

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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October 6, 2011

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


RE: Pennsylvania Public Utility Commission
v.
PPL Electric Utilities Corporation
Base Rate Proceeding **On Remand**
Docket No. R-2010-2161694

Dear Secretary Chiavetta:

Enclosed for filing please find the Office of Consumer Advocate's Main Brief in the above-referenced proceeding.

Copies have been served on the parties of record as indicated on the enclosed Certificate of Service.

Sincerely,


Aron J. Beatty
Assistant Consumer Advocate
PA Attorney I.D. # 86625

Enclosures

cc: Hon. Susan D. Colwell/ALJ
Parties of Record
125999

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,

v.

PPL Electric Utilities Corporation

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Docket No. R-2010-2161694

REMAND

MAIN BRIEF OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: October 6, 2011

I. INTRODUCTION AND PROCEDURAL HISTORY

The Office of Consumer Advocate (OCA) files this Main Brief in the PPL Remand Proceeding to ensure that Residential customers are not burdened by additional increases in their distribution rates. In the underlying proceeding, PPL and the parties agreed to a revenue requirement increase designed to allow PPL the opportunity to recover \$77.5 million in additional revenues from customers. The allocation of the increase in revenues was fully litigated before the Commission. Administrative Law Judge Colwell recommended for approval an allocation that assigned 100% of the revenue increase to the Residential class. In making her recommendation, the ALJ rejected a proposal that would have resulted in an even greater than 100% allocation of the overall increase to residential customers. The ALJ found that using revenues greater than the total increase assigned to residential customers, “to *reduce* existing rates for classes which were not slated to incur an increase, thus increasing the rates of those which were slated for increases, is inconsistent with traditional ratemaking principles.” R.D. at 55.

ALJ Colwell further addressed the position of PPLICA/Donsco in the underlying proceeding. In that stage of the proceeding, PPLICA/Donsco had requested the creation of a negotiated contract-based tariff schedule under Section 2806(h) of the Public Utility Code, 66 Pa. C.S. § 2806(h), as well as the negotiation of a rate for distribution service that is more commensurate with the rates charged to other foundries in the PPL territory that are served on Rate Schedules LP-5 or LP-6 and the distribution rates that Donsco had been paying under PPL’s Time-of-Day option. R.D. at 94. In her R.D., the ALJ found that PPLICA/Donsco’s argument was essentially a rate discrimination claim. R.D. at 102. The ALJ found that PPLICA/Donsco had

not presented evidence sufficient to support a claim of discrimination and rejected the Donsco requested relief.

On December 21, 2010, the Commission entered its Opinion and Order (Rate Order) approving the agreed upon revenue increase of \$77.5 million. Rate Order at 17-21. In addition, the Commission adopted the ALJ's recommendation that the revenue allocation be recovered in full from the Residential class. Rate Order at 46-47. In its Order, the Commission commented specifically on the lack of merit of a greater than 100 percent increase to any class of customers, noting that "to ask one class to shoulder more of an increase than the final total increase in revenue would constitute unjust and unreasonable rates." Rate Order at 46-47.

With regard to the Donsco issue, the Commission found that the specific circumstances of Donsco represented a "seemingly 'perfect storm' of bad circumstances in terms of Donsco's geographic location and the electric distribution costs it incurs." Rate Order at 110-111. The Commission concluded, however, that PPLICA/Donsco had not carried its burden to demonstrate that a special rate schedule should be established. Rate Order at 113.

In response to the Commission's Order, PPLICA/Donsco sought reconsideration on January 5, 2011. The Commission ruled on PPLICA/Donsco's Petition for Reconsideration through its Order entered on April 27, 2011 (Remand Order). In its Remand Order, the Commission found that reconsideration of the Rate Order was necessary "because the record is devoid of information that the Commission requires to render a meaningful decision on the Donsco special rate issue." Remand Order at 11. Importantly, the Commission did not remand the proceeding for interclass revenue allocation purposes. As Commissioner Cawley stated in his Motion, approved 4-1:

[I]t is in the public interest that this matter be remanded to the Office of Administrative Law Judge so that a fully developed record be made to determine the reasonableness of Donsco's request **and the impact on other LP-4 customers**, without undue delay and additional expense to the parties and without needlessly duplicating use of the Commission's own resources.

Re: Pa.PUC v. PPL Electric Utilities Corp., Docket No. R-2010-2161694, 2161694-OSA (Motion of Commissioner James H. Cawley dated March 31, 2011) (Emphasis added). The Remand Order notes that “[T]he Commission does not have adequate information to assess precisely the new rates or the impact of those rates on the other LP-4 customers.” Remand Order at 12. In addition, the Commission found that the development of a more complete record would allow it to “render a more informed decision on the rate impact upon Donsco and the other LP-4 customers.” Remand Order at 12.

The proceeding was remanded back to the Office of Administrative Law Judge, and assigned to ALJ Colwell for the development of the record and the issuance of a Recommended Decision On Remand concerning this matter.

II. ARGUMENT

On Remand, PPLICA/Donsco presented the Direct Remand Testimony of Richard Baudino, who advocated that the Commission authorize a special rate for Donsco that is lower than the LP-4 rates approved by the Commission in its Rate Order. Mr. Baudino's recommendation provides a discount off existing LP-4 rates to Donsco, specifically, and results in an increase in remaining LP-4 distribution rates of approximately \$212,000 annually. PPLICA Remand St. 2 at 12. Mr. Baudino testified that his recommendation would result in an increase of 0.64% for other (non-Donsco) LP-4 customers. PPLICA Remand St. 2 at 12. The

OCA takes no position with regard to PPLICA/Donsco witness Baudino's primary recommendation in this regard.

Through Mr. Baudino's Remand Direct testimony, however, PPLICA/Donsco proposed an "alternative" recommendation, as follows:

Q. Is there another alternative you recommend for the treatment of lost revenues from Donsco?

A. Yes. As an alternative, I recommend that the Commission allow the Company to defer the lost revenues and apply my recommended weighted cost of capital to the yearly deferral balance. The Company could then amortize and collect the deferred lost revenue in its next rate proceeding. At that time, a final decision could be made on whether to collect these lost revenues from all customers, not just LP-4 customers.

PPLICA Remand St. 2 at 13.

Under this proposed alternative, PPLICA/Donsco presented the Commission with the possibility that the lost revenues from the requested reduction in its LP-4 rates could be recovered from other customer classes, not just the LP-4 class. The OCA strenuously objects to this alternative recommendation. Under Mr. Baudino's alternative recommendation, recovering "lost" Donsco revenue from "all customers" would result in residential customers paying more than 100% of this base rate increase. While the deferral aspect may change the timing, there is no question that the revenues at issue are revenues that PPL is to recover as part of its rates resulting from this base rate case. PPLICA/Donsco's alternative recommendation would result in other customers outside the LP-4 class providing these revenues. For residential customers, who already are paying 100% of this Rate increase, adding any additional cost responsibility to the class – either now or in the future – so as to lower Donsco's rates would have them bear more than 100% of the rate increase.

As detailed above, the ALJ and the Commission have previously determined that allocating greater than 100% of the revenue allocation approved in this case to the Residential class would be unjust, unreasonable, and inconsistent with sound ratemaking principles.¹

OCA witness Watkins testified that the alternative ratemaking proposed by PPLICA/Donsco is inappropriate for several reasons. Mr. Watkins explained those reasons as follows:

First, it seems clear that the Commission has already expressed its opinion that any revenue shortfall resulting from a special Donsco rate should remain within the LP-4 class. On page 12 of its March 31, 2011 Order on Remand, the Commission stated:

Therefore, a remand is necessary and within our discretion. PPL should provide information on the annual O&M costs of the dedicated facilities, including the 69-12kV dedicated transformer, and on any outstanding capital to date not paid by Donsco for these facilities. The commission can then render a more informed decision on the rate impact upon Donsco and the other LP-4 customers.

I agree that any special rate treatment afforded to Donsco should be kept within the LP-4 class. Residential customers are already absorbing 100% of the overall \$77.5 million increase authorized in this rate case.

OCA Remand Direct St. No. 1 at 3. Mr. Watkins further noted that the PPLICA/Donsco proposal would create a rate class that was not included in the cost studies submitted in the

¹ As detailed above in this Main Brief, the Commission's Remand Order and Commissioner Cawley's Motion have remanded this proceeding to further develop the record in part to gain an understanding as to the impact of PPLICA/Donsco's requested relief on other LP-4 customers. The Commission's Remand Order states, "We find that granting reconsideration is necessary because the record is devoid of information that the Commission requires to render a meaningful decision on the Donsco special rate issue." Remand Order at 11. The Commission further noted that, "the Commission does not have adequate information to assess precisely the new rates or the impact of those rates on the other LP-4 customers." Remand Order at 12. The OCA submits that the Commission Remand Order and Commissioner Cawley's Motion clearly indicates that revenue allocation to other rate classes is not an issue on Remand.

underlying proceeding. Mr. Watkins explained the problems inherent in introducing a new rate class, as follows:

[C]lass cost of service and revenue allocations have been especially contentious in this case. Throughout the history of this case, no analyses were conducted in which Donsco was treated as a distinct and separate class. Rather, all parties to this case have included Donsco within the LP-4 class for costing and revenue allocation purposes. Although the Commission has already opined as to class cost and revenue allocations, any consideration of re-distributing revenue responsibility across other classes would reopen the door to class cost of service and class revenue allocation issues without analyses or evidence.

OCA Remand Direct St. No. 1 at 3. The OCA submits that the PPLICA/Donsco alternative to allocate additional costs to other rate classes is wholly unreasonable and far exceeds the scope that the Commission set forth for consideration.

The OCA also objects to the PPLICA/Donsco alternative because it would create a regulatory asset for a single cost item, service to Donsco, and guarantee recovery of those costs. The guarantee of Donsco costs is inconsistent with sound ratemaking principles. As OCA witness Watkins explained, ratemaking is a prospective enterprise, designed to establish just and reasonable rates to ensure safe and adequate service while providing utility shareholders with an opportunity to receive a reasonable return on their investment. As Mr. Watkins testified, the alternative ratemaking proposal is inconsistent with these principles:

First and foremost, the traditional intent of general rate cases is to establish fair and reasonable base rates (prices) for all customers on a going-forward basis. As such, rates established in general rate cases are not intended to be mere estimates or subject to true-up, but rather, reflect the Commission's determination of prices that will afford a utility the opportunity to recover its prudent and reasonable costs of providing service, including a fair rate of return. If the Commission were to entertain the notion of deferring revenue recovery from all customers as a result of a special rate

offered to a single customer, the rates placed into effect in this case would be nothing more than a place card, or estimate, of the rate obligations of all other ratepayers.

OCA Remand Direct St. No. 1 at 4. Further, Mr. Watkins cautioned that such special treatment for one set of customers may open future requests for additional guarantees. Mr. Watkins explained his concerns as follows:

In my opinion, such a precedent would not be in accordance with sound regulatory or public policy and would open a Pandora's Box to other potential issues. For example, if revenues are deferred as a result of revenue erosion from a single customer, it would open the door to other proposals to retroactively adjust rates resulting from customer growth and/or attrition. Indeed, under Mr. Baudino's alternative scenario, a regulatory asset would be established to account for the difference between revenues produced under the Commission's ordered prices in this case and those ultimately collected until PPL's next rate case and would provide guaranteed revenue recovery associated with Donsco. If such revenues are guaranteed for one customer, it would open the door for PPL to seek retroactive recovery of revenue shortfalls from other customers, and for ratepayer interests to seek retroactive recognition of revenues generated from customer growth between rate cases.

OCA Remand Direct St. No. 1 at 4. The OCA submits that nothing in the record warrants such extraordinary treatment.

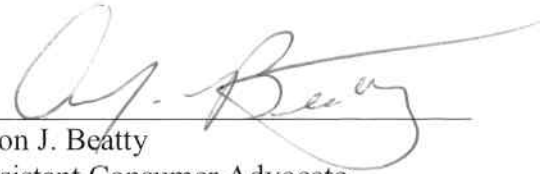
The OCA submits that the PPLICA/Donsco alternative recommendation, as contained in the Remand Direct testimony of Richard Baudino, must be rejected. The proposal is outside the scope of the current Remand and unreasonable. The allocation of LP-4 revenues to "all customers" would result in an increase of greater than 100% of the total increase in revenue requirement to residential customers. Such a result is inconsistent with the Commission's Rate Order in this proceeding, where the Commission stated that, "to ask one class to shoulder more of an increase than the final total increase in revenue would constitute unjust and unreasonable

rates.” Rate Order at 46-47. Finally, the proposed alternative proposal is inconsistent with sound ratemaking principles, as detailed in the testimony of OCA witness Watkins. For these reasons, the alternative proposal must be rejected.

III. CONCLUSION

The Commission granted Reconsideration in this proceeding to further develop the record and review the rate implications of a special LP-4 rate on other customers in that rate class. As explained above, the allocation of any revenues associated with such rate treatments to residential customers is not reasonable. For these reasons, the OCA submits that the PPLICA/Donsco alternative rate proposal must be rejected.

Respectfully Submitted,



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Dated: October 6, 2011
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CERTIFICATE OF SERVICE

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	:	
v.	:	Docket No. R-2010-2161694
	:	(On Remand)
PPL Electric Utilities Corporation	:	
Base Rate Proceeding	:	

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Main Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 6th day of October 2011.

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