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August 9, 2011

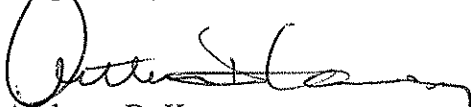
Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**RE: PPL Industrial Customer Alliance v. PPL Electric Utilities Corporation**  
**Docket No. C-2010-2153656**

Dear Secretary Chiavetta:

Attached please find the Exceptions of PPL Electric Utilities Corporation in the above-referenced proceeding. Copies have been provided as indicated on the certificate of service.

Respectfully Submitted,



Anthony D. Kanagy

ADK/skr

Enclosures

cc: Honorable David A. Salapa  
Certificate of Service

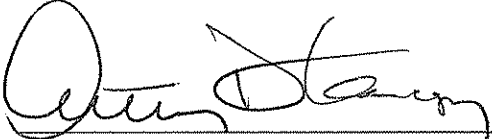
**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**VIA EMAIL AND FIRST CLASS MAIL**

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Date: August 9, 2011



Anthony D. Kanagy

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PP&L Industrial Customer Alliance,	:	
Complainant,	:	
	:	Docket No. C-2010-2153656
v.	:	
	:	
PPL Electric Utilities Corporation,	:	
Respondent	:	

**EXCEPTIONS OF  
PPL ELECTRIC UTILITIES CORPORATION**

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Dated: August 9, 2011

Attorneys for PPL Electric Utilities Corporation

**TABLE OF CONTENTS**

TABLE OF CONTENTS.....1

I. BACKGROUND .....1

II. EXCEPTIONS .....3

III. CONCLUSION.....6

## **I. BACKGROUND**

On November 3, 2009, PPL Electric Utilities Corporation (“PPL Electric”) filed with the Pennsylvania Public Utility Commission (“Commission”), at Docket No. M-2009-2139375, its proposed reconciliation of the 2009 Transmission Service Charge (“2009 TSC”) and its preliminary calculation of the proposed 2010 Transmission Service Charge (“2010 TSC”) for the application period January 1, 2010 through December 31, 2010. On December 1, 2009, PPL Electric filed with the Commission its preliminary calculation of the proposed 2010 TSC, which subsequently was updated on December 11, 2009.

Pursuant to a December 17, 2009 Secretarial Letter, the Commission approved the reconciliation of the 2009 TSC, and approved the proposed 2010 TSC rates for the application period January 1, 2010 through December 31, 2010. On January 1, 2010, the 2010 TSC rates became effective.

On January 22, 2010, PPL Electric was served with a Formal Complaint filed by the PPL Industrial Customer Alliance (“PPLICA”) at Docket No. C-2010-2153656. In its Complaint, PPLICA alleged that during 2009 all of PPL Electric’s Large Commercial and Industrial (“C&I”)-Transmission customers and Large C&I-Primary customers purchased default service from the PPL Electric and contributed to the over collection. PPLICA asserted that, under the approved 2010 TSC rates, customers who shop for electric generation supply instead of receiving default service from the Respondent will not share in the refund of the over collected 2009 TSC charges. PPLICA further argued that PPL Electric violated its tariff by not making an interim TSC adjustment filing in 2009

On February 1, 2010, PPL Electric filed an Answer to PPLICA’s Formal Complaint. In its Answer, PPL Electric denied that it was required to submit an interim TSC adjustment filing

and also explained that, if it had made an interim TSC adjustment filing, there would only have been limited time to reduce the TSC over collection.

On March 3, 2011, a Hearing Notice was issued in the above-referenced matter which scheduled a Hearing for April 15, 2011 before Administrative Law Judge David A. Salapa (“ALJ”). On April 1, 2011, PPLICA requested that the ALJ change the Hearing to a Prehearing Conference. PPL Electric did not oppose the request. Thereafter, on April 4, 2011, the Commission issued a Notice changing the Hearing to a Prehearing Conference.

On May 19, 2011, the Commission entered two Orders addressing TSC reconciliation. In the first Order, at Docket No. M-2010-2213754, the Commission deferred consideration and sought additional information to review the reconciliation of PPL Electric’s 2010 TSC (“2010 TSC Proceeding”). In the second Order, at Docket No. M-2011-2239714, the Commission initiated a generic investigation of TSC reconciliation methods (“TSC Investigation Proceeding”).

In accordance with the procedural schedule set at the Prehearing Conference in the PPLICA Complaint proceeding, PPLICA was to file its direct testimony on or before June 20, 2011. PPLICA did not file its testimony, but, rather, filed a Petition to Withdraw its Complaint on June 15, 2011. PPL Electric filed an Answer to the Petition on June 29, 2011, noting that it did not object to the withdrawal of PPLICA’s Complaint provided that the Complaint was withdrawn with prejudice.

On July 20, 2011, the Parties were served with the ALJ’s Initial Decision. Therein, the ALJ granted PPLICA’s request to withdraw its Complaint. The ALJ, however, denied PPL Electric’s request that the Complaint be withdrawn with prejudice.

PPL Electric herein files these Exceptions to the Initial Decision, pursuant to Rule 5.533 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code § 5.533, and the Secretarial Letter dated July 20, 2011. For the reasons explained below, PPL Electric respectfully requests that the Commission adopt PPL Electric's Exceptions, revise the Initial Decision, and withdraw PPLICA's Complaint with prejudice with respect to PPLICA's contention that PPL Electric should have made an interim TSC adjustment filing in 2009.

## II. EXCEPTIONS

Exception No. 1 The ALJ erred in not recommending that PPLICA's Complaint be withdrawn with prejudice with respect to the over collected 2009 TSC charges and PPLICA's contention that PPL Electric should have made an interim TSC adjustment filing in 2009.

In the Initial Decision, the ALJ denied PPL Electric's request that PPLICA's Formal Complaint be denied with prejudice. In denying PPL Electric's request, the ALJ concluded that the Commission's Order regarding the 2010 TSC Proceeding at Docket No. M-2010-2213754 and TSC Investigation Proceeding at Docket No. M-2011-2239714 both contemplate participation by interested parties. (Initial Decision, at p. 6.) The ALJ concluded that withdrawing PPLICA's Complaint with prejudice would limit PPLICA's participation in both proceedings. (Initial Decision, at p. 6.) For the reasons explained below, the Recommended Decision misconstrued PPL Electric's request and erred in relying upon the Commission's 2010 TSC Proceeding and TSC Investigation Proceeding.

First, the ALJ interpreted PPL Electric's request as limiting PPLICA's ability to participate in TSC reconciliation proceedings or to otherwise prohibit PPLICA from challenging the TSC. However, PPL Electric's request that PPLICA's complaint be withdrawn with prejudice did not seek to preclude or limit PPLICA from participating in the 2010 TSC

Proceeding, TSC Investigation Proceeding, or otherwise prohibit PPLICA from challenging the reconciliation of the TSC in an appropriate proceeding. Rather, PPL Electric requested that PPLICA's Formal Complaint be denied with prejudice against PPLICA raising, in any other Commission proceeding, any of the issues raised by PPLICA in its Formal Complaint proceeding. Specifically, PPL Electric requested that PPLICA should be precluded from raising any issues regarding the Company's TSC over collections in 2009 or the refund of those over collections to default service customers beginning on January 1, 2010. For the reasons explained below, PPL Electric's request that PPLICA's interim 2009 TSC adjustment filing proposal be withdrawn with prejudice is proper and should be approved.

In its Motion to Withdraw, PPLICA asserted that it was unable to obtain meaningful relief through its Complaint and, instead, would address its concerns in the 2010 TSC Proceeding and TSC Investigation Proceeding. The ALJ agreed and concluded that withdrawing the Complaint with prejudice would limit PPLICA's participation in both proceedings. The ALJ's reliance on the 2010 TSC Proceeding and TSC Investigation Proceeding is misplaced.

The purpose of the 2010 TSC Proceeding is to address the reconciliation of PPL Electric's 2010 TSC, and the purpose of the TSC Investigation Proceeding is to undertake a generic investigation of TSC reconciliation methods. However, the issues raised PPLICA's Complaint relate to and address the reconciliation of PPL Electric's 2009 TSC. PPLICA's proposal that that PPL Electric should have made an interim TSC adjustment filing in 2009 is unrelated to the reconciliation of the 2010 TSC or the generic investigation of TSC reconciliation methods. PPLICA should not be able to file a Complaint, withdraw the Complaint, and then raise the very same issue from the Complaint in unrelated proceedings. Permitting PPLICA to do so in the 2010 TSC Proceeding or TSC Investigation Proceeding would cause confusion and

unnecessary efforts among the parties to address irrelevant issues that are beyond the limited scope of these two proceedings. Further, withdrawing PPLICA's Complaint with prejudice with respect to its 2009 TSC issue does not in any way limit or prohibit PPLICA's full participation in the issues that are germane to the 2010 TSC Proceeding and the TSC Investigation Proceeding.

Second, the Initial Decision fails to recognize that the Parties undertook substantial efforts in anticipation of litigating PPLICA's Complaint. In the Complaint proceeding, the Parties and the ALJ agreed to a procedural schedule. Pursuant to the agreed upon procedural schedule, PPLICA was to file its direct testimony on or before Wednesday, June 20, 2011. However, on Friday, June 15, 2011, three business days before its direct testimony was due, PPLICA filed a Motion to Withdraw its Complaint. PPLICA's eleventh hour request is prejudicial and, if granted without prejudice, sets a bad precedent for future complaint proceedings.

To permit PPLICA to withdraw the Complaint without limiting its ability to re-raise the very same issue in a subsequent proceeding is highly prejudicial to PPL Electric and, ultimately, its ratepayers. Under such an approach, PPLICA could refile the very same complaint at a later date, thereby forcing PPL Electric to again invest valuable time and resources to defend against the PPLICA's proposal that that PPL Electric should have made an interim TSC adjustment filing in 2009. Such repetitive investments for the very same issue are not reasonably prudent for PPL Electric and its ratepayers, or the Commission.

PPLICA had the opportunity to raise and have the Commission fully consider its PPLICA's proposal that PPL Electric should have made an interim TSC adjustment filing in 2009. PPLICA initially pursued this remedy but ultimately decided to forfeit its right to present this issue for Commission review. Allowing PPLICA to re-raise its 2009 interim TSC

adjustment filing proposal at some unknown, later date creates substantial uncertainty for PPL Electric and its ratepayers. Such uncertainty regarding rates clearly cannot be in the public interest.

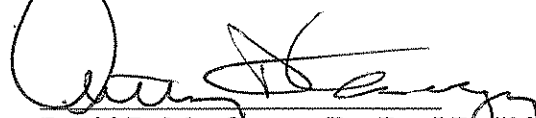
Based on the foregoing, the ALJ erred in granting PPLICA's Petition to Withdraw its Complaint without prejudice against PPLICA raising, in any other Commission proceeding, its proposal that that PPL Electric should have made an interim TSC adjustment filing in 2009

### **III. CONCLUSION**

The ALJ erred in granting PPLICA's Petition to Withdraw its Complaint without prejudice. For the reasons explained above, PPLICA's Petition to Withdraw its Complaint should be granted, but only if the withdrawal is with prejudice against PPLICA raising, in any other Commission proceeding, PPLICA's contention that PPL Electric should have made an interim TSC adjustment filing in 2009.

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission grant its Exceptions and enter an Order that withdraws the Formal Complaint with prejudice against PPL Industrial Customer Alliance raising, in any other Commission proceeding, the proposal that that PPL Electric Utilities Corporation should have made an interim TSC adjustment filing in 2009.

Respectfully submitted,



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Dated: August 9, 2011

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