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October 6, 2011

BY HAND

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RE: Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation
Docket No. R-2010-2161694

Dear Secretary Chiavetta:

Enclosed for filing is the Initial Brief of PPL Electric Utilities Corporation on Remand in the above-referenced proceeding.

Copies have been provided to the persons in the manner indicated on the certificate of service.

Respectfully Submitted,

John H. Isom

JHI/skr

Enclosures

cc: Honorable Susan D. Colwell
Certificate of Service

CERTIFICATE OF SERVICE

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

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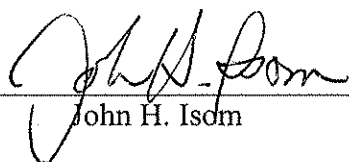
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I. INTRODUCTION

A. STATEMENT OF THE CASE

On March 31, 2010, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) filed Supplement No. 83 to its Tariff – Electric Pa. P.U.C. No. 201 to become effective for service rendered on or after June 1, 2010, together with supporting data, exhibits and testimony. In Supplement No. 83, PPL Electric proposed an increase in distribution rates designed to produce approximately \$114.7 million in additional annual intrastate base rate operating revenues based upon a future test year ended December 31, 2010, as adjusted for ratemaking purposes.

Following discovery, exchanges of testimony and hearings, the parties reached a settlement of certain issues (“Partial Settlement”). The remaining issues were fully litigated. The presiding Administrative Law Judge, Susan D. Colwell (the “ALJ”), issued a Recommended Decision (“RD”) on October 15, 2010. The RD recommended approval of the Partial Settlement without modification and recommended dispositions of the other issues. Regarding the proposal of the PP&L Industrial Customer Alliance (“PPLICA”) for a special Rate Schedule for Donsco, Inc. (“Donsco”), the ALJ concluded:

“The bottom line is this: the tariff provisions which eased Donsco’s costs prior to December 31, 2009, and have expired, were for generation-related costs. Under Electric Competition, it is improper and illogical for the distribution company to establish *generation* relief tariff schedules for *distribution* customers where those “saved” costs would be incurred anyway and then redistributed to the other members of the rate class.

‘To the extent that a customer’s operations reduce costs to generators, such as operations that use electricity during off-peak periods, the customers should receive prices reflecting those cost reductions from the generators – the electric generation suppliers – and not from a distribution company such as PPL Electric. For these reasons, it

is no longer appropriate for such generation-related discounts to be included in PPL Electric's distribution rates.' PPL Electric St. 8-R, p. 7.

PPL Electric Initial Brief at 52.

“As the Company points out, this is essentially a rate discrimination claim, and to prevail, the claimant must prove that its rates are unreasonably high and that the rates of other customers are unreasonably low. *Pa. Publ. Util. Comm'n v. Pennsylvania-America Water Co.*, Docket Nos. R-00943231, *et al.*, 172 Pa. PUC 160 1996 Pa. PUC LEXIS 141 at 17 (June 6, 1996); *see also Building Owners and Managers Association v. Pa. P.U.C.*, 470 A.2d 1092, 1096 (Pa. Cmwlth. 1984). PPLICA has not presented comparisons which support a finding of discriminatory rates. PPL Electric Initial Brief at 51. Accordingly, it has not sustained its burden.”

RD, pp. 102-03.

Several parties filed Exceptions and/or Replies to Exceptions of other parties. On December 21, 2010, the Commission entered its Opinion and Order (“December 21 Order”), which adopted the RD with certain modifications and disposed of the parties' exceptions and reply exceptions. The Commission reached the following conclusion with regard to PPLICA's proposed special rate for Donsco:

“[W]e find that PPLICA has not carried its burden to demonstrate that a special Rate Schedule governing its distribution charges and those of similarly-situated customers should be established in this case. For all of these reasons, we deny PPLICA's Exceptions on the Donsco issue.” December 21 Order, p. 114.

On January 5, 2011, PPLICA filed a Petition for Reconsideration regarding the denial of its request to establish a special rate for Donsco. In an order entered on January 13, 2011, the Commission granted reconsideration pending review on the merits. PPL Electric timely answered the Petition for Reconsideration on January 18, 2011. In an order entered on April 27, 2011, the Commission remanded the issue of a special rate for Donsco to the Office of Administrative Law Judge for further proceedings and a recommended decision on remand.

A prehearing conference on remand was held on May 16, 2011, at which a litigation schedule was established. Five parties produced testimony on remand – PPLICA, the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Bureau of Investigation and Enforcement (“BIE”) and PPL Electric. These parties engaged in discovery and exchanged written testimony and exhibits. An evidentiary hearing was held on September 16, 2011. The matter now stands ready for briefs and disposition.

B. LEGAL STANDARDS AND BURDEN OF PROOF

The principal issue in this remand proceeding is whether the Commission should order PPL Electric to establish a special discounted rate for Donsco. Although PPLICA’s complaint was consolidated with PPL Electric’s proposed increase in base rates, PPL Electric did not propose, and in fact opposes, the establishment of any special rate for Donsco. Under Section 332(a) of the Public Utility Code, 66 Pa. C.S. § 332(a):

“[E]xcept as may be otherwise provided in Section 315 (related to burden of proof) or other provisions of this part or other relevant statute, the proponent of a rule or order has the burden of proof.”

Under these circumstances, PPLICA has the burden of proving that Donsco should receive a special, discounted rate and that other customers should bear the cost of this discount through higher rates.

It is important to note that PPL Electric proposed no increase to Rate Schedule LP-4, under which PPL Electric serves Donsco. Instead, PPL Electric proposed, and the Commission approved, allocation of the entire increase in annual operating revenues to the residential rate class. December 21 Order, pp. 36-47. In fact, the electric distribution rates applicable to Donsco

have not changed since December 31, 2009, when the time-of-day pricing option¹ and the Remand Riders expired.² Thus, PPLICA's complaint regarding rates applicable to Donsco was a complaint against existing, not proposed, rates.

Tariff provisions previously approved by the Commission are deemed just and reasonable, and a party challenging a previously-approved tariff provision bears the burden to demonstrate that the Commission's prior approval is no longer justified. *See, e.g., Brockway Glass Co. v. Pa. P.U.C.*, 63 Pa. Cmwlth. 238, 437 A.2d 1067 (1981); *Zucker v. Pa. P.U.C.*, 43 Pa. Cmwlth. 207, 401 A.2d 1377 (1979); *Pa. P.U.C. v. Philadelphia Gas Works*, Docket Nos. R-00061931, *et al.*, 2007 Pa. PUC LEXIS 45 at *165-68 (Sept. 28, 2007) (adopting the ALJ's discussion on burden of proof).

Further, pursuant to Section 315 of the Public Utility Code, 66 Pa. C.S. § 315, PPLICA has the burden of proving that an existing rate is no longer just and reasonable. *Pa. P.U.C. v. Metropolitan Edison Co.*, Docket Nos. R-00061366, *et al.*, 207 Pa. P.U.C. LEXIS 5 (Jan. 11, 2007).

It is clear, under the applicable provisions of the Public Utility Code and decisions of the Commission and the Commonwealth Court interpreting those provisions, that PPLICA bears the burden of proof in this proceeding.

¹ The time-of-day pricing option was eliminated pursuant to tariff supplements approved by the Commission in *Application of Pennsylvania Power & Light Company for Approval of Its Restructuring Plan Under Section 2806 of the Public Utility Code*, Docket No. R-00973954 (Aug. 27, 1998), the proceeding which PPL Electric initiated in order to comply with the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. Ch. 28.

² The Remand Riders were used to implement the Commonwealth Court's decision in *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 (Pa. Cmwlth. 2006), *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007). There, the Court required that the cost of service be used as the principal guide for allocating revenue requirement among rate classes. As a result, rates for distribution services were revised to allocate a greater portion of PPL Electric's distribution revenue requirement to residential customers and a smaller portion of PPL Electric's revenue requirement to other rate classes.

C. FACTUAL BACKGROUND RELATED TO DONSCO

Donsco's Wrightsville Foundry is located on the west side of the Susquehanna River in York County, across from Columbia, Pennsylvania, which is located in Lancaster County. A small portion of PPL Electric's service territory lies on the west side of the Susquehanna River.³ PPL Electric serves customers on the west side of the Susquehanna River, including Donsco, using 12 kV lines that run from PPL Electric's North Columbia 69-12 kV Substation on the east side of the Susquehanna River. These 12 kV cables are attached to the U.S. Route 30 Bridge over the Susquehanna River.

In 1999, at the urging of the Pennsylvania Department of Environmental Protection, Donsco converted to an electric process for melting iron. As a result, Donsco's electric load at its Wrightsville Foundry increased substantially.

In order to meet this increased load and at Donsco's request, PPL Electric constructed two 12 kV circuits from the North Columbia substation to provide service to Donsco's Wrightsville Foundry. New circuits were necessary because PPL Electric did not have sufficient circuit capacity in the Wrightsville area to supply both Donsco's new melting process and the remainder of the service territory on the west side of the Susquehanna River.

Donsco currently takes 12 kV service at its Wrightsville Foundry under Rate Schedule LP-4. However, in this proceeding and prior to this proceeding, Donsco has raised with PPL Electric the possibility of taking service for the plant under Rate Schedule LP-5 or at rates equivalent thereto. Rates under Rate Schedule LP-5 are substantially lower than rates under Rate Schedule LP-4 for large customers such as Donsco. Monthly charges to Donsco under Rate

³ Except as otherwise noted, the information in this section of the Brief is taken from PPL Electric Statement No. 8-R, pp. 2-6.

Schedule LP-4 are approximately \$34,000. PPLICA Statement 1, pp. 8-9. Under Rate Schedule LP-5, monthly charges would be approximately \$709.

Donsco currently is not eligible for service under Rate Schedule LP-5 because this rate schedule is “for large general service supply from available lines of 69,000 volts or higher, with the customer furnishing and maintaining all equipment necessary to transform the energy from the line voltage to the voltage level for its operations”. PPL Electric Exhibit OGK 1, p. 28. Service provided at 69 kV or greater voltages is transmission service; service provided at lower voltages is distribution service. Rates under Rate Schedule LP-5 are lower than rates under Rate Schedule LP-4 because customers served at transmission voltages make no use of the distribution system, except for metering, and, therefore, are allocated no costs (other than metering) of the distribution system in determining their rates.

All of PPL Electric’s facilities in the vicinity of Donsco’s Wrightsville Foundry on the west side of the Susquehanna River operate at 12 kV or lower voltages. PPL Electric does not own any 69 kV transmission facilities in the area. Therefore, to serve Donsco’s Wrightsville Foundry under Rate Schedule LP-5 at 69 kV, PPL Electric would have to construct a new 69 kV line across the Susquehanna River to the plant or a line from a transmission facility of Metropolitan Edison on the west side of the Susquehanna River, and Donsco would have to install a new transformer to receive service of 69 kV.

Because PPL Electric does not need any 69 kV facilities to provide service on the west side of the Susquehanna River, any 69 kV facilities would be installed for the sole purpose of serving Donsco’s Wrightsville Foundry. Under tariff provisions applicable to all customers, Donsco would be required to pay all of the costs of constructing the transmission facilities that

PPL Electric would own, as well as the cost of installing a new transformer at its plant that Donsco would own.

The requirement that Donsco bear the cost of the 69 kV facilities needed to serve it arises under the Open Access Transmission Tariff (“OATT”) of the PJM Interconnection, Inc. (“PJM”). The PJM OATT requires customers connecting to the transmission system to pay for the service extension and the connection to the transmission system.

Since the OATT became effective in 1998, other customers previously served under Rate Schedule LP-4 have converted to service under Rate Schedule LP-5. Those customers have made the investments necessary to convert from 12 kV service to 69 kV service. In some instances, the investment has been substantial – approximately \$7.5 million. PPLICA Cross Examination Exhibit No. 3.

PPL Electric has never refused to provide 69 kV service to Donsco. PPL Electric has provided to Donsco the estimated costs of various alternatives for converting its Wrightsville Foundry from 12 kV service to 69 kV service. Some alternatives involved crossing the Susquehanna River; others did not. The possibility of conversion to 69 kV service was explored in 1999 and again in 2010. On each occasion, the possibility of converting to 69 kV service came down to an economic decision for Donsco. Even with multiple 69 kV service options, Donsco has chosen not to convert to 69 kV service in order to take service under Rate Schedule LP-5. Donsco concluded on each occasion that the alternatives were simply too expensive.

II. SUMMARY OF ARGUMENT

The issue presented in this case is simply stated and relatively straightforward: Should the Commission grant Donsco's request for a 68 percent distribution rate discount,⁴ to be paid for by other Rate Schedule LP-4 customers, because Donsco is "unique" or has "special needs" as compared to other PPL Electric customers. Resolution of this issue also is clear: Donsco's request should be denied.

Donsco's request for a special rate is neither new nor novel; large customers frequently seek special discounted rates. The Commission and the courts, however, have been justifiably reluctant to grant such requests because they are inconsistent with well-established principles of class ratemaking and because any discounted amounts must be paid for by other customers. A customer seeking a discounted rate has the burden of proving that such a rate is justified, and it is well settled that a customer's size alone is not sufficient to justify a special rate. Special rates generally are reserved for situations where a customer can bypass a utility or where there is a clear and present threat that the customer will move or shut down its operations. Neither of these circumstances is present in this case.

Donsco's claim that it is "unique" or has "special" needs is fundamentally flawed. By definition, one can only be "unique" or "special" as compared someone else, and while Donsco has presented much information about itself, it has presented no evidence that it is "unique" or "special" as compared to other PPL Electric customers. This alone is sufficient reason to reject Donsco's claim.

⁴ Decrease in monthly distribution charges from \$34,166 ($\$410,000 \div 12$ (PPLICA Statement No. 1, p. 8) to \$11,000 (PPLICA Remand Statement No. 2, p. 9).

Moreover, as to each Donsco allegation of uniqueness or special needs, PPL Electric has presented extensive and compelling evidence that Donsco is not unique or special in any way that would support its request for a 68 percent distribution rate discount at the expense of other customers.

Donsco first alleges that it is "unique" because it experienced a large increase in its distribution rates when generation rate caps expired at the end of 2009. PPL Electric demonstrated, however, that many customers experienced large increases in distribution rates at that time, and that several customers experienced larger increases than Donsco. Moreover, on a total rate basis (including generation, transmission and distribution rates) the increase experienced by Donsco was very similar to that experienced by other customers. In light of this evidence, Donsco essentially abandoned this argument in its rebuttal testimony.

Donsco next alleges that it is "unique" because the 2010 distribution rate increase caused it substantial financial harm and adversely affected employment at its Wrightsville facility. As explained in detail below, there is simply no basis for these allegations. Donsco, in fact, was able to pass through most, if not all, of this increase to its customers through a special energy surcharge and, therefore, suffered no financial harm. Moreover, the record demonstrates that Donsco's production levels, financial results and employment levels were better in 2010, after the distribution rate increase, than they were in 2009, before the distribution rate increase. Furthermore, Donsco has presented no evidence as to the impact of the distribution rate increase on other PPL Electric customers and, therefore, has provided no basis for the conclusion that it is "unique" or "special" in this regard.

Donsco next alleges that it deserves a special rate because its current rates are above cost of service. This allegation should be rejected for three principal reasons. First, the Commission

and the courts have held that this is not a sufficient basis for a special discounted rate. Second, Rate Schedule LP-4, as a class, currently pays rates that are above cost of service, and even if Donsco were paying above cost of service rates, it clearly is not unique. Third, and most importantly, calculated on a basis consistent with well-established Commission precedent, Donsco actually is paying rates that are below cost of service and is being subsidized by other Rate Schedule LP-4 customers.

Donsco further alleges that it is "unique" due to its inability to take service at 69 kV and, therefore, qualify for service under Rate Schedule LP-5. Again, Donsco is in error. Donsco first alleges that it is located in close proximity to 69 kV facilities. In fact, Donsco is over a mile away from 69 kV facilities, and all of the 20 largest Rate Schedule LP-4 customers are located closer to 69 kV facilities than Donsco. Donsco next alleges that it is unfairly treated because it would have to pay for facilities to connect to PPL Electric's 69 kV facilities. In fact, this rule is applicable to all customers, not just Donsco, and was in effect when Donsco first considered taking service at 69 kV in 1999. Donsco then alleges that it would benefit from service under Rate Schedule LP-5. In fact, most Rate Schedule LP-4 customers would benefit if they could take service under Rate Schedule LP-5, but like Donsco, it is not economic for them to do so. If Donsco's argument were accepted, most of the 1,130 Rate Schedule LP-4 customers would qualify for a special rate.

Finally, Donsco's request cannot be evaluated in a vacuum. Any rate relief afforded to Donsco will result in higher rates to other Rate Schedule LP-4 customers. OSBA, representing smaller Rate Schedule LP-4 customers, has firmly opposed Donsco's request as unjustified. Donsco has provided no credible basis for a special rate, particularly when the cost of that rate

discount would be borne by other customers who are likely facing their own economic problems due to the current recession. Accordingly, Donsco's claim should be denied.

III. ARGUMENT

A. NO SPECIAL RATE SHOULD BE CREATED FOR DONSCO

1. Establishing Special Rates for Individual Or Small Groups Of Customers Is Poor Ratemaking Policy And Inconsistent With Long-standing Precedent.

The Commission and the Pennsylvania appellate courts have been reluctant to establish special rates for individual customers or small groups of customers. Indeed, the Commission and the Commonwealth Court have criticized prior claims of large customers that they should be served under a special, discounted rate. In *Southeastern Pennsylvania Transportation Authority v. Pa. P.U.C.*, 470 A.2d 1092, 1094-95 (Pa. Cmwlth. 1984) (“SEPTA”), in affirming the Commission’s rejection of a special rate for SEPTA, the Commonwealth Court stated:

“In support of its argument for a separate mass transportation rate, SEPTA points to its unique service characteristics. The Commission, in adopting the ALJ’s decision, rejected SEPTA’s claim for a separate rate. The ALJ noted that SEPTA attempted to show its uniqueness without examining other High Tension (HT) customers. The ALJ further noted that the mere fact that SEPTA may contribute a rate of return greater than they system average does not mean it deserves a special rate. We agree. We rejected a similar argument in *United States Steel Corp. v. Pennsylvania Public Utility Commission*, 390 A.2d 849 (Pa. Cmwlth. 1978). There, U.S. Steel requested a separate rate, presenting two substantial factors demonstrating its uniqueness: (1) its average gas usage was more than eighty-seven times higher and thirty times higher than the average usage of the two rate classes with which it was to be combined, and (2) it received gas service directly from the gas transmission pipeline. What we stated in *U.S. Steel* is equally applicable to the case before us. A large volume of use does not entitle customer to a preferred rate. Questions concerning the reasonableness of rates and the differences between rates are factual questions for the Commission whose findings must be upheld and supported by competent evidence. *U.S. Steel* at 211, 290 A.2d at 859. Moreover, the mere fact that SEPTA may contribute a rate of return greater than the class average does not mean that it deserves a special rate. *See, e.g., Park Towne v.*

Pennsylvania Public Utility Commission, 433 A.2d 610, 614 (Pa. Cmwlth. 1981).”

As explained by PPL Electric witness Joseph M. Kleha, the Commission and the Court have good reasons to be reluctant to embrace separate rates for individual or small groups of customers.

“As a general matter, establishing a separate Rate Schedule for each individual customer, based only on the cost of those specific electric facilities used to serve that customer directly, is not a sound ratemaking practice for several reasons. First, electric utility rates properly are based on the average cost of serving large groups of customers who take service at the same voltage level. Second, individual cost-of-service rates would provide a benefit to approximately one-half of the customers in the specific rate group at the expense of the other one-half of the customers in the group. Finally, using each individual customer’s cost-of-service would inevitably lead to rate instability over time. For example, the cost of serving an individual customer, like Donsco, would increase significantly when the time arrives for the now substantially depreciated transformer and conductors normally serving this customer to be replaced with a new undepreciated transformer and conductors.”

PPL Electric Statement No. 7-RM, pp. 4-5. Further, permitting individual rates based upon individual cost of service would open floodgates to special rate claims, destroy class ratemaking and lead to discriminatory rates. Many customers of PPL Electric could make claims similar to those made by Donsco in this proceeding. Even Donsco has admitted that: “Each business is different, and faces differing costs and product market pressures.” PPLICA Remand Statement No. 1-R, p. 8. Therefore, many customers could make claims that they are unique and deserving special rate treatment.

Because individualized ratemaking is poor public policy, as demonstrated by the Commission’s and the courts’ reluctance to approve such arrangements, no special rate should be approved for Donsco or other customers absent some compelling reason to do so. Donsco has failed to demonstrate any compelling reason for a special rate.

2. Donsco Has Not Demonstrated That It Is Unique Or Has Special Needs.

As explained above, Donsco clearly has the burden of proof with regard to its claim that it is entitled to a special rate. Donsco's primary argument in support of a special rate is that its circumstances are "unique". During cross-examination, however, Donsco's expert witness admitted that he had not undertaken a review of any customers' circumstances other than Donsco. Donsco cannot credibly testify that it is unique when it has not reviewed the circumstances confronting other customers under Rate Schedule LP-4.

That Donsco failed to undertake the examination necessary to support its testimony is clear:

Q. Just so we're clear here, Mr. Baudino – and I'm turning to another subject. We had a lot of testimony about Donsco and various factors which you believe support a special rate.

I just want to make sure it's clear that you have not conducted any analysis of the financial condition or the rate impacts of the elimination of the time-of-day discount on any other LP-4 customer?

A. No, I have not.

Q. And you made no examination of the financial condition of any other LP-4 customer?

A. No.

Q. And you made no examination of the competitive concerns those customers may face in the operation of their business?

A. No. I was not retained to do that.

Q. And you have not examined the proximity of these other customers to 69-kV facilities?

A. I have not.

Q. Or limitations that might prevent them from connecting and operating, taking service at 69 kV?

A. No, I have not.

Q. And no examination as to what extent these customers suffer economic distress during the recession and had to lay off employees?

A. I have not looked at that.

Tr. p. 569, line 18 – p. 570, line 18.

Significantly, in *SEPTA*, which is quoted in pertinent part above, the Administrative Law Judge, the Commission and the Court all criticized SEPTA for making exactly the same type of flawed claim of uniqueness that Donsco is making in this proceeding. Donsco cannot reasonably or logically claim that its circumstances are in any way unique without knowing the circumstances that confront at least some of the other 1,130 customers taking service under Rate Schedule LP-4. Donsco's claim should be rejected for failing to produce any cogent evidence to support its claim of uniqueness.

3. Donsco Is Not Unique In Any Way That Would Justify A Special Rate.

Donsco's principal contentions in this proceeding are that it is unique and that its uniqueness justifies a special, discounted rate for electric distribution service from PPL Electric. *See, e.g.*, PPLICA Remand Statement No. 1, p. 6. The evidence in this proceeding, however, demonstrates that Donsco is not unique in any relevant respect, and no special rate for Donsco has been justified. In fact, Donsco has not even conducted the evaluations that would be necessary to determine that it is in some way unique. Donsco's evidence, therefore, provides no basis for any finding that it is somehow unique.

Unique is defined to mean: "of which there is only one; unequaled; having no like, equal or parallel." *Illustrated Oxford Dictionary*, p. 907 (Oxford University Press 1998). The record

in this proceeding demonstrates that Donsco is not unique in any material sense. Indeed, the only unique characteristic that Donsco has shown is that it is the largest customer of PPL Electric served under Rate Schedule LP-4. This fact, in and of itself however, does not entitle Donsco to any special rate treatment as this Commission and the Commonwealth Court determined in *SEPTA*, which is quoted in pertinent part, above.

In support of its claim for a special, discounted rate, Donsco has cited numerous reasons why it is “unique”. None of the reasons, however, withstand scrutiny and would not, in any event, justify a special rate.

Donsco’s first claim of uniqueness was that it experienced a substantial distribution rate increase when the time-of-day billing option expired effective January 1, 2010. PPLICA Statement No. 1, pp. 5-6. Donsco is actually correct that its cost of electric distribution service from PPL Electric increased significantly effective January 1, 2010, due to the combined effect of the elimination of the time-of-day billing option and the expiration of the Remand Riders. Such facts, however, do not make Donsco unique. Contrary to Donsco’s contentions, seven other customers experienced greater percentage distribution rate increases as a result of the elimination of the time-of-day pricing option and the expiration of the Remand Riders. In fact, 22 other customers experienced distribution rate increases of 500 percent or more. More than 3,200 customers experienced significant distribution rate increase as the result of the elimination of the time-of-day pricing option. The expiration of the Remand Riders resulted in electric distribution rate increases for approximately 178,000 customers. PPL Electric Statement No. 8-RM, pp. 2-3. The electric distribution rate increase experienced by Donsco on January 1, 2010 was far from unique. Many customers experienced similar increases; some customers experienced greater increases.

Donsco's next claim of uniqueness is based on the financial impact of the electric distribution rate increase on Donsco that became effective on January 1, 2010. PPLICA Statement No. 1, pp. 6-7. Contrary to Donsco's contentions, however, it did not experience any significant financial hardship as a result of the electric distribution rate increases effective January 1, 2010. In fact, Donsco was able to increase prices for foundry products in an amount sufficient to produce revenues approximately three times greater than the amount of electric distribution rate increase. Although Donsco claims that it was unable to collect the entire price increase from customers, because some customers refused to pay and because Donsco was forced to renegotiate the price increase with some other customers, it is likely that Donsco has recovered from its customers a substantial portion of, and perhaps more than, the amount of the electric distribution rate increase by increasing its price for foundry products. PPL Electric Statement No. 8-RM, pp. 4-5.

Donsco also conveniently ignores the fact that the electric distribution rate increase was offset in substantial part by reductions in its cost of generation service. On a total bill basis, Donsco's total cost of electric service, including distribution, transmission and generation services, rose 26 percent in 2010. In fact, this percentage increase was just about average for the Rate Schedule LP-4 rate class as a whole. Tr. 578-80. Again, there is nothing unique about the impact of the elimination of the time-of-day pricing option and the Remand Riders on Donsco.

Donsco also claims that it experienced financial stress because there is more production capacity in its market than demand and, as a consequence, customers have bargaining leverage and because Donsco faces pressure on other operating costs such as labor and benefits. PPLICA Remand Statement No. 1-R, p. 2. In these respects, Donsco is not unique. Many other

businesses operate in markets where customers have bargaining leverage, and all businesses face increases in operating costs such as labor and benefits.

Donsco may have experienced financial stress in recent years, but such stress was due primarily to the economic recession in 2008-09. Despite Donsco's protestations, its worst recent calendar year, from a financial perspective, was in 2009, not 2010, when the electric distribution rate increase became effective. In fact, Donsco's lowest recent level of production was in 2009, before the electric distribution rate increase became effective. Production at its Wrightsville Foundry increased in 2010 and is expected to increase again in 2011. PPL Electric Statement No. 8-RM, pp. 5-6. Further, employment was at its lowest level in recent years in 2009, before the electric distribution rate increase became effective. PPL Electric Exhibit OGK-5. Employment at the Wrightsville Foundry increased in 2010 over 2009 levels. PPLICA Statement No. 1-R, pp. 3-4. In fact, Donsco lost money in 2009, but returned to profitability in 2010, despite the electric distribution rate increase. Donsco Remand Statement No. 1-R, pp. 1-2. In fact, any financial hardship experienced by Donsco primarily was the result of the recession in 2008-09, not the electric distribution rate increase in 2010. In this respect, Donsco is affected by the health of the national and world economies. The same, however, can be said for virtually all businesses. Donsco's financial hardship from the recession of 2008-09 was shared by many, many businesses. Again, Donsco was far from unique in that experience.

Donsco also claims that it is unique because electric distribution costs affect its ability to provide jobs for the workforce. PPLICA Statement No. 1, p. 14; PPLICA Remand Statement No. 1-R, p. 2. Although it is certainly true that the level of all expenses incurred by Donsco, of which electric distribution rates are but one, affects its ability to hire or retain employees. The

statement, however, is true for every business in PPL Electric's service territory. It hardly makes Donsco unique.

Further, it has become clear in the evidentiary record that electric distribution rates are not a prime driver of the size of Donsco's employee complement. In fact, Donsco has stated that employment of foundry workers is directly related to the level of production. Response of PPLICA to PPL Electric Interrogatory PPLICA-I-9, PPL Electric Exhibit OGK-5. Donsco's production levels have increased since 2009. Therefore, presumably its employee complement for the Wrightsville Foundry has grown also, again despite the increase in electric distribution rates in 2010. In fact, it is clear that electric distribution rates have little, if anything to do with the size of Donsco's workforce. As stated by Donsco in its Petition for Reconsideration, pp. 12-13, ¶ 20 (Jan. 5, 2011), Donsco recently reduced its workforce by 151 employees. The payroll reductions from these layoffs far exceeded the increase in the annual cost of electric distribution service effective January 1, 2010, which was approximately \$400,000. PPL Electric Statement No. 8-RM, p. 6. There is clearly little, if any, relationship between the level of electric distribution rates and the size of Donsco's workforce. Donsco's claim that the level of electric distribution rates that it pays affects its ability to provide jobs is not true, and even if it were, it would not make Donsco unique in any way.

Donsco also contends that it is unique because it has a demand of greater than 4 MW. PPLICA Statement No. 2, p. 7. The evidentiary record, however, shows that PPL Electric serves approximately 20 customers under Rate Schedule LP-4 with demands of 4 MW or greater. Tr. 415.

Donsco next contends that it is unique because its Wrightsville Foundry is in close proximity to a PPL Electric 69 kV facility. PPLICA Statement No. 1, p. 14. Donsco's

Wrightsville Foundry is located approximately 7,000 feet from the closest transmission facility of PPL Electric, which is at the North Columbia substation. That equates to a distance of approximately 1.3 miles. PPL Electric owns and operates approximately 5,000 miles of transmission lines that operate at transmission voltages of 69 kV or greater. These transmission lines crisscross PPL Electric's service territory. Further, industrial facilities tend to be clustered in industrial parks and in areas zoned for industrial uses. Generally, transmission lines traverse these areas due to the large loads of industrial customers. Therefore, many industrial customers of PPL Electric are as close or closer to PPL Electric's transmission facilities than Donsco. In fact, all of the 20 largest Rate Schedule LP-4 customers with demands of 4 MW or greater are closer to transmission facilities of PPL Electric than is Donsco's Wrightsville Foundry. Donsco's claim of uniqueness due to its proximity to a PPL Electric transmission facility is simply incorrect. PPL Electric Statement No. 8-RM, pp. 10-11.

Donsco next claims that it is unique because it can document environmental, economic or other impediments to converting to 69 kV service under Rate Schedule LP-5. Donsco is correct that, if it qualified for service under Rate Schedule LP-5, charges from PPL Electric under Rate Schedule LP-5 would be much lower than charges under Rate Schedule LP-4. However, the same can be said for most other customers under Rate Schedule LP-4. In fact, 1,130 customers are served by PPL Electric under Rate Schedule LP-4. These customers would benefit from receiving service under Rate Schedule LP-5 if their average monthly bill under Rate Schedule LP-4 is greater than the monthly charge under Rate Schedule LP-5, which is \$709. Of the total number of customers served by PPL Electric on Rate Schedule LP-4, approximately 854, or 76 percent of the total, would benefit economically from receiving service under Rate Schedule LP-

5. All of these customers would convert to service under Rate Schedule LP-5 if there were no physical or economic obstacle to the conversion. PPL Electric Statement No. 8-RSR, p. 6.

Donsco also cites the necessity to cross the Susquehanna River as an obstacle to receiving service under Rate Schedule LP-5 in support of its claim that it is unique. PPLICA Remand Statement No. 1-R, p. 4. Donsco is not correct factually. Donsco can receive service at transmission voltage levels at its Wrightsville Foundry without having the transmission facilities cross the Susquehanna River. An option was investigated under which Donsco could receive service from a transmission facility of Metropolitan Edison on the west side of the Susquehanna River, the same side as Donsco's Wrightsville Foundry. Donsco concluded, however, that this option was too expensive. PPLICA Cross-Examination Exhibit No. 6. Regardless, the fact remains that the presence of the Susquehanna River is nothing more than one of many factors that affect the cost of receiving service at transmission voltage. It is this cost that prevents 854 other customer served under Rate Schedule LP-4 from receiving service at 69 kV under Rate Schedule LP-5. There is nothing unique about Donsco's situation.

Donsco next contends that it is unique because it paid a revenue guarantee with regard to the 12 kV conductors that were constructed in 1999 to serve Donsco. PPLICA Statement No. 1, p. 14. In making this contention, however, Donsco ignores the fact that revenue guarantee contracts are common. In fact, revenue guarantees are the standard requirement for certain line extensions, as set forth in Rule 3 of PPL Electric's tariff. Tariff – Electric Pa. P.U.C. No. 201, pp. 7-7B, PPL Electric Exhibit OGK 1. Such contracts are common, and are required pursuant to the provisions of PPL Electric's tariff under circumstances described therein. Donsco is not in any sense unique because it entered into a revenue guarantee contract with PPL Electric.

In fact, the only sense in which Donsco is “unique” is that it is the largest customer served by PPL Electric under Rate Schedule LP-4, measured in terms of kW of demand. For the reasons explained below, however, such “uniqueness” does not justify any special rate for Donsco. In addition, in *SEPTA* and in *United States Steel Corp. v. Pa. P.U.C.*, 390 A.2d 849 (Pa. Cmwlth. 1978), the Commonwealth Court affirmed decisions by the Commission to reject claims that large customers are entitled to a special rate due to their size. Those decisions are fully applicable to this proceeding.

Claims of uniqueness based on a customer’s size should not be permitted because it would lead to many such claims. The size of a customer, in terms of electric energy usage or demand level changes over time; today’s largest customer may not be the largest customer tomorrow. Further, if the largest customer under a rate schedule qualifies for a new, special rate schedule, today’s second largest customer will become the largest customer, and the process could be repeated indefinitely.

It also is significant that PPL Electric serves a large range of sizes of customers under all of its major rate schedules. The size of a customer’s load is not relevant under PPL Electric’s tariff, in determining which rate schedule will be applied to a customer. The Commission has approved this classification system in many rate cases over the decades.

Residential customers, regardless of their size, are served under the rate schedules for residential service. In 2009, residential usage per customer per month ranged from 0 kWh to 239,200 kWh. Average monthly usage was 967 kWh. In other words, the largest residential customer, expressed in monthly energy usage, used approximately 250 times the average monthly usage. Nevertheless, customers with no usage, average usage or maximum usage are all served under the same rate schedules. PPL Electric Statement No. 8-RSR, p. 4.

Similarly, all customers receiving service under Rate Schedule GS-1 receive single-phase service at 120/240 volts. In 2009, their demands ranged from 0 kW to 2,400 kW with an average monthly demand of approximately 6 kW. Thus, the largest customer in Rate Schedule GS-1 is served under the same Rate Schedule as the average Rate Schedule GS-1 customer even though its demand is approximately 400 times greater than the average demand. PPL Electric Statement No. 8-RSR, p. 4.

Similarly, customers served under Rate Schedule GS-3 receive three-phase service at 120/240, 120/208 or 227/480 volts. Their demands vary from 0 kW to 3,790 kW; the average demand is approximately 82 kW. Thus, the largest customer served under Rate Schedule GS-3 is served under the same Rate Schedule as the average customer under Rate Schedule GS-3 even though the largest customer's demand is more than 46 times greater than the average demand. PPL Electric Statement No. 8-RSR, p. 5.

Donsco is served under Rate Schedule LP-4. All customers served under Rate Schedule LP-4 receive service at primary voltage, which is 12,000 volts. Their demand varies from 0 kW to 16,835 kW, the latter being Donsco's maximum monthly demand during the historic test year. Average demand for the rate class was approximately 1,047 kW. Thus, all customers receiving service at 12,000 volts are served under Rate Schedule LP-4 even though the largest customer's demand is more than 16 times greater than the average demand. PPL Electric Statement No. 8-RSR, p. 5.

Similarly, all customers receiving service at transmission voltages of 69,000 volts or higher are served on Rate Schedule LP-5. Customers' demands on Rate Schedule LP-5 range from 0 kW to 101,740 kW. PPL Electric Statement No. 8-RSR, p. 5. Average demand on Rate

Schedule LP-5 was 4,918 kW.⁵ PPLICA Cross-Examination Exhibit No. 8. Thus, all customers receiving service at 69,000 volts or greater were served under Rate Schedule LP-5 even though the maximum demand was more than 20 times greater than the average demand.

As demonstrated above, demand and electric energy usage are simply irrelevant under the system of classification of customers for ratemaking purposes under PPL Electric's Commission-approved tariff. In fact, as further demonstrated above, the ratio of the maximum monthly demand to the average monthly demand is less under Rate Schedule LP-4, under which Donsco is served, than under any other major Rate Schedule. Therefore, if size of load were a basis for qualifying for special rate treatment, the largest customers in all of the other major rate schedules would qualify for special rate treatment before Donsco. More importantly, however, with the Commission's approval, PPL Electric classifies customers among its rate schedules based on the voltage level at which they receive service and not their level of usage.

4. PPL Electric Properly Assigns Customers To Rate Schedules LP-4 and LP-5 Based On The Voltage Level At Which They Take Service.

As explained previously, PPL Electric, pursuant to its tariff, assigns customers to Rate Schedules LP-4 and LP-5 based on the voltage level at which they take service.

Rate Schedule LP-4 applies to all customers where service is: "supplied from available lines of three phase 12,470 volts or single phase 7,200 volts when the customer furnishes and maintains all equipment necessary to transform the energy from line voltage." PPL Electric Exhibit OGK 1, p. 27.

⁵ PPL Electric accidentally provided incorrect information concerning the average demand of Rate LP-5 customers at PPL Electric Statement 8-RSR, p. 5. The information was corrected in response to an on-the-record data request which was introduced into evidence as PPLICA Cross-Examination Exhibit 8.

Rate Schedule LP-5 applies to all customers where service is: “supplied from available lines of 69,000 volts or higher, with the customer furnishing and maintaining all equipment necessary to transform the energy from line voltage.” PPL Electric Exhibit OGK 1, p. 28.⁶

Assigning customers to these rate schedules based on the voltage level at which they receive service makes sense because it follows the manner in which costs are incurred by PPL Electric and the manner in which the revenue requirement is allocated among the rate classes in determining PPL Electric’s rate structure.

In the cost of service studies produced by PPL Electric in this proceeding, the costs of the primary distribution system are excluded from the costs assigned to Rate Schedule LP-5 because those customers receive service at transmission voltages of 69 kV or greater and do not utilize the primary distribution system which supplies electric energy at 12 kV or lower voltages. PPL Electric Statement No. 16-RM, p. 2. PPL Electric properly classifies customers into Rate Schedules LP-4 and LP-5 based on the voltage levels at which they take service.

B. DONSCO HAS BEEN TREATED FAIRLY.

Donsco complains that it has been treated unfairly because certain of its competitors in PPL Electric’s service territory were allowed to convert from service under Rate Schedule LP-4 to service under Rate Schedule LP-5 “without paying for the conversion”. PPLICA Remand Statement No. 1-R, p. 5. The competitors cited by Donsco are Benton Foundry and Anvil International. Donsco is correct that these customers were converted to service under Rate

⁶ Pursuant to the Commission’s directive in the Order entered on April 27, 2011, granting reconsideration, PPL Electric considered the possibility of serving Donsco at 69 kV by selling to Donsco existing facilities that would enable Donsco to take service near the North Columbia 69-12 kV Substation on the east side of the Susquehanna River and move the electricity across the Route 30 Bridge to its Wrightsville Foundry on the west side of the river. PPL Electric determined that it would not sell the facilities to Donsco because they can be, and have been, used to serve other customers and determined that such a sale would require Donsco to incur substantial costs and overcome numerous other obstacles. PPL Electric Statement 16-RM. Donsco did not pursue this option.

Schedule LP-5 and that, as a result, charges from PPL Electric are significantly lower than they would be under Rate Schedule LP-4. Beyond that, however, Donsco is incorrect.

It is correct that neither Benton Foundry nor Anvil International was required to pay contributions in aid of construction for facilities required for PPL Electric to serve them at 69 kV. They were, however, required to enter into revenue guarantee contracts. In 1995, when Benton Foundry converted to 69 kV service under Rate Schedule LP-5, it was required to enter into a revenue guarantee contract under which it agreed to pay a minimum of \$300,000 per year for five years, or \$1,500,000. Anvil International's predecessor was converted to 69 kV service before 1971. Because PPL Electric does not retain records regarding revenue guarantee contracts that far back, PPL Electric is uncertain how much Anvil International's predecessor was required to pay under a revenue guarantee contract. Nevertheless, PPL Electric, pursuant to its tariff, required such customers to enter into revenue guarantee contracts at that time. Therefore, neither Benton Foundry nor Anvil International was able to convert to 69 kV service under Rate Schedule LP-5 "for free." PPL Electric Statement 8-RSR, pp. 6-7.

It is correct that, if Donsco were to convert to 69 kV service under Rate Schedule LP-5 today, it would be required to pay for all facilities and improvements necessary for PPL Electric to serve Donsco at that voltage level. The reason for the change in requirements is that access to PPL Electric's transmission system is now governed by PJM's OATT, subject to the regulatory supervision of the Federal Energy Regulatory Commission. The OATT requires that the cost of all connections to the transmission system be paid for by the entity requesting the interconnection, in this instance, Donsco. PPL Electric Statement No. 8-RSR, p. 7. The OATT became effective in 1998. Donsco first requested 69 kV service under Rate Schedule LP-5 in

1999. PPLICA Statement No. 1-S, p. 2. The PJM OATT clearly applied to Donsco's request at that time.

PPL Electric has applied applicable tariff rules in a uniform, consistent manner. Prior to the OATT, PPL Electric, pursuant to its tariff, required that all customers seeking to convert to service at 69 kV under Rate Schedule LP-5 to enter into revenue guarantee contracts. Those tariff provisions were uniformly applied. Beginning in 1998, when the OATT became effective, PPL Electric has applied the OATT tariff provisions in a non-discriminatory manner. All customers seeking to obtain service at 69 kV under Rate Schedule LP-5 since that time have been required to pay for the improvements necessary for PPL Electric to provide service at 69 kV. Thus, PPL Electric has applied the same rules to all customers both before the OATT became effective and applied the same, albeit different, rules to all customers after the OATT became effective.

C. DONSCO'S PROPOSAL IS NOT REASONABLE AND SHOULD BE REJECTED

Donsco's proposal in this proceeding suffers from numerous flaws. In general, Donsco proposes that it should have a different rate from all other Rate Schedule LP-4 customers. In simple terms, Donsco proposes a flat monthly customer charge of \$11,000 that will remain fixed for five years, regardless of the results of future base rate cases of PPL Electric. Donsco's proposed rate is based on the cost of facilities used to serve Donsco combined with the cost rate of common equity recommended by the Office of Consumer Advocate ("OCA") of 9.0 percent. Donsco's analysis of the cost of serving it produces an annual revenue requirement of \$156,741 annually, or \$13,062 monthly. Nevertheless, Donsco recommends a monthly fixed charge of \$11,000 for its Wrightsville Foundry. After an initial term of five years, Donsco proposes that another five-year rate be established using the same methodology Donsco used in this

proceeding. Thereafter, the rate would be successive for subsequent five-year terms unless Donsco can convert to service under Rate Schedule LP-5. PPLICA Remand Statement No. 2, pp. 7-10.

Donsco proposes that the revenue shortfall from the discounted rate that it would receive would be recovered from other Rate Schedule LP-4 customers. Alternatively, Donsco recommends that the revenue shortfall be deferred until PPL Electric's next base rate proceeding. Then, the final decision could be made on whether the revenue shortfall should be recovered from all customers or only from customers on Rate Schedule LP-4. Remand Statement No. 2, pp. 12-13.

Donsco's proposed special, discounted rate has many shortcomings and should be rejected. Initially, Donsco's entire approach of analyzing its specific costs is inappropriate for several reasons. First, as explained previously, the revenue requirement associated with serving Donsco or any other individual or small group of customers, would be highly variable depending upon the age of the facilities. Older facilities nearing retirement would be nearly fully depreciated and have little rate base value. When such facilities are replaced, the rate base and associated revenue requirement would increase substantially. Such unstable ratemaking processes are not sound practices.⁷

Second, basing rates on individual customer costs of service is not a sound ratemaking practice because approximately one-half of the customers under any rate schedule would benefit

⁷ PPLICA recommends that, in such eventuality, a levelized revenue requirement could be calculated. Although the calculation might be possible, such an alternative again would be an unsound ratemaking practice for different reasons. Upon replacement of old, deteriorated, depreciated facilities, Donsco would calculate a levelized revenue requirement. In other words, for approximately the first half of the useful life of the facilities, Donsco would be paying far less than the associated revenue requirement. During the second half of the useful life of facilities, Donsco would be paying more than the annual revenue requirement of facilities. Therefore, if Donsco were to cease operations or go out of business, other customers would be left with the responsibility for the substantial cost of facilities no longer used by Donsco.

from such analyses to the detriment of the other customers. As more and more individual customer rates are developed, an ever smaller group of remaining customers would be left to pick up an ever growing portion of the costs of service.

Third, in this proceeding, the Commission approved a specific methodology for determining the cost of service for PPL Electric. That methodology does not call for individualized direct assignment of costs. On the contrary, the approved methodology requires that substation and primary distribution system plant costs be classified into customer and demand components and then allocated among the distribution voltage rate classes in proportion to customer count and non-coincidental peak demands. If this methodology is used, Donsco is contributing a lower rate of return than the average return contributed by the Rate Schedule LP-4 rate class as a whole. As explained by OSBA:

“Thus, based on the available evidence, the Commission’s approved COSS methodology implies that customers with demands in excess of 10,000 kW are providing a lower rate of return than customers with demands below 10,000 kW. Therefore, the Commission approved COSS provides no cost basis for setting lower rates to customers with billing demands above 10,000kW.”

OSBA Statement No. 5, p. 5 (footnote omitted). In other words, Donsco is not paying the subsidy; it is receiving a subsidy. OSBA Statement No. 5, p. 5.

The next problem with the special, discounted rate proposed by PPLICA for Donsco is that it is based upon an inadequate rate of return. The overall rate of return percent return on calculated by Mr. Baudino at a monthly charge of \$13,062 is 7.78 percent, which is 541 basis points lower than the Rate Schedule LP-4 rate class overall rate of return for the LP-4 Rate Class as a whole of 13.19 percent. To calculate the monthly charge of \$13,062, PPLICA used a return on equity of only 9 percent. At PPLICA’s actual proposal for a fixed monthly charge of \$11,000, the return on equity would be even lower – 5.52 percent. PPL Electric Cross

Examination Exhibit 1-Remand. The return on equity proposed by PPLICA for Donsco is far less than this Commission has determined for any major utility for many years. PPL Electric Statement No. 7-RM, p. 3.

A further problem with PPLICA's proposal is that, despite the fact that its calculated cost of service is clearly inadequate for a series of reasons explained above, under PPLICA's proposal, Donsco would not even pay its understated cost of service. The monthly cost of service produced by the arithmetic exercise produced by PPLICA and described above is \$13,062. Nevertheless, PPLICA proposes that Donsco pay only \$11,000 per month. PPLICA Remand Statement No. 2, p. 9. There is no analysis or calculation that leads to this result; it is merely an arbitrary further reduction to rates for Donsco.⁸ Thus, PPLICA's proposed departure from the cost of service to establish rates for Donsco also is improper because it is a departure from the requirement that rates be established based on the cost of service. *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 (Pa. Cmwlth. 2006), *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007).

PPLICA's proposal for a fixed rate for five years, regardless of the results of any intervening base rate cases, also is unreasonable. No customer on the PPL Electric system has the assurance that rates will be stable for five years into the future, and PPLICA has provided no basis for the granting of such a benefit to Donsco. Donsco's sole rationale for this extraordinary relief is that it would provide "needed cost and planning stability for Donsco". PPLICA Remand Statement No. 2, p. 10. PPLICA has provided no explanation of why Donsco needs cost and planning stability more than other customers. Donsco's five-year term should be rejected.

⁸ Interestingly, PPLICA proposes that Donsco's rate be carried forward in the future based upon the same methodology used in this proceeding. PPLICA Remand Statement No. 2, p. 10. PPL Electric is uncertain how that can be done where there is no methodology that produces the proposed monthly charge of \$11,000. Despite its proposal, PPLICA has proposed no methodology to calculate its rates that is capable of being carried forward in the future.

PPLICA's alternative proposal that any revenue shortfall from the application of a discounted rate to Donsco should be deferred until the conclusion of PPL Electric's base rate case is improper for several reasons. First, PPLICA's proposal is in derogation of the settlement of the revenue requirement issue in this proceeding which was approved by the Commission in its order entered on December 21, 2010. In the settlement, as approved by the Commission, PPL Electric was authorized to file rates designed to produce \$77.5 million of additional annual operating revenue beginning January 1, 2011. Mr. Baudino's proposal would not permit the company to obtain full and current recovery of the authorized revenue increase. PPL Electric Statement No. 7-RM, p. 4.

Further, any revenue deficiency resulting from a discounted rate for Donsco should be kept within the Rate Schedule LP-4 rate class. All issues related to the allocation of revenue requirement among rate classes have been decided by the Commission in its Order in this proceeding entered on December 21, 2010. PPLICA should not be allowed to reopen and relitigate issues that have been resolved, particularly because reallocation of revenue requirement among the rate classes was not an issue raised by PPLICA in its Petition for Reconsideration that was filed on January 5, 2011.

Because special rates for individual customers or small groups of customers suffer from all the problems explained above, the Commission has been reluctant to approve such rates. In fact, such special rates typically have been approved only for natural gas distribution companies and there only for the purpose of avoiding the greater harm that will result from complete loss of the customer. Loss of customers can occur as a result of the customer's use of an alternative fuel, the customer's use of the same fuel from an alternative supplier or by the customer ceasing operations. None of these possibilities are presented here. In fact, Donsco has not indicated that

it has any prospect of using any other form of energy to replace electricity or using electricity supplied by a different electric distribution company. Further, Donsco has stated that it has no near-term intention to close its Wrightsville Foundry. PPL Electric Statement No. 8-RSR, pp. 13-14.

D. DONSCO HAS NOT DEMONSTRATED THAT IT SHOULD RECEIVE ANY SPECIAL RATE UNDER SECTION 2806(h) OF THE PUBLIC UTILITY CODE

Donsco has asserted that it is entitled to a special rate under Section 2806(h) of the Public Utility Code, 66 Pa.C.S. § 2806(h). *See, e.g.*, PPLICA’s Petition for Reconsideration, pp. 17-18, ¶¶27-28 Jan. 5, 2011). This Section of the Electricity Generation Customer Choice and Competition Act provides:

“Flexible Pricing.—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.”

Donsco’s claim under Section 2806(h) fails for two principal reasons.

First, Donsco has provided insufficient evidence to determine what level of rate would be necessary to meet its specific needs. Instead, it has only shown that it, like many other businesses, was adversely affected by the recession of 2008-2009. Its proposed monthly rate of \$11,000 was arbitrarily selected without any cost basis and without any economic justification that it would enable Donsco to meet competition or its specific needs. Instead, it is merely a rate that Donsco is willing to pay.

The OSBA also explained that Donsco did not present sufficient information to produce rates:

“At pages 9-10 of my [Mr. Knecht’s] direct testimony [OSBA Statement No. 4], I stated that, “While Donsco has offered

qualitative assurances that flex rates will improve its competitive position, it has not provided any detailed financial information or financial analysis with which such a claim could be evaluated. Virtually every business in the Commonwealth could make similar claims regarding the benefit of reduced electric distribution rates.” It is obvious that reducing costs for any business will improve its competitive position, even if the relative magnitude of that improvement varies from one business to the next.

“Moreover, while Mr. Buck’s remand rebuttal testimony indicates that Donsco was not profitable in 2009 and it was only marginally profitable in 2010, Mr. Buck presents no detailed financial information regarding Donsco’s overall performance. Similarly, Mr. Buck does not present sufficient detailed information to evaluate the impact of electric rates on that financial performance. Thus, the parties to this proceeding and the Commission cannot even evaluate the impact of a distribution rate change on Donsco’s own financial performance, much less compare that to the impact on the other PPL Electric customers.”

OSBA Statement No. 5, pp. 1-2.

Second, Section 2806(h) must be read in the context of decades of Commission and appellate court precedent that rates should be set for individual customers or small groups of customers only when good cause for such special ratemaking has been shown. Proper ratemaking bases rates on average costs of large numbers of customers that logically are grouped together based on the nature of their use or the nature of the service provided. As explained previously, setting rates for individual customers or small groups of customers is not a sound ratemaking practice. Again, Donsco has made no such showing because it has only shown that it was adversely affected by the recent recession.

Section 2806(h) is potentially important because it can be used to address specific concerns. The three situations in which the section could be of use to set rates are those in which: (1) the customer presents a legitimate concern that, absent rate relief, it would bypass the electric distribution system; (2) the customer presents a legitimate concern that, absent rate relief,

it would generate its own electricity; or (3) the customer, absent rate relief, would close its operations. In these situations, a special, negotiated rate could benefit the public so long as the discounted rate is not lower than necessary to prevent bypass, self-generation or closure and produces more than the incremental cost of providing the service, *i.e.*, the discounted rate would make a contribution to the recovery of the electric distribution company's fixed costs of service.

The Commission has approved flexible or discounted rates in all of these circumstances, although these circumstances arise most frequently in the natural gas distribution industry. PPL Electric Statement No. 8-RSR, pp. 13-14. The most reasonable interpretation of Section 2806(h) of the Public Utility Code is that it was intended by the General Assembly to clarify that these basic principles should be applied to the electric distribution industry, as well as the natural gas industry. It is not reasonable to contend, as does Donsco, that Section 2806(h) was intended to permit every business, which had a bad year or two during a general recession, to obtain rate relief through negotiated, discounted rates.⁹

E. THE EFFECT ON OTHER CUSTOMERS OF PPLICA'S PROPOSAL FOR DONSCO WOULD BE FAR GREATER THAN ESTIMATED BY PPLICA.

PPLICA has substantially understated the effect of its proposal on other customers because it ignores the fact that at least 20 large customers under Rate Schedule LP-4 on PPL Electric's distribution system would qualify for its proposed, negotiated rate. PPL Electric has explained many times that the eligibility restrictions proposed by PPLICA would be completely ineffective. *See, e.g.*, Tr. 415-16; PPL Electric Initial Brief, pp. 54-55; Reply Brief, pp. 20-21;

⁹ Donsco's reliance on Section 2806(h) is improper for an additional reason. A related section of the Public Utility Code, Section 2807(e)(5)(i), 66 Pa.C.S. § 2807(e)(5)(i), provides that an electric distribution company can decide whether to enter into such a contract only "in its sole discretion." PPL Electric acknowledges that the Commission rejected this argument in Opinion and Order granting reconsideration in this proceeding at Docket No. R-2010-2161694, pp. 14-15 (March 31, 2011).

PPL Electric Replies to Exceptions of Other Parties, p. 20; PPL Electric Statement No. 8-R, p. 15. PPL Electric also addressed many of the eligibility criteria recommended by PPLICA by explaining that Donsco is far from unique, above. PPL Electric will not repeat these explanations here. Suffice it to say, however, that the 20 largest customers served by PPL Electric under Rate Schedule LP-4 would all qualify for Donsco's special, discounted, negotiated rate.

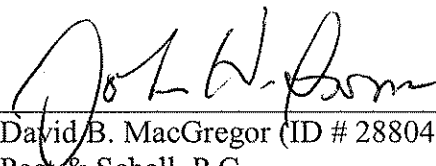
Because PPLICA has reflected only the effect of the discount for Donsco, and ignored the effect of the rate discount for the 20 other large customers under Rate Schedule LP-4, it has substantially understated the effect of its proposal.

It is important to note that it is not possible to calculate the effect of PPLICA's proposal. Such a calculation is not possible because it is impossible to know what the negotiated, discounted rate for each of the 20 largest Rate Schedule LP-4 customers would be. The revenue lost from PPLICA's proposed negotiated, discounted rate would be far greater than the level calculated by PPLICA, and the adverse effects on smaller customers served under Rate Schedule LP-4 would be far greater. PPL Electric Statement No. 8-RM, p. 15.

IV. CONCLUSION

WHEREFORE, for all the foregoing reasons, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission's Opinion and Order in this proceeding, entered on December 21, 2010, be reaffirmed and that the Petition of the PP&L Industrial Customer Alliance for a special rate for Donsco, Inc. be denied.

Respectfully submitted,



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Date: October 6, 2011

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