmc
Enclosures

- c: Chairman James H. Cawley (via Hand Delivery)
- Vice Chairman Tyrone J. Christy (via Hand Delivery)
- Commissioner John F. Coleman Jr. (via Hand Delivery)
- Commissioner Wayne E. Gardner (via Hand Delivery)
- Commissioner Robert F. Powelson (via Hand Delivery)
- Cheryl Walker Davis, Director, Office of Special Assistants (via Hand Delivery)
- Bohdan R. Pankiw, Chief Counsel - Law Bureau (via Hand Delivery)
- 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**

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

**PETITION FOR RECONSIDERATION OF THE
PP&L INDUSTRIAL CUSTOMER ALLIANCE**

Pursuant to Section 703(g) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 703(g), and Section 5.572 of the Pennsylvania Public Utility Commission's ("PUC" or Commission") regulations, 52 Pa. Code § 5.572, the PP&L Industrial Customer Alliance ("PPLICA") files this Petition for Reconsideration of the Order of the Commission entered December 21, 2010, in the above-captioned proceeding ("December 21 Order"). In the alternative, PPLICA requests rehearing or reargument pursuant to Section 703(f).

1. The Commission enumerated its standard for reconsidering orders in Quick v. Pennsylvania Gas and Water Co., 56 Pa. P.U.C. 553, 559 (1982). In pertinent part, the Commission stated that a "petition for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part," and that the Commission "expect[s] to see raised in such petitions... new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission." Id.

2. PPLICA submits that each argument or consideration set forth in this Petition is either new and novel or was overlooked or not addressed by the Commission in rendering the

December 21 Order. Therefore, the standards of Quick have been satisfied, and PPLICA respectfully requests that the Commission exercise its discretion to grant this Petition for Reconsideration, rescind the December 21 Order, and issue a new or amended order incorporating the changes discussed herein. PPLICA also reserves the right to pursue an appeal of any and all issues previously raised in its Briefs, Exceptions, or Reply Exceptions, regardless of whether those items are discussed herein.

3. Since approximately 2000, when Donsco, Inc. ("Donsco") was converting its melting operations from use of cupola to electricity at the behest of the Pennsylvania Department of Environmental Protection ("DEP"), Donsco has sought to receive 69 kV service from PPL Electric Utilities Corporation ("PPL" or "Company") under Rate Schedule LP-5. However, Donsco was told that, "due to its location across the Susquehanna River from Columbia, 69 kV service on Rate Schedule LP-5 was impractical because of environmental concerns and cost." PPLICA St. No. 1 at 9. In addition, "there were also concerns about whether the 69 kV service could be installed on a timeframe that satisfied the DEP's requirements." Id. Instead, PPL proposed the following alternative:

PPL proposed to run two 12,470 volt lines across the river from the North Columbia 69/12 KV substation to our facility. Those lines are dedicated to Donsco along with the transformation equipment in the substation. As part of our contract, Donsco guaranteed a total payment of \$914,000 for electric distribution service during the five year initial term of our new contract. This equated to an annual guarantee of \$182,800. In 2003, Donsco and PPL renegotiated the contract to remove the final two years of the annual guarantee, but in exchange we agreed that PPL could use one of the lines when necessary for reliability purposes.

Id. at 9-10. While the cost for PPL to provide these dedicated dual 12 kV service lines to Donsco's Wrightsville facility was \$1,052,550 (see PPLICA Cross Examination Ex. No. 5), Donsco paid approximately \$548,000 toward the line guarantee before renegotiating the contract

in 2003. PPLICA St. No. 1 at 10. Donsco has continued to pay distribution charges for the use of the lines since 2003.

4. Starting in 2010, Donsco experienced an approximate 1100% increase in its rates for distribution service at its Wrightsville Foundry.¹ As explained in PPLICA's testimony, this increase was due not only to the expiration of PPL's Time-of-Day option for Rate Schedule LP-4, but also was due to Donsco's inability, since approximately 1999, to convert to Rate Schedule LP-5 in an economic and environmentally-friendly way because of the foundry's location across the Susquehanna River from the nearest PPL 69 kV substation. See PPLICA St. Nos. 1 and 2. As a result, without relief, Donsco will pay approximately \$410,000 per year to use two dedicated 12 kV cables: (1) that "offer little benefit to PPL Electric's entire distribution system" (see PPL St. 8-R at 3); (2) that cost PPL approximately \$1.0 million to install in 1999 (see PPLICA Cross Examination Ex. No. 5); and (3) for which Donsco has already paid over \$548,000 towards the line guarantee (plus the distribution charges that have been paid from 2003 through 2010). See PPLICA St. No. 1 at 10. As made clear in Mr. Buck's testimony, had Donsco known of the dramatic change to Rate Schedule LP-4 distribution rates that would occur in 2010, Donsco would not have agreed to be served on Rate Schedule LP-4. PPLICA St. No. 1-S at 7. Instead, Donsco would have continued discussions regarding conversion to Rate Schedule LP-5. See Tr. at 458.

5. On March 31, 2010, PPL filed with the PUC Supplement No. 83 to Tariff-Electric-Pa. P.U.C. No. 201 ("Supplement No. 83"), to become effective on June 1, 2010. Through this filing, the Company sought an increase in distribution rates to, among other things, "reflect[] the business environment the Company currently faces, particularly its need to make

¹ Donsco also owns and operates a second foundry in Mt. Joy. Like its Wrightsville facility, the Mt. Joy foundry receives service under PPL Rate Schedule LP-4.

significant capital investments to ensure that it is able to continue to provide safe and reliable service to its customers." PPL M.B. at 1. After exhaustion of numerous attempts to work with the Company regarding Donsco's issues and in order to provide Donsco with distribution rate relief in this proceeding, PPLICA sought the creation of Rate Schedule LP-4 SI under the statutory authority provided by Section 2806(h) of the Public Utility Code as the appropriate legal and policy resolution of this matter.

6. This proceeding was assigned to Administrative Law Judge ("ALJ") Susan D. Colwell, who established a procedural schedule that included an evidentiary hearing, as well as the submission of Main Briefs ("M.B.") and Reply Briefs ("R.B."). On October 15, 2010, the PUC issued the ALJ's Recommended Decision ("R.D.") in this proceeding. On December 21, 2010, the Commission entered its Final Order in this matter. PPLICA hereby files this Petition for Reconsideration because the PUC either overlooked or simply did not address many of PPLICA's arguments related to the imposition of Rate Schedule LP-4 SI that could mitigate Donsco's exorbitant increase in distribution rates, address Donsco's specific needs per Section 2806(h) and, at the same time, minimally impact other Rate Schedule LP-4 customers.

A. The Commission Should Reconsider its Conclusion in the December 21 Order That Section 2806 of the Public Utility Code Does Not Apply to Distribution Rates of Electric Utilities.

7. As PPLICA explained in detail in its Briefs and Exceptions, Section 2806(h) of the Public Utility Code authorizes the Commission to approve negotiated, contract-based tariff rates. Specifically, Section 2806(h) states:

In addition to the implicit authority of the commission under section 501 (relating to general powers), the commission has the authority to approve flexible pricing and flexible rates, including 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). Upon review of this Section, the Commission's December 21 Order, concludes, without further explanation, that:

Section 2806 of the Code does not provide clear statutory authority to the Commission for the adjustment of Donsco's electric distribution rates. Careful scrutiny of Section 2806 reveals that it has little, if anything, to do with distribution rates of electric utilities and PPLICA's reliance on its as a basis for the Commission to order PPL to develop and establish a special distribution rate is faulty.

December 21 Order at 111. As explained below, the PUC seemed to overlook the fact that there is no indication in the plain language of Section 2806(h) that the statutory authority given above is limited to generation rates. As a result, PPLICA respectfully requests that the Commission reconsider and amend the December 21 Order to properly find that Section 2806(h) of the Public Utility Code gives the Commission proper statutory authority to approve the negotiated contract-based tariff rate proposed in the proceeding (i.e., Rate Schedule LP-4 SI) that can be used to address Donsco's special circumstances at its Wrightsville Foundry.

8. When reviewing the language of the Electricity Generation Customer Choice and Competition Act ("Competition Act" or "Act"), while many of the provisions deal with obtaining generation service from competitive providers, the Act also includes provisions confirming an Electric Distribution Company's ("EDC") responsibility to provide transmission and distribution service that reference Section 2806. For example, Section 2804(6) states:

Consistent with the provision of section 2806, the commission shall require that a public utility that owns or operates jurisdictional transmission and distribution facilities shall provide transmission and distribution service to all retail electric customers in their service territory and to electric cooperative corporations and electric generation suppliers, affiliated or nonaffiliated, on rates, terms of access and conditions that are comparable to the utility's own use of its system.

66 Pa. C.S. § 2804(6). Moreover, while not explicitly stating that EDCs will continue to provide jurisdictional distribution and transmission rates, Section 2806 does include a provision that

outlines the requirements of restructuring plans, which include, among other things "prices or rates for generation, jurisdictional transmission, distribution and other services, [etc.]" 66 Pa. C.S. §2806(e). As shown by this language, the term "rates" as used earlier in this Section includes rates for generation as well as jurisdictional transmission and distribution; there is no limitation on the word "rates" to only include those for generation in Section 2806 in general or in Section 2806(h) specifically. The enumeration of types of "rates" in Section 2806(e) demonstrates that the General Assembly was aware that multiple "rates" would exist after unbundling. The General Assembly's failure to include a specific reference to "generation rates" in Section 2806(h) is an indication that it did not intend to limit the scope of this subsection solely to generation rates. See 1 Pa. C.S. § 1903(b) ("General words shall be construed to take their meanings and be restricted by preceding particular words"); see also 1 Pa. C.S. § 1921(b) ("when the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit").

9. In addition, Section 2806(h) indicates that this power to approve flexible pricing and contract based tariff is "[i]n addition to the implicit authority of the commission under section 501 (relating to general powers)..." 66 Pa. C.S. § 2806(h). The Commission's power under Section 501 applies to all services provided by jurisdictional utilities, not solely generation.

10. Furthermore, one of the primary policy goals of the General Assembly in enacting the Competition Act was to make Pennsylvania business and industry more competitive in comparison to facilities located in other states and other countries. See 66 Pa. C.S. § 2802(3),(4),(6) & (7). Prior to restructuring, the Commission approved various rate provisions and special contracts that applied to all aspects of the bundled rates. It is illogical and contrary to

the purpose of Competition Act to conclude that the General Assembly intended, through the implementation of electric industry restructuring, to remove tools that the Commission had prior to 1996 to attract and retain businesses and jobs in Pennsylvania. See 1 Pa. C.S. § 1921(a) ("The object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly"). Because Section 2806(h) does not limit the negotiated rates to generation rates, to be consistent with the underlying policy of the Competition Act, it must be interpreted as applying to all aspects of service, including distribution service as PPLICA has applied it here.

11. Although some may argue that the primary purpose for the pre-Competition Act tariff provision such as PPL's Economic Development Initiative or Time of Day option was generation-related (a conclusion with which PPLICA does not agree), it is undeniable that those provisions applied to all aspects of the service as evidenced by the manner in which rates were unbundled in 1997 to apply the applicable incentives to all rate elements. More importantly, a \$400,000 increase to a customer's annual electricity costs has the same impact on the customer and the customer's competitiveness regardless of whether it applies to the distribution portion of the bill or the generation portion of the bill. In fact, the \$400,000 increase may be more egregious to the distribution portion of the bill, which remains a monopoly service regulated by the Commission, especially here where the customer cannot access the rate schedule it desires due to the location of the utility's current 69 kV facilities and documented environmental and economic factors.

12. As noted above, Section 2806(h) of the Public Utility Code undeniably gives the PUC "authority to approve flexible pricing and flexible rates, including 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). In light of the fact that the General Assembly did not limit this authority to generation rates (as it plainly could have done), it is reasonable to interpret that the Commission's authority to establish rates as articulated in Section 2806(h) applies to all services that the PUC regulates, which includes rates for distribution service at issue here.

13. Moreover, interpreting Section 2806(h) as providing the PUC with statutory authority to approve a negotiated contract tariff rate for distribution rates is consistent with the plain language of Section 2806. Accordingly, the Commission's conclusion in the December 21 Order that PPLICA's reliance upon this Section "as a basis for the Commission to order PPL to develop and establish a special distribution rate is faulty" should be reconsidered.

14. As indicated in Section 2804(10) of the Act, "the commission shall establish rates for jurisdictional transmission and distribution services and shall continue to regulate distribution services for new and existing customers in accordance with this chapter and chapter 13." 66 Pa. C.S. § 2804(10). To interpret Section 2806(h) as limiting relief to only generation rates would clearly fail to comport with the Commission's standard of "just and reasonable rates." Under Section 1301 of the Pennsylvania Public Utility Code, it is the responsibility of the Commission to ensure just and reasonable rates. See 66 Pa. C.S. § 1301. Specifically, Section 1301 requires that "[e]very rate made, demanded, or received by any public utility or by any two or more public utilities jointly, shall be just and reasonable." Id. As established in this proceeding and not contested by PPL, Donsco, despite having 0.2% of LP-4 accounts, is currently responsible for approximately 2% of the Rate Class's annual distribution revenue. See PPLICA St. No. 1 at 13. At current rates, without relief, Donsco will be forced to pay nearly \$1 million every two years going forward for its distribution service at Wrightsville, despite the fact that Donsco is served by dedicated facilities that are not integrated with and "offer little benefit to" the

remainder of PPL's distribution system. This result is neither just nor reasonable. Under the umbrellas of just and reasonable ratemaking, as well as the established principles of statutory construction, the Commission should take this opportunity to fully consider this unjust and unreasonable impact on Donsco and reconsider its previous conclusion that Section 2806(h) does not provide statutory authority to address Donsco's concern.

B. The Commission Should Reconsider and Amend the December 21 Order Because the Decision Regarding the Impact of Rate Schedule LP-4 SI on LP-4 Customers and the Uniqueness of Donsco's Situation Overlooked Record Evidence Presented by PPLICA in this Proceeding.

15. When denying PPLICA's requested implementation of Rate Schedule LP-4 SI, the Commission found, in part, that PPLICA failed to show evidence regarding the specific pricing requested for Rate Schedule LP-4 SI. Further, the PUC continued,

In addition, PPLICA built no record to demonstrate that the potential impact, however minimal, on other LP-4 customers would be justified. And there is no basis to conclude on the present record that the impact on other LP-4 customers would in fact be minimal because PPLICA did not provide any analysis of potential dollar impacts or proposed rate(s). Instead, it provided a vague description of characteristics that would qualify an LP-4 customer for Rate Schedule LP-4 SI.

December 21 Order at 111. Initially, PPLICA questions whether Section 2806(h) requires this type of showing to justify a negotiated, contract-based rate to address the specific needs of a customer and/or to address competitive alternatives; however, PPLICA respectfully asserts that these conclusions overlook clear record evidence addressing these issues. Accordingly, the December 21 Order and its conclusion that the impact on LP-4 customers was not addressed as part of this proceeding must be reconsidered.

16. Counter to the Commission's conclusions above, through briefing and testimony, PPLICA built a record to demonstrate that the potential rate increase to LP-4 customers is

justified. Given the large record and numerous issues before the Commission in this proceeding, PPLICA can only conclude that this information was overlooked. The record in this proceeding shows the uniqueness of Donsco's load profile when compared to other LP-4 customers, why the impact on other LP-4 customers is justified and the potential magnitude of that impact.

17. First, of the 1,100 customers on Rate Schedule LP-4, Mr. Kasper testified that only 20 have demands of 4 MW or higher. See Tr. at 415. Donsco itself has two of these accounts. In fact, when compared to other LP-4 customers, Donsco's billing demands are 15 to 16 times greater than the average customer on LP-4 at Wrightsville, and five times greater at Mount Joy. See PPLICA St. No. 2 at 5. As a result, Donsco's load profile for both accounts is closer to an average LP-5 customer. Id. This is especially true for the Wrightsville facility for which Rate Schedule LP-4 SI is being requested.

18. Further, PPL's witness, Mr. Kleha, confirmed during the evidentiary hearing that a customer like Donsco is not the type of customer normally served by the Company's primary distribution system. As explained by Mr. Kleha, the Company's primary voltage distribution system, which provides the 12,470 volt service to Rate Schedule LP-4, serves residential and small commercial customers. See Tr. at 380. Specifically, when describing the Company's primary distribution system as "12 kV up to 66 kV," Mr. Kleha stated that "no large commercial/industrial would be assigned to a primary facility because they take service at a higher voltage, except for some schools and things of that nature." Id. Clearly, Donsco is "an exception to this rule," but this fact is an important one that bolsters Donsco's position that the Wrightsville facility is unique. The iron foundry at Wrightsville is not the type of customer that should be served from PPL's primary (i.e., 12 kV) system; rather, it should be served from the 69 kV system and be a Rate Schedule LP-5 customer. As explained below, however, environmental

and economic factors prevent Donsco from being served from the 69 kV system due to the physical location of PPL's facilities across the Susquehanna River. PPLICA Exhibit CAB-3, Figures 1 and 2 provide maps illustrating the geography and PPL facilities in the area. See PPLICA St. No. 1, Exhibit CAB-3.

19. Moreover, and as explained in the Rebuttal Testimony of PPL's witness, Mr. Oliver Kasper, Donsco's Wrightsville Facility is served on dedicated lines that are removed from other portions of the Company's distribution system. Specifically, Mr. Kasper noted:

Donsco's Wrightsville plant is located on the west side of the Susquehanna River in York County, across from Columbia, Pennsylvania, which is located in Lancaster County. This small piece of PPL Electric's service territory is supplied by 12 kV lines that run from the North Columbia substation on the east side of the Susquehanna River. These 12 kV cables are suspended under the US Route 30 Bridge over the Susquehanna River.

Q. Do any of these cables supply Donsco's Wrightsville plant?

A. Yes. When Donsco converted to electric melting of cast iron at the Wrightsville plant, two dedicated 12 kV cables were extended from the North Columbia substation to provide service exclusively to the Wrightsville facility. PPL Electric did not have sufficient capacity in the Wrightsville area to supply Donsco's plant and the remainder of the service territory on the west side of the Susquehanna River without these dedicated service lines to the Wrightsville facility.

Q. Do the Donsco dedicated feeders provide benefit to the entire distribution system?

A. No. Donsco's two dedicated express feeders from the North Columbia Substation 06-01 and 06-08 offer little benefit to PPL Electric's entire distribution system.

PPL St. No. 8-R pp. 2-3. The fact that Donsco's Wrightsville Facility is served by dedicated lines that "offer no benefit" to PPL's general distribution system further illustrates why Donsco's current distribution rates are unreasonable. As explained by Mr. Baudino:

Although Mr. Kasper implies that it would be "unfair" to other customers to negotiate the distribution rate for Donsco's facility, his testimony actually underscores the uniqueness of Donsco and why it is unfair to charge them the standard LP-4 rates. As Mr. Kasper notes, the two lines serving the Wrightsville plant are dedicated to Donsco and 'offer little

benefit to PPL Electric's entire distribution system.' This presumably is why Donsco was required to provide a revenue guarantee to support construction of the lines. After meeting that obligation, Donsco is now being required to pay a large portion of the costs that PPL incurs to serve all of the other Rate Schedule LP-4 customers, including customers who did not provide revenue guarantees. That is not fair to Donsco.

PPLICA St. No. 2-S at 3 (emphasis in original). PPLICA witness Mr. Buck cites similar concerns, when noting that:

As Mr. Kasper's testimony explains, Donsco is served by two dedicated lines that are not integrated with the remainder of the system. PPL could not serve our needs in 1999 without the installation of those facilities. We provided a substantial guarantee in support of the installation of those dedicated facilities, and then agreed to interrupt use of those lines upon request to ensure that PPL could provide reliable service to others in the Wrightsville area. Despite this, we are now being asked to pay 1.5% of the revenue requirement for the equipment that is in place to serve the other 1,000 customers in the class, which is equipment that we do not rely upon for our service. That is not fair to Donsco.

PPLICA St. No. 1-S at 5. The existence of dedicated service facilities was one of the criteria that PPLICA proposed for eligibility for Rate Schedule LP-4 SI. See PPLICA St. No. 2 at 7.² Although PPLICA categorized the five criteria as non-exclusive (i.e., customers can meet the eligibility requirements through a number of elements), the existence of dedicated service facilities is an integral part of the establishment of the contract-based negotiated rate. As a result, this could be construed as a mandatory requirement for eligibility.

20. Donsco also provided testimony regarding the impact of the current economic situation and the current distribution rates on its employees, and, by extension, the community at large. See generally PPLICA St. No. 1. As Mr. Buck explained, Donsco recently closed its Belleville, Pennsylvania foundry, which resulted in 106 employees being laid off. See id. pp. 1, 3. In addition, as a mitigation strategy for the distribution rate increase that occurred as of

² Specifically, in PPLICA St. No. 2, Mr. Baudino states: "Fourth, 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".

January 1, 2010, when the Time of Day provision was eliminated, Donsco cut its workforce at Wrightsville. As Mr. Buck, the Plant Manager for Donsco's Wrightsville Foundry explained:

We reduced our operations by 33%. Doing this, we were able to reduce our distribution costs by approximately \$15,000 per month by shutting down a 7 MW melting furnace. Unfortunately, this also resulted in the need to lay-off twelve employees. This is a short-term mitigation effort that will help until the PUC decides this case.

Id. at 8. Since 2006, the Wrightsville facility employee base has shrunk from 135 employees to 90 employees. Id. at 3. When Donsco's employees are laid off, other businesses in the PPL territory are impacted, including some on Rate Schedule LP-4.

21. As explained by Mr. Buck, PPL presented Donsco with four options to upgrade its service to 69 kV: "(1) build a new 69 kV line over the Susquehanna River; (2) bore under the Susquehanna River to install a 69 kV line underground; (3) run 69 kV submersible cables across the Susquehanna River; or (4) construct a new 13-mile 69 kV line from the Otter Creek 230/69 kV substation ("Otter Creek") on the west side of the Susquehanna River." Id. at 10. All of these options are impracticable because of environmental concerns and cost. Id. at 10-11. In fact, PPL itself reached the same conclusion in 1999-2000 when Donsco originally requested service on Rate Schedule LP-5. Id. at 9.

22. The 69 kV conversion options presented by PPL to Donsco face environmental hurdles. As explained in PPLICA's testimony, according to PPL, building a new 69 kV line over the Susquehanna River would be the least cost option; however, due to environmental and other practical concerns, this option is not viable. See PPLICA St. No. 1 pp. 10-11. As Mr. Buck asserted:

Because PennDOT will not allow us to run the line along the existing bridge, this new line would need to be a stand-alone project. As you can imagine, however, we would face substantial resistance to installing towers necessary to run the line across the river. In addition, this area of

the Susquehanna River has experienced concerns recently with habitat issues for wildlife in the area, and also is part of the scenic panorama that is emphasized as a selling point for the area in the River Towns Heritage Development Strategy for Marietta, Columbia and Wrightsville. As a result, installing an overhead line across the Susquehanna River is not a viable option.

Id. As Mr. Buck further explained in his Direct Testimony:

As this testimony demonstrates, Donsco, especially our Wrightsville facility, has been unintentionally and unreasonably impacted by trying to be a good corporate citizen and trying to be responsive to Pennsylvania's policy goals. First, we converted from a cupola to electric melting at the behest of the DEP to reduce our emissions. Second, we agreed to a more environmentally-friendly plan for service at Wrightsville in 2000 by originally agreeing to take service as 12,470 volts, rather than 69 KV. Third, we would like to continue supporting an environmentally and economically conscious approach to this situation by not pursuing the 69 KV line over (or under) the Susquehanna River. Finally, we spent the last ten years benefitting the electric grid and reliability by keeping the majority of our usage at Wrightsville off-peak. When the Time-of-Day option was eliminated, this resulted in approximately a 900% increase to our distribution costs. Mr. Baudino's proposal is a viable and necessary way to ensure that Donsco is treated fairly.

Id. pp. 14-15. The December 21 Order appeared to overlook the non-cost reasons supporting the creation of Rate Schedule LP-4 SI rather than the installation of a transmission line (if that installation were economically viable).

23. The 69 kV conversion options presented by PPL to Donsco are uneconomic. Rather than constructing a stand-alone line across the Susquehanna River that was rejected due to environmental concerns, the second most likely option to install a transmission line under the Susquehanna River was projected to cost over \$10 million. See PPLICA St. No. 1 at 11. Given PPL's estimate that it would cost \$11.93 million to add Donsco to the Red Front Project,³ it appears that there is no cost-effective way to address Donsco's situation.⁴ See PPLICA Cross

³ As explained more fully in PPLICA Cross Examination Exhibit No. 6, "Red Front 115/12 kV substation is a proposed new distribution substation that will serve 12 kV customers in the East Prospect/Wrightsville area." PPLICA Cross Examination Exhibit No. 6.

⁴ Note, however, that this estimate is for a 115 kV interconnection, not 69 kV. See PPLICA Cross Examination Exhibit No. 6.

Examination Exhibit No. 6. As a result, Donsco currently remains on Rate Schedule LP-4 and is receiving service at 12.47 kV, not the 69 kV it has desired since 2000.

24. In addition to the environmental and economic impediments explained above, the 69 kV conversion options presented by PPL to Donsco cannot be implemented in a timely manner to address possible future adverse employee impacts. As explained by Mr. Buck's Surrebuttal Testimony,

There would be a significant delay between agreeing to any of the 69 kV upgrade options and completion of the project. In fact, that was one of the factors that weighed heavily in Donsco's decision in 1999 to agree to be served by the two dedicated 12.47 kV lines that were installed to serve our Wrightsville facility. Current economic conditions make this a critical time for our business and we need relief sooner than we could get it if any of the 69 kV proposals are pursued.

PPLICA St. No. 1-S pp. 1-2. Moreover, it is not clear that the option to tunnel under the Susquehanna River had any chance of success at all. See PPLICA Statement No. 1, p. 11.

25. Furthermore, as PPL admitted, prior to industry restructuring in 1996, service extensions and upgrades for 69 kV service were implemented through guarantees, not by requiring the customer to make the upfront investment for the facility. As PPL's discovery response by Mr. Kasper explained:

Prior to the enactment of the Electricity Generation Customer Choice and Competition Act in 1996, it was PPL Electric's policy to require customers on Rate Schedules LP-4, LP-5, LP-6, IS-T and IS-P to enter into a[n] agreement whereby the customer agreed to pay, through minimum revenue guarantees, the cost of the extension of 69 kV lines to provide service in accordance with the Company's Tariff Rule 3 for extensions of service.

PPLICA Cross Examination Ex. No. 3 (Response to PPLICA-PPL-3). As a result, 172 customers on Rate Schedules LP-5, LP-6 and IS-T (test year customer count of 175 as provided in Exhibit JMK-2 less the 3 customers that PPL claims have paid for 69 kV service since 1996) obtained 69 kV service lines for free. This is an inequity that the Commission can rectify

through the request to create Rate Schedule LP-4 SI and the negotiation of an appropriate rate for Donsco's Wrightsville facility.

26. Donsco recognizes that three customers have paid for upgrades since PPL changed its policy in 1996. See PPLICA Cross Examination Ex. No. 3 (Response to PPLICA-PPL-2). The costs of two of those upgrades were \$1.7 million or less, which is consistent with the investment that Donsco anticipated making to upgrade to Rate Schedule LP-5 (i.e., a project cost that could be recouped through the distribution rate differential between LP-4 (without the Time of Day option) and LP-5 over 2-4 years). See PPLICA St. No. 1-S at 5. PPL initially claimed that a customer's cost for the third upgrade was over \$10 million. See PPL St. 8-R at 5. In fact, that customer paid \$7.5 million for the project. See PPLICA Cross Examination Exhibit No. 3 (Response to PPLICA-PPL-2). There is no evidence that any of these upgrades faced the significant engineering and environmental hurdles of traversing the Susquehanna River in a populated area such as Wrightsville, which uses the riverscape as an economic development asset. Id. Moreover, the willingness of one customer in the last 14 years to pay \$7.5 million for its service upgrade does not eliminate the other barriers that exist to converting Donsco's Wrightsville foundry to 69 kV service in an environmentally and economically feasible way, nor does it prevent the Commission from considering the request to create Rate Schedule LP-4 SI to meet Donsco's specific needs.

27. Collectively, the Commission appears to have overlooked this evidence when determining that PPLICA "built no record to demonstrate that the potential impact, however minimal, on other LP-4 customers would be justified." December 21 Order at 111. As a result, the Commission should reconsider this conclusion and find that PPLICA presented evidence to illustrate that the dedicated nature of the facilities to serve Donsco's Wrightsville facilities, when

coupled with the other factors present (as discussed above), justify the impact of rectifying the current situation through the creation of Rate Schedule LP-4 SI and the establishment of distribution rates for Donsco that are designed to meet Donsco's specific needs and address competitive alternatives. See 66 Pa. C.S. § 2806(h). To force Donsco to pay approximately \$1 million every two years to maintain lines that PPL admits "offer little benefit to PPL's entire distribution system" is unreasonable to Donsco, counter to Section 1301 of the Public Utility Code, (66 Pa. C.S. § 1301), and detrimental to the competitiveness of Donsco's Wrightsville facility, which has already reduced its workforce as a result of the distribution rate increase.

28. The PUC also appears to have overlooked evidence submitted by PPLICA in both briefing and testimony when concluding that "PPLICA did not provide any analysis of potential dollar impacts or proposed rate(s)." December 21 Order at 111. Because PPLICA was seeking, pursuant to Section 2806(h) of the Public Utility Code, implementation of a negotiated rate option that does not currently exist, PPLICA did not include a specific rate as part of this proceeding.⁵ However, PPLICA provided, in Surrebuttal Testimony, an illustrative calculation that demonstrates that the rate impact of Rate Schedule LP-4 SI on other LP-4 customers would be minimal.

29. Specifically after including a general explanation of how the rates for LP-4 SI would be calculated,⁶ PPLICA included an illustrative calculation of the rate's potential effect on other LP-4 customers:

⁵ PPL presented an analysis of the impact of separating all Rate Schedule LP-4 customers into a separate rate class. See PPL St. No. 8-RJ, Rejoinder Testimony of Oliver Kasper. As PPLICA explained in its Main Brief, this does not accurately reflect PPLICA's proposal. See PPLICA M.B. at 26.

⁶ 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 M.B. at 23; PPLICA R.B. at 26.

If Donsco's negotiated rate was equivalent to the average monthly distribution rate that Donsco paid during 2009 (i.e., \$3,562) and if the entire rate increase is granted, and the allocation remains as PPL proposes, the demand charge for other LP-4 customers would increase from \$2.128 per kW to \$2.186 per kW.

PPLICA St. No. 1-S at 4. In other words, the rate would increase by \$0.058 per kW, or \$29 per month for a 500 kW LP-4 customer.⁷ Accordingly, despite the PUC's statements to the contrary, PPLICA did present record evidence that not only demonstrated that the distribution rates as currently applied to Donsco are unreasonable, but also illustrated that the potential impact on other Rate Schedule LP-4 customers is both minimal and justified. As a result, the Commission should reconsider the above information, conclude that PPLICA met its standard of proof in this proceeding and institute Rate Schedule LP-4 SI.

C. The Commission Should Reconsider its Conclusion That The Record Contains Substantial Evidence That PPL Has Been Responsive to Donsco's Concerns.

30. In the December 21 Order, the Commission appears to view Donsco's issue as a new one and states that "the record contains substantial evidence that PPL has been very responsive to Donsco's concerns." December 21 Order at 112. Respectfully, PPLICA disagrees. As the record makes clear, and as further explained above, Donsco has desired to convert its Wrightsville Facility to Rate Schedule LP-5 since approximately 2000. Despite numerous meetings, studies and suggestions by Donsco, PPL has repeatedly refused to address Donsco's concerns.

31. It is important to note that Donsco, throughout this proceeding, has not attempted to avoid an increase in distribution rates (PPLICA St. No. 1-S at 6; Tr. at 395-396); respectfully, however, Donsco objects to the 1100% increase in distribution rates that it currently is experiencing for dedicated lines that "offer no benefit" to PPL's distribution system. In addition,

⁷ Mr. Baudino also suggested that LP-4 SI could be addressed as a separate class in the next distribution rate case. PPLICA St. No. 1-S at 4.

Donsco has, time and again, acknowledged and indicated its willingness to pay reasonable costs in order to convert its operations to Rate Schedule LP-5. Unfortunately, and as explained by PPLICA witness Buck, PPL has not been responsive to any of Donsco's suggestions:

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.

We also suggested that PPL could charge us at the Rate Schedule LP-5 rate plus a fee to recover the operations and maintenance expenses on the 12 kV lines from the North Columbia substation to our facility and the dedicated transformation equipment. PPL did not believe that it had the ability to do this under the tariff.

PPLICA St. No. 1 at 11-12. As illustrated by Mr. Buck's comments, despite Donsco's numerous attempts to resolve this issue (including Donsco's willingness to lease or pay for a 69 kV to 12 kV transformer and participation in this proceeding to provide the Company with tariff authority to offer a negotiated rate), the Company has, time and again, refused to be responsive to Donsco's concerns. PPL commented that it did not have authority under its tariff to create a negotiated rate for Donsco based on the Rate Schedule LP-5 monthly rate plus a fee to recover the operations and maintenance expenses for the dedicated equipment to service Donsco's Wrightsville facility. That is precisely the manner in which Rate Schedule LP-4 SI would be calculated. See supra n. 6. Obviously, PPL's actual position is that it opposes Donsco's proposal, not that it doesn't have authority to implement the proposal under its tariff.

32. Further, a solution that involves Donsco owning or leasing the existing lines from the substation to the plant is legally viable. Recent inquiries from Donsco to PennDOT and review of applicable regulations since the issuance of the Commission's December 21 Order have confirmed that PennDOT would entertain the possibility of authorizing right of way and

bridge occupancy permits for Donsco as a non-utility "B(2)" applicant. See 67 Pa. Code §§ 459.10(a), 459.3(b)(2). PPL refused to consider this option.

D. Request for Rehearing.

33. In light of the new information regarding PennDOT's willingness to allow Donsco to occupy the rights of way (including bridge occupancy) if Donsco either purchases or leases lines across the existing bridge over the Susquehanna River, to the extent the Commission is not prepared to grant the request to create Rate Schedule LP-4 SI on the merits at this time, rehearing may be appropriate in order to fully develop Donsco's issues. As indicated in Commission caselaw, the standard for rehearing, as distinguished from reconsideration, rescission or amendment, is that a party must generally allege newly discovered evidence. See AT&T v. Pa. P.U.C., 568 A.2d 1362, 1364-65 (Pa. Cmwlth. 1990); see also West Penn Power Co. v. Pa. P.U.C., 659 A.2d 1055 (Pa. Cmwlth. 1995) citing Abramson v. Pa.P.U.C., 489 Pa. 267, 414 A.2d 60 (1980). Here, PPLICA and Donsco have recently uncovered evidence that could have a direct impact on the viability of PPL providing 69 kV service to Donsco that should be allowed to be more fully developed before the Commission makes a final decision on this issue.

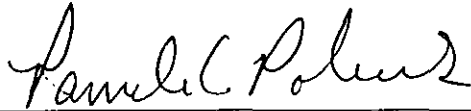
34. In addition, the issue of whether Section 2806(h) applies to distribution rates and, if so, the standard that the Commission will follow in evaluating a request under Section 2806(h) regarding negotiated distribution rates appears to be an issue of first impression. If the Commission upholds its original conclusion that Section 2806(h) is not available as a tool to address Donsco's situation (which it should not do) or if the Commission believes that the evidence presented does enable Donsco to meet the test that the Commission intends to apply to Section 2806(h) requests (or an alternate standard that the Commission may use), it would be fair and equitable to permit rehearing or reargument to enable the parties to address this matter.

35. Accordingly, and respectfully, to the extent this Petition for Reconsideration is not granted, PPLICA requests the opportunity for rehearing in order to fully develop the record.

WHEREFORE, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission grant this Petition for Reconsideration and amend the December 21 Order consistent with the arguments contained herein, or in the alternative, order rehearing or reargument.

Respectfully submitted,

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Dated: January 5, 2011

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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