



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166
Tel: 717.232.8000 • Fax: 717.237.5300

Patrick L. Gregory
Direct Dial: 717.237.5378
Direct Fax: 717.260.1776
pgregory@mwn.com

August 19, 2011

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

VIA HAND DELIVERY

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

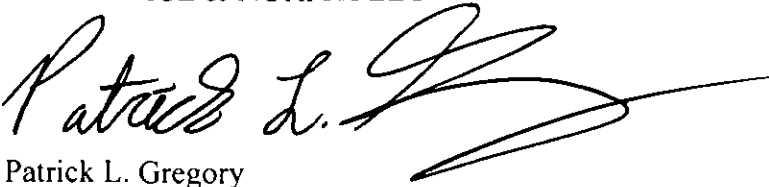
Dear Secretary Chiavetta:

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

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and Reply Exceptions, and kindly return them to our messenger for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Patrick L. Gregory

Counsel to the PP&L Industrial Customer Alliance

RECEIVED
2011 AUG 19 PM 3:41
PA PUC
SECRETARY'S BUREAU

PLG/sds
Enclosures

c: Administrative Law Judge David A. Salapa (via E-mail and Hand Delivery)
Cheryl Walker Davis, Director, Office of Special Assistants (via Hand Delivery)
Certificate of Service

www.mwn.com

HARRISBURG, PA • LANCASTER, PA • STATE COLLEGE, PA • HAZLETON, PA • COLUMBUS, OH • WASHINGTON, DC

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. REPLY EXCEPTIONS	3
A. <u>Reply to PPL's Exceptions</u> : In Making a Decision Concerning PPL's 2010 TSC Reconciliation and Proposed TSC Rates, the PUC Must Consider PPL's Overcollection at January 1, 2010.....	3
III. CONCLUSION.....	5

I. INTRODUCTION

On December 1 and 11, 2009, PPL Electric Utilities Corporation ("PPL" or "Company") submitted multiple filings with the Commission related to its Transmission Service Charge ("TSC") at Docket No. M-2009-2139375. The Company's 2009 final TSC reconciliation report indicated a particularly large overcollection from Large Commercial and Industrial ("C&I") – Primary and Large C&I – Transmission customers of \$3.8 million and \$5.2 million, respectively, which was to be refunded only to the Company's default service customers in 2010. This overcollection was a result of PPL's change to a formula transmission rate authorized by the Federal Energy Regulatory Commission ("FERC") and the refund that was contained in the settlement of that proceeding.

Due to the size of the overcollection and the corresponding refund that was proposed to be given only to default service customers, the PP&L Industrial Customer Alliance ("PPLICA") filed a Complaint with the PUC on January 19, 2010 ("January 19 Complaint"). A description of PPLICA is set forth in Paragraph 6 of the Complaint. Specifically, PPLICA argued that it is unjust, unreasonable and discriminatory, in violation of Sections 1301 and 1304 of the Public Utility Code, 66 Pa. C.S. §§ 1301 & 1304, to refund the 2009 TSC overcollection solely to default service customers, and that all Large C&I customers who contributed to the substantial TSC overcollection should receive their fair share of the refund. In addition, PPLICA recommended that, due to the transition year for PPL's customers as the rate cap expired and more customers shop for generation supply, a special rider should be created to ensure that both shopping and non-shopping customers receive their fair share of the 2009 TSC overcollection refund.

On February 1, 2010, PPL submitted an Answer to PPLICA's Complaint, arguing that refunding TSC overcollection amounts to default service customers is in accord with its Commission-approved tariff provision established in 2004, and that if PPLICA's proposal is accepted, default service customers' TSC rates will increase.

On March 3, 2011, approximately 13 months after PPLICA submitted its Complaint, the Commission issued a Hearing Notice scheduling an Initial Hearing for April 15, 2011. At the parties' request, this Initial Hearing was changed to a Prehearing Conference. Administrative Law Judge ("ALJ") David Salapa convened the April 15, 2011, Prehearing Conference, at which time a procedural schedule was established.

On April 29, 2011, PPL filed its annual reconciliation in accordance with its TSC Rider at Docket No. M-2011-2240269, and on May 2, 2011, filed proposed TSC rates to become effective June 1, 2011, at Docket No. M-2011-2239805.

On May 19, 2011, the PUC entered two Orders to address TSC reconciliation. First, at Docket No. M-2010-2213754, in light of a self-reported error regarding PPL's 2010 TSC reconciliation statement, the Commission deferred its consideration of the Recommended Decision and requested additional information from the Company regarding PPL's TSC reconciliation methodology for the Commission and Statutory Advocates to review and Comment prior to the PUC's Final Order. Concurrently, the PUC entered an Order at Docket No. M-2011-2239714, which opens an investigation to allow interested parties to address various methods of reconciling TSCs.

On June 15, 2011, PPLICA filed a Petition to Withdraw its Complaint ("Petition"). PPL filed an Answer to the Petition on June 29, 2011, noting that it did not object to the withdrawal of PPLICA's Complaint, if such Complaint were 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 and denied PPL's request that the Complaint be withdrawn with prejudice.

On August 9, 2011, PPL filed Exceptions to the Initial Decision. PPL requested that the Commission adopt PPL's Exceptions, revise the Initial Decision, and withdraw PPLICA's Complaint with prejudice with respect to PPLICA's contention that PPL should have made an interim TSC adjustment filing in 2009. In response and opposition to PPL's Exceptions, PPLICA files these Reply Exceptions.

II. REPLY EXCEPTIONS

A. Reply to PPL's Exceptions: In Making a Decision Concerning PPL's 2010 TSC Reconciliation and Proposed TSC Rates, the PUC Must Consider PPL's Overcollection Existing on January 1, 2010.

In its Exceptions, PPL stated:

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 the PPL Electric should have made an interim TSC adjustment filing in 2009.

Exceptions at 5. PPLICA's Complaint stated that based on the Settlement reached at FERC Docket No. ER08-1457-000, PPL should have made an interim TSC adjustment filing in 2009. See Complaint at 6. PPLICA is willing to agree that it will not pursue its claim that the FERC Settlement caused an interim filing to be required; nonetheless, the Commission still can and should examine overcollections existing on January 1, 2010, as discussed herein.

PPL's request that PPLICA's Complaint be withdrawn had a scope much broader, however, than the interim filing. PPL's Answer stated "[s]pecifically, PPLICA should be

precluded from raising any issues regarding the Company's TSC overcollections in 2009 or the refund of those overcollections to default service customers beginning on January 1, 2010." Answer at 3. PPL claims that its request "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." Exceptions at 3-4. PPL's request would, however, limit PPLICA's participation in the 2010 TSC Proceeding, as it would preclude PPLICA from raising the issue of the TSC overcollection balance for Large C&I customers existing on January 1, 2010. See Petition at 1. As PPLICA stated in the January 19 Complaint:

[d]uring 2009, all (or substantially all) of PPL's Large C&I – Transmission and Large C&I – Primary customers purchased default service from PPL. As such, all (or substantially all) of the Large C&I – Primary and Large C&I – Transmission customers contributed to the overcollection.

January 19 Complaint at 5. It is a fundamental fact that the overcollection balance for Large C&I customers existing on January 1, 2010, occurred from overcollection in a period when the vast majority of customers were still on default service. As PPLICA has argued, it would be unjust, unreasonable and discriminatory to refund this substantial overcollection solely to customers on default service in 2010. See id. In making a decision concerning the overcollection balance as of June 1, 2011, the PUC can and should consider the balance existing on January 1, 2010, in order to avoid such an unjust result. Further, we have noted that PPL's proposed refund of the overcollection amounts only to customers on default service in 2010 would "discourage customers from accessing competition supply alternatives in the future ... contrary to the Commonwealth's goals to promote shopping, especially for larger customers." January 19 Complaint at 6.

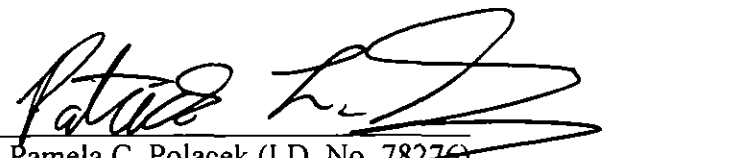
As noted previously, on May 19, 2011, the Commission issued an Order at Docket No. M-2010-2213754 addressing PPL's self-reported error in its 2010 TSC reconciliation statement. It is clear that such reconciliation may not have been done correctly, and one cannot be certain what the final, exact overcollection balance will be. It is crucial that the PUC determine a reasonable solution that will treat all customers fairly, whether shopping or non-shopping customers. The Commission can and should consider these issues in making a decision, and PPLICA should not be precluded from raising them.

III. CONCLUSION

WHEREFORE, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission adopt, without modification, the Initial Decision issued by ALJ Salapa in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Pamela C. Polacek (I.D. No. 78276)

Patrick L. Gregory (I.D. No. 310548)

100 Pine Street

P.O. Box 1166

Harrisburg, PA 17108-1166

Phone: (717) 232-8000

Fax: (717) 237-5300

ppolacek@mwn.com

pgregory@mwn.com

Counsel to the PP&L Industrial Customer Alliance

Dated: August 19, 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).

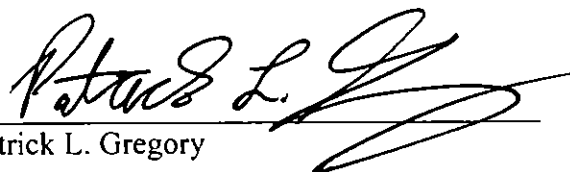
VIA E-MAIL AND FIRST CLASS MAIL

Paul E. Russell, Esquire
Associate General Counsel
PPL Electric Utilities, Inc.
Two North Ninth Street
Allentown, PA 18108-1179
perussell@pplweb.com

Anthony D. Kanagy, Esquire
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
akanagy@postschell.com

David B. MacGregor, Esquire
Post & Schell, PC
Four Penn Center
1600 JFK Blvd.
Philadelphia, PA 19103-2808
dmacgregor@postschell.com

RECEIVED
2011 AUG 19 PM 3:41
PA PJC
SECRETARY'S BUREAU



Patrick L. Gregory

Counsel to the PP&L Industrial Customer Alliance

Dated this 19th day of August, 2011, at Harrisburg, Pennsylvania.