

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE

Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, Pennsylvania 17101

William R. Lloyd, Jr.  
Small Business Advocate

October 6, 2011

(717) 783-2525  
(717) 783-2831 (FAX)

**HAND DELIVERED**

Rosemary Chiavetta, Secretary  
Pa. Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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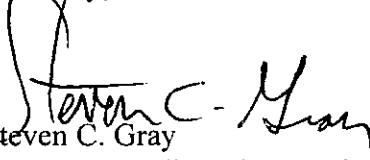
**Re: Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation  
Docket No. R-2010-2161694**

Dear Secretary Chiavetta:

Enclosed for filing are the original and nine (9) copies of the Main Brief on Remand, on behalf of the Office of Small Business Advocate, in the above-docketed proceeding. As evidenced by the enclosed certificate of service, two copies have been served on all active parties in this case.

If you have any questions, please contact me.

Sincerely,

  
Steven C. Gray  
Assistant Small Business Advocate  
Attorney ID #77538

Enclosures

cc: Parties of Record

Robert D. Knecht



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## **I. Introduction**

On March 31, 2010, PPL Electric Utilities Corporation (“PPL” or the “Company”) filed with the Pennsylvania Public Utility Commission (“Commission”) a request for additional annual distribution revenues of \$114.675 million.

On April 29, 2010, the Office of Small Business Advocate (“OSBA”) filed a complaint against the proposed rate increase.

On May 20, 2010, the Commission suspended the proposed effective date of PPL’s requested rate increase and instituted an investigation into the justness and reasonableness of the issues raised in the filing.

On May 26, 2010, a prehearing conference was held before Administrative Law Judge (“ALJ”) Susan D. Colwell.

On June 29, 2010, the OSBA submitted the direct testimony of Robert D. Knecht. On July 27, 2010, the OSBA submitted the rebuttal testimony of Mr. Knecht. On August 5, 2010, the OSBA submitted the surrebuttal testimony of Mr. Knecht.

On August 26, 2010, the parties filed a partial settlement, which established \$77.5 million as the agreed-upon revenue increase. The OSBA did not sign the partial settlement but also did not oppose it. Under the partial settlement, numerous issues, *e.g.*, cost of service and revenue allocation, were reserved for litigation.

Evidentiary hearings were held in Harrisburg on August 11, 2010.

On September 2, 2010, the OSBA submitted a Main Brief.

On September 13, 2010, the OSBA submitted a Reply Brief.

On October 15, 2010, ALJ Colwell’s Recommended Decision (“RD”) was issued.

On November 4, 2010, the OSBA filed Exceptions to the ALJ’s RD.

On November 15, 2010, the OSBA filed Reply Exceptions.

On December 21, 2010, the Commission entered an Order (“*December 21<sup>st</sup> Order*”) approving the partial settlement and adjudicating the issues reserved for litigation.

On January 5, 2011, the PP&L Industrial Customer Alliance (“PPLICA”) filed a Petition for Reconsideration (“*Petition*”) of the *December 21<sup>st</sup> Order* with the Commission, advocating the establishment of a special rate for one of PPL’s industrial customers, Donsco, Inc. (“Donsco”).

On January 13, 2011, the Commission granted PPLICA’s Petition, pending review of the merits.

On April 27, 2011, the Commission entered an Order (“*April 27<sup>th</sup> Order*”) that granted PPLICA’s Petition on the merits and remanded the case to the Office of Administrative Law Judge for further proceedings.

On May 16, 2011, a further prehearing conference was held before ALJ Colwell.

On August 5, 2011, the OSBA submitted the remand direct testimony of Mr. Knecht.

On September 2, 2011, the OSBA submitted the remand rebuttal testimony of Mr. Knecht.

On September 12, 2011, the OSBA submitted the remand surrebuttal testimony of Mr. Knecht.

On September 16, 2011, an evidentiary hearing was held before ALJ Colwell.

The OSBA submits this remand main brief in accordance with the procedural schedule established at the May 16, 2011, prehearing conference.

## II. Background

### A. **The Cause of Donsco's Problem**

In this proceeding, Donsco is seeking to mitigate the impact of the expiration of PPL's time-of-day billing option on its electric distribution rates. That time-of-day billing option expired on January 1, 2010. PPLICA Statement No. 2, at 2.

PPLICA witness Richard A. Baudino explained, as follows, how the expiration of PPL's time-of-day billing option affected Donsco:

Donsco also utilized PPL's Time-of-Day demand measurement provision in Rate Schedule LP-4 and responded by moving its peak demand from PPL's on-peak to the off-peak period.

\* \* \*

When the Time-of-Day provision expired, the effect on Donsco's distribution charges was drastic and onerous. Donsco's billing demand for Wrightsville went from between 2 to 2.9 megawatts ('MWs') per month (which was Donsco's on-peak demand) to its maximum demand, which for the first few months of 2010 ranged between 10 to 16 megawatts. As a consequence, from December 2009 to January 2010, Donsco's monthly distribution charges rose from \$4,956 to \$23,121, an increase of 366%. This increase occurred with no change to Donsco's operations.

Donsco's distribution charges have remained at this radically higher level since January 2010, reaching as high as \$34,563 in April 2010. This represents an increase of almost 600% from December 2009 and, again was cause [sic] solely by the change in PPL's definition of billing demand.

PPLICA Statement No. 2, at 3 (emphasis omitted).

PPL did not make its base rate filing until March 31, 2010. Therefore, the expiration of the time-of-day billing option on January 1, 2010, is wholly unrelated to this base rate proceeding. OSBA witness Robert D. Knecht explained that point, as follows:

I note that the distribution rate increases experienced by Donsco were not related to the \$77.5 million revenue increase awarded by

the Commission in this proceeding. In this proceeding, none of the \$77.5 million increased revenue requirement was assigned to the LP-4 rate class.

\* \* \*

[T]he distribution rate increase experienced by Donsco resulted from tariff changes approved by the Commission in prior proceedings, and which went into effect before PPL Electric's initial filing in this proceeding.

OSBA Statement No. 4, at 5-6.

### **B. Correction of Historic Inequity**

Although Donsco is seeking relief from the expiration of PPL's time-of-day billing option, the expiration of that billing option actually served to eliminate an historic inequity that was in Donsco's favor. Mr. Knecht explained this inequity, as follows:

A significant contributor to the rate increases cited by Donsco was a change in the LP-4 distribution billing demand determinant. Prior to January 1, 2010, the LP-4 tariff contained a time-of-use provision in which off-peak demands were not included as part of the billing demand for distribution rate purposes. In effect, the tariff assumed that, because Donsco was consuming power in off-peak periods, it cost PPL Electric very little to provide distribution service. This tariff design feature was an anachronism from the days of bundled electric utility rates, which experienced an extended life through PPL Electric's rate cap period. While a time-of-use approach to peak demands is often reasonable for recovery of generation and transmission demand costs, it is often unreasonable for distribution service. As is often the case for large distribution voltage customers, the distribution assets serving Donsco need to be sized to meet Donsco's peak demand, *no matter when that demand occurs*. It was therefore inappropriate for PPL Electric's tariff to exclude off-peak demand in deriving the billing demand for Donsco.

OSBA Statement No. 4, at 6 (emphasis in original). Mr. Knecht concluded, as follows:

The Company's pre-2010 tariff therefore resulted in distribution charges to Donsco that fell well short of the Company's cost of

providing distribution service to Donsco. *In effect, Donsco was receiving a distribution rate subsidy from other LP-4 customers under the tariff in effect prior to 2010.*

*Id.* (emphasis added).

### C. Unfair to GS-1 and GS-3

In its *December 21<sup>st</sup> Order*, the Commission adopted PPL's cost of service study designated as JMK-2A. *December 21<sup>st</sup> Order*, at 35. Cost of service study JMK-2A demonstrated that the Company's GS-1 and GS-3 customer classes were overpaying their cost of service at then-present rates. *See OSBA Statement No. 2*, at 14, Table IEc-R3. Nevertheless, the Commission rejected the OSBA's recommendation that the GS-1 and GS-3 customer classes receive a reduction in their distribution rates in the underlying base rate case in order to move those classes significantly closer to cost of service. *December 21<sup>st</sup> Order*, at 46-47.

Because of a rate design change, Donsco did receive a distribution rate decrease as a result of the *December 21<sup>st</sup> Order*. Mr. Knecht explained the reduction, as follows:

[A]s shown in Attachment 2 to PPL's response to OSBA Interrogatories Set II, Donsco's rates (based on historic test year billing determinants) would decline from \$447,996 to \$418,184, a reduction of 6.7 percent.

OSBA Statement No. 4, at 4-5.

Consequently, it is unreasonable to expect that Donsco should be granted any additional rate relief in this case when the distribution rate increases about which Donsco is complaining were not caused by the Company's March 31, 2010, base rate filing and when the GS-1 and GS-3 overpaying classes were denied rate reductions under the *December 21<sup>st</sup> Order*.

### III. Argument

#### A. **Section 2806(h)**

In its *April 27<sup>th</sup> Order*, the Commission stated, as follows:

[W]e exercise our discretion to grant reconsideration and remand this matter to the Office of Administrative Law Judge (OALJ) for the development of a more complete record to allow consideration of additional pricing options permitted by Section 2806(h) of the Code.

*April 27<sup>th</sup> Order*, at 6 (footnote omitted).

The Commission continued:

We conclude that a significant aspect of Section 2806(h) of the Code was not considered by the Commission in the *December 21 Order*. Section 2806(h) of the Code provides the Commission with authority to ‘approve flexible pricing’ and is an essential tool for exactly the type of situation presented by Donsco.

\* \* \*

It may be necessary for EDCs [electric distribution companies] to have the authority to promote new businesses in order to enhance higher system utilization, or maintain load on its system, to the long-term benefit of its distribution customers. But the section is silent as to who may propose flexible pricing and flexible rates and thus is not limited solely to negotiated rates proposed by the EDC. The language does not require that a flexible rate be agreed to by the parties but leaves open the possibility that one party may seek approval of the Commission for the establishment of flexible pricing.

*Id.*, at 11-12 (footnote omitted).

Section 2806(h) of the Public Utility Code, 66 Pa. C.S. § 2806(h), states:

**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.

66 Pa. C.S. § 2806(h).

In granting the power to approve flexible rates, it is significant that the legislature did not eliminate the requirement for those rates to comply with Section 1304 of the Public Utility Code,

66 Pa. C.S. § 1304. Section 1304 states, in part:

No public utility shall, as to rates, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service.

66 Pa. C.S. § 1304.

Consequently, the Commission has the authority under Section 2806(h) to approve flexible pricing for Donsco. However, in order to satisfy the requirements of Section 1304, the Commission must ensure that the rate is just, reasonable, and does not discriminate against PPL's other customers.

## **B. Competitive Alternatives**

### **1. Economic Rationale for Flexible Rates**

One of the bases for granting a customer flexible rates under Section 2806(h) is if that customer has a competitive alternative to distribution service from the electric distribution company ("EDC"). As quoted above, the Commission stated (in its Order granting reconsideration) that flexible rates may be "necessary" in a situation where there is a need "to promote new businesses in order to enhance higher system utilization, or maintain load on its

system, to the long-term benefit of its distribution customers.” *April 27<sup>th</sup> Order*, at 11-12. Mr.

Knecht agreed conceptually with the Commission, as follows:

The most common eligibility criterion for flex rates, in my experience, is a provision that the flex rates are needed either to prevent the loss of load or to attract new load.

OSBA Statement No. 4, at 8. Mr. Knecht explained the rationale behind this use of flex rates, as follows:

In these cases, the economic argument is that, even at discounted flex rates, the incremental revenues earned from the flex rate customers exceed the incremental cost of providing service to those customers. Under those explicit conditions, all other ratepayers are economically better off if the load is retained (or attracted) than if it is lost (or not attracted). The flex rates therefore provide a theoretical benefit to all customers.

OSBA Statement No. 5, at 8-9. Mr. Baudino also agreed with this assessment:

Flexible pricing enables a utility company to retain loads that might otherwise be lost due to economic circumstances, bypass or alternative fuels. . . . As long as these special contracts customers make a positive contribution to a utility’s fixed costs, all other customers are better off than if these customers left the system.

PPLICA Remand Statement No. 2, at 8. However, Mr. Knecht observed, as follows, that implementing flexible rates for these reasons is not so simple:

Within this economic construct, however, it is not easy to identify where flex rates are necessary to retain or attract load. Doing so often requires an in-depth evaluation of the economics of a particular business. Furthermore, even such analysis often cannot clearly determine the exact rate necessary to retain or attract the load.

OSBA Statement No. 5, at 9. Mr. Knecht continued by providing examples where flexible rates are typically used:

The most common case for flexed utility rates is a competitive threat from either bypass to an alternative supplier or an alternative fuel. These situations are much less complicated economically,

because they involve only the simple replacement of one supplier of energy with another. As such, it is relatively less complicated (although still not simple) to compare the cost of the alternative with the utility tariff rates. These situations are relatively common for large natural gas customers in Pennsylvania, who often have the ability to bypass the distribution utility and take service directly from the interstate pipelines or to substitute an alternative fuel. For those circumstances, the flex rates are set such that the distribution rate is either (a) approximately equal to the annualized cost to the customer of bypassing the utility, or (b) the burner tip price of the alternative fuel net of the commodity cost of gas.

*Id.*, at 9. All of the circumstances described by Mr. Knecht could potentially qualify under the “address competitive circumstances” requirement of Section 2806(h). However, as explained below, Donsco does not qualify under any of them.

## **2. Alternative Fuels**

Mr. Knecht and Mr. Baudino agree that, in theory, flexible rates may reasonably be offered in situations where a customer would switch to a lower-cost alternative fuel without a discounted flexible rate, to the detriment of all other customers. However, as Mr. Baudino readily admits, Donsco has no alternative fuel option, and therefore does not qualify for flexible rate treatment under that criterion. PPLICA Remand Statement No. 2, at 9.

## **3. Bypass/Cogeneration**

Bypassing PPL’s distribution system and taking service directly from the transmission system was apparently an option for Donsco at some stage of this proceeding.<sup>1</sup> However, there

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<sup>1</sup> This refers to the option for Donsco to connect directly to the transmission grid and take service under transmission voltage tariff service Rate LP-5 as a form of bypass. While Donsco would not bypass PPL Electric, it would economically bypass the electric distribution system, because Rate LP-5 is not allocated any distribution system costs. See Transcript, 588-591. In fact, the revenues from Rate LP-5 are not nearly sufficient to cover the costs allocated to it, much less make any contribution to distribution system costs. OSBA Statement No. 4, at 12.

is no evidence that such a bypass is any longer under consideration. In its *April 27<sup>th</sup> Order*, the Commission observed:

PPLICA also claims that ‘newly-discovered evidence’ has recently come to light that involves the potential authorization by PennDOT for Donsco to occupy certain rights of way (including bridge occupancy). Such authorizations could further Donsco’s desire to be served via a different distribution rate schedule. PPLICA claims that, if Donsco either purchases or leases PPL’s lines across the Susquehanna River, the current troublesome situation could be alleviated.

*April 27<sup>th</sup> Order*, at 8-9. However, Mr. Knecht explained, as follows, that the Donsco bypass option is no longer viable:

PPLICA appears to have withdrawn the option for Donsco to bypass the Company’s distribution system by providing its own interconnection to the transmission grid, thereby becoming eligible for LP-5 service. The Company is not willing to sell the ‘dedicated’ distribution facilities to Donsco. Furthermore, Donsco is apparently unable or unwilling to make the investments and obtain the necessary approvals in order to replace the PPL Electric assets.

OSBA Statement No. 4, at 3. *See also*, OSBA Statement No. 4, Exhibit IEc-RD1, PPL-PPLICA-I-3 (“Because PPL takes the position that it will not sell or transfer the current facilities to Donsco, this option will not result in a timely or adequate remedy to this situation.”).

Consequently, Mr. Knecht pointed out that “Donsco appears to have abandoned the option to pursue a bypass opportunity.” OSBA Statement No. 4, at 9. He elaborated on Donsco’s decision, as follows:

As it turned out, Donsco quickly abandoned pursuit of this option when PPL Electric declined to sell assets to Donsco. In addition, Donsco appears to have sensibly concluded that the economics of constructing its own bypass facilities were unfavorable.

OSBA Statement No. 6, at 3. PPLICA witness Christopher A. Buck confirmed that, in light of PPL's refusal to sell the necessary assets to Donsco, Donsco's focus has shifted from the bypass option to pursuing a flexible rate under Section 2806(h). PPLICA Remand Statement No. 1, at 5.

In addition to bypassing the distribution system by connecting directly to the transmission grid, Mr. Baudino expressed the possibility that industrial customers can implicitly bypass the distribution system through self-generation. PPLICA Remand Statement No. 2, at 10. Mr. Knecht readily agreed that the potential for self-generation could serve as a reasonable criterion for applying flexible rates. However, as Mr. Knecht further observed, Donsco does not qualify under this criterion either:

If a customer can demonstrate that it would be less costly for it to construct its own generation facilities than to purchase generation, transmission and distribution services through the grid (and the customer is willing to forgo any grid backup), it may be reasonable to offer that customer a flex distribution rate, in order to avoid stranded costs. Unfortunately, Donsco has provided no evidence in this proceeding that it has an economically credible self-generation option.

OSBA Statement No. 6, at 3.

#### **4. Other Loss of Load Possibilities**

PPLICA has not provided any evidence that flexible rates are necessary in order to prevent the loss of Donsco's load from the PPL system because of a plant relocation, closure, or downsizing. Mr. Knecht addressed this issue, as follows:

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.

OSBA Statement No. 4, at 9-10.

## 5. Summary

In summary, although the Commission pointed to PPLICA's claim of a possible bypass as a reason for granting reconsideration, Donsco has subsequently decided that it cannot pursue the bypass option using PPL's lines across the Susquehanna River. In addition, PPLICA has not presented any evidence that Donsco has an available alternative fuel which would necessitate flexible rates, or any evidence that it has a credible self-generation option. Finally, PPLICA has not demonstrated that flexible rates are necessary to prevent the loss of Donsco's load because of a plant relocation, closure, or downsizing. Therefore, the prong of Section 2806(h) which would permit flexible rates in order "to address competitive alternatives" is wholly unsatisfied by the record in this remand proceeding, and provides no basis whatsoever to provide any special treatment for Donsco.

The language of Section 2806(h) can be read conjunctively, *i.e.*, as authorizing flexible rates "to meet the specific needs of a utility customer *and* to address competitive alternatives." If the Commission interprets Section 2806(h) as requiring Donsco to have both "specific needs" and "competitive alternatives," then the Commission should dismiss PPLICA's *Petition* because PPLICA has failed to demonstrate that Donsco has any competitive alternatives to service by PPL.

### C. "Specific Needs"

If the Commission interprets the language of Section 2806(h) ("to meet the specific needs of a utility customer and to address competitive alternatives") as disjunctive, then the fact that Donsco has no available competitive alternatives to service by PPL is not a fatal impediment to

Donsco's request for flexible rates. Under that interpretation of Section 2806(h), the question then turns to whether Donsco has the requisite "specific needs."

**1. Donsco is Not Unique**

Throughout this proceeding, PPLICA has asserted that Donsco is in a unique situation that would qualify Donsco for flexible rates under Section 2806(h). For example, PPLICA witness Mr. Baudino stated on remand, as follows:

In my Direct Testimony, I explained to the Commission why Donsco's situation on PPL's system is unique and deserving of a special rate.

PPLICA Remand Statement No. 2, at 4.

Although Mr. Baudino did not provide any specific citations to his referenced direct testimony in the underlying case, there are apparently two reasons why PPLICA considers Donsco to be in a unique situation. First, Mr. Baudino explained, as follows, how a prior PPL tariff change affected Donsco:

Donsco also utilized PPL's Time-of-Day demand measurement provision in Rate Schedule LP-4 and responded by moving its peak demand from PPL's on-peak to the off-peak period.

\* \* \*

When the Time-of-Day provision expired, the effect on Donsco's distribution charges was drastic and onerous. Donsco's billing demand for Wrightsville went from between 2 to 2.9 megawatts ('MWs') per month (which was Donsco's on-peak demand) to its maximum demand, which for the first few months of 2010 ranged between 10 to 16 megawatts. As a consequence, from December 2009 to January 2010, Donsco's monthly distribution charges rose from \$4,956 to \$23,121, an increase of 366%. This increase occurred with no change to Donsco's operations.

Donsco's distribution charges have remained at this radically higher level since January 2010, reaching as high as \$34,563 in

April 2010. This represents an increase of almost 600% from December 2009 and, again was cause [sic] solely by the change in PPL's definition of billing demand.

PPLICA Statement No. 2, at 3 (emphasis omitted).

Second, Mr. Baudino described Donsco's load characteristics in comparison to other members of PPL's LP-4 customer rate class, as follows:

Donsco's load is unique in comparison to other members of the class. Donsco is a large industrial user of electricity whose maximum demands are in the range of 15 MW to 16 MW monthly at Wrightsville and approximately 5 MW at Mount Joy. Donsco has one of the highest peak demands, with a very large percentage of that peak demand occurring in the off-peak hours. Rate Schedule LP-4 is a diverse class, with commercial and other small industrial users that take service at PPL's primary voltage level. Based on the allocation factor data from Exhibit JMK-2, the LP-4 class had 1,109 customers. Attachment IV-C, Page 12 of 27, of the Company's filing shows that the total distribution billing demand for LP-4 was 13,666 MW. Thus, the average customer on Rate Schedule LP-4 had yearly billing demands of 12.3 MW, which on a monthly basis is approximately 1 MW per month.

Based on the Company's data, Donsco's billing demands are 15 to 16 times greater than the average customer on LP-4 at Wrightsville, and 5 times greater at Mount Joy. In fact, Donsco's load profile for both accounts is closer to an average LP-5 customer.

PPLICA Statement No. 2, at 5-6.

Mr. Baudino's assertion that Donsco "looks" more like an LP-5 customer than a typical LP-4 customer is apparently intended to prove the uniqueness of Donsco's situation. However, with regard to the distribution rate impact experienced by Donsco, that impact was unfortunately not unique. According to PPL, "approximately 3,243 customers were adversely affected by the termination of the time-of-day option" on January 1, 2010. PPL Statement No. 8RM, at 2. Furthermore, because of the distribution rate changes, PPL indicated that 195 customers experienced a distribution rate increase of 100% or more, 23 customers experienced distribution

rate increases of 500% or more, and eight customers (including Donsco) experienced distribution rate increases of 1,000% or more. *Id.*, at 2-3.

Furthermore, while Donsco's billing demands may be large in comparison to other customers in PPL's LP-4 rate class, that does not mean that Donsco is unique. As set forth below, Mr. Baudino proposed eligibility criteria to qualify for flexible rates that would require a customer to have a maximum billing demand of 4 MW or greater. *See* PPLICA Statement No. 2, at 6-7. PPL responded by noting that 20 large customers in the LP-4 class have a maximum billing demand of 4 MW or greater. PPL Statement No. 8-RM, at 9. Thus, although Donsco may have a relatively large billing demand among LP-4 customers, that does not make Donsco unique.

Finally, the simple fact is that Donsco is like every other Rate LP-4 customer, and is unlike every Rate LP-5 customer, in that it is physically connected to the PPL distribution grid at primary voltage. PPL's tariff design, as approved by the Commission, determines non-residential rate class customer eligibility based on the nature of service, not based on the size of customer. PPL Statement No. 8-RSR, at 4-5. As such, Donsco is much more akin to Rate LP-4 customers than LP-5 customers.

## **2. PPLICA's Proposed Alternatives**

### **a. Proposed LP-4SI Class**

In his testimony in the underlying rate case, PPLICA witness Mr. Baudino proposed the creation of a special rate class for Donsco and other qualifying customers. PPLICA Statement No. 2, at 6-7. In addition, Mr. Baudino set forth criteria that would allow a customer to obtain

flexible rates from PPL. Significantly, in his remand testimony, Mr. Baudino reiterated that proposal, as follows:

I still recommend that the Commission approve an LP-4 SI rate for Donsco with the availability criteria that I included in my Direct Testimony in June 2010.

PPLICA Remand Statement No. 2, at 5. Mr. Knecht observed, as follows, that Mr. Baudino offered no additional criteria for qualifying for the special rate class proposed for Donsco beyond those provided prior to the Commission's *December 21<sup>st</sup> Order*:

In his remand direct testimony, Mr. Baudino reiterates his proposal for an LP-4 SI sub-class. However, Mr. Baudino offers no additional details regarding this proposal.

OSBA Statement No. 4, at 4.

Mr. Baudino proposed the follow eligibility criteria for the special rate class:

The largest accounts on Rate Schedule LP-4 are very similar to the accounts on Rate Schedule LP-5, with the exception of the service voltage and additional equipment paid for by the customer to transform the voltage. I recommend that the Commission approve the implementation of a new LP-4 Special Industrial tariff ('LP-4 SI'), which would be part of the existing LP-4 tariff. It would be open to large general service customers whose maximum billing demands are 4 MW or greater. The LP-4 SI tariff would only be open to large LP-4 customers who are specially situated on PPL's system and who could otherwise qualify for the LP-5 rate. These customers would have to apply to PPL for this special rate. Customers that qualify for this rate would have to be within a certain distance from PPL's 69 kV facilities and served by certain dedicated lines or identifiable facilities to convert the 69 kV power to 12.47 kV, or have other reasons to justify the rate.

PPLICA Statement No. 2, at 6-7.

Mr. Baudino's proposed eligibility criteria may meet the needs of Donsco, but they are not narrowly tailored to minimize the impact upon PPL's other customers.

Specifically, his proposal to limit the special rate class to customers with maximum billing demands of 4 MW or greater opens this class “to 20 large customers served under Rate Schedule LP-4.” PPL Statement No. 8-RM, at 9. PPLICA has provided no evidence that the other 19 large customers have “specific needs” justifying the creation of a special rate class for them.

Furthermore, Mr. Baudino proposed that eligible customers must “be within a certain distance” of PPL’s 69 kV facilities. However, he did not identify any specific distance for this particular requirement. *Id.*, at 9-10. In an attempt to put an actual number on this distance requirement, PPL made the assumption that the distance would have to be at least as far as Donsco is from those 69 kV facilities. *Id.*, at 10. Using that distance (1.3 miles), all of the 20 largest customers under LP-4 would still qualify for this special rate. *Id.*, at 11. However, as previously stated, PPLICA has provided no evidence that the other 19 large customers have “specific needs” justifying the creation of a special rate class for them.

Mr. Baudino’s proposed eligibility criteria would also require that, to qualify, a customer must be “served by certain dedicated lines or identifiable facilities to convert the 69 kV power to 12.47 kV.” As PPL correctly pointed out, this requirement is “meaningless.” PPL witness Oliver G. Kasper observed, as follows, that all of PPL’s customers meet this requirement:

[A]ll customers would meet the second part of PPLICA’s second proposed eligibility criterion because all customers are served by identifiable facilities which convert the 69 kV power to 12.47 kV.

PPL Statement No. 8-RM, at 12.

In addition to the eligibility criteria set forth above, Mr. Baudino also proposed certain “conditions” that would have to be satisfied before a customer could enter the proposed LP-4 SI class:

Initially, the customer's demand must be reasonably consistent with LP-5 (i.e., 4 MW or greater) compared to LP-4. Second, factors such as economic development, load retention and employment could be considered. Third, the economic and/or environmental feasibility of converting the account to transmission voltage service in Rate Schedule LP-5 could be considered. Fourth, the proximity to 69 kV (or higher) facilities and/or the ability to specifically identify the lines and equipment used to serve the facility could be considered. Fifth, if the customer paid a contribution in aid of construction or provided a guarantee for the line extension, they should be eligible for this negotiated rate option. ***If any of these criteria were met (and the customer's demand exceeds 4 MW) the option would be available.*** Obviously, a customer may be able to qualify under multiple criteria.

PPLICA Statement No. 2, at 7 (emphasis added).

Because a customer would have to meet only one of Mr. Baudino's proposed "conditions," it is likely that these "conditions" would not impose any additional barrier to entry into the proposed LP-4 SI customer class. In fact, PPL has testified that the additional "conditions" would not further restrict access to the proposed LP-4 SI class to any of the 20 largest customers served currently under Rate Schedule LP-4. PPL Statement No. 8RM at 13, 14. Therefore, once again, the conditions proposed by Mr. Baudino are of no consequence because PPLICA has provided no evidence that the other 19 large customers have "specific needs" justifying the creation of a special rate class for them.

Mr. Knecht stated his opposition to Mr. Baudino's proposed eligibility criteria in both the PPL 2010 base rates proceeding and in this remand proceeding. In the remand proceeding, Mr. Knecht testified, as follows:

Because PPLICA has not offered any additional detail regarding its LP-4 SI proposal in this phase of the proceeding, I reiterate the conclusions from my rebuttal testimony:

'There is not sufficient information on the record to evaluate this proposal. Mr. Baudino has, unfortunately, made no effort to

determine how many customers may be eligible for such a rate, nor what implementing this rate would cost PPL Electric and/or its other ratepayers. Moreover, as explained above, Mr. Baudino's proposals for eligibility criteria and rate determination are too vague to be incorporated into a utility tariff. Thus, while I am sympathetic to the concerns raised by Mr. Buck with respect to the Wrightsville facility in particular, I do not recommend that the Commission adopt Mr. Baudino's proposal.'

OSBA Statement No. 4, at 7.

The eligibility criteria proposed by Mr. Baudino would allow the 20 largest customers in PPL's LP-4 customer class to be eligible for a special rate class. First, that is not consistent with the requirement of Section 2806(h) that the flexible rates be narrowly tailored "to meet the specific needs of a utility customer." Second, it appears to be impossible to quantify the impact upon other customers of PPL if the 20 largest customers currently in LP-4 were to apply to PPL for the special rate class. In that regard, PPL testified that it is unable to calculate (or even estimate) the impact upon other customers if PPLICA's proposed eligibility criteria are adopted. PPL Statement No. 8RM at 15. Unsurprisingly, PPL did confirm that "the adverse effects on smaller customers served under Rate Schedule LP-4 would be far greater" than the impact calculated by PPLICA in this proceeding. *Id.*

#### **b. Proposed Flexible Rate Contracts**

In the remand proceeding, Mr. Baudino proposed an alternative to establishing a special rate class for the 20 largest customers currently in LP-4. PPLICA Remand Statement No. 2, at 11-12. Specifically, Mr. Baudino proposed tariff language to authorize qualifying customers to negotiate contracts for flexible rates. His proposed tariff is set forth below:

The Company at its discretion or upon approval by the Commission of a customer request pursuant to Section 2806(h) of the Public Utility Code may enter into contracts containing flexible

pricing for electric service to address the specific needs of a customer and to address competitive alternatives. If requested by the Company, the customer shall provide to the Company, on a confidential basis, all information, records and financial analysis necessary to evaluate the customer's request for flexible pricing. Terms and conditions of service will be included in a signed contract, which will be filed with the Public Utility Commission. The Company at its sole discretion may request Public Utility Commission approval. The terms of the agreement will be confidential upon filing with the Commission.

PPLICA Remand Statement No. 2, Exhibit RAB-3. Mr. Kasper's response to Mr. Baudino's proposal was as follows:

It is even worse than PPLICA's primary proposal. It contains no restrictions on eligibility whatsoever. PPLICA seems to acknowledge this conclusion when it states that the tariff contains no restrictions on eligibility by referring to PPL Electric's 'general ability' to enter into flexible pricing arrangements.

PPL Statement No. 8-RM, at 16. Mr. Knecht also responded to Mr. Baudino's alternative, as follows:

Mr. Baudino offers an alternative proposal that a negotiated distribution rate option be added to the PPL Electric distribution tariff, under which discounted rates could be offered to customers at the discretion of the Company or upon approval by the Commission. As written, *all customers* would be eligible for this discounted rate option.

OSBA Statement No. 4, at 4 (emphasis added). Mr. Knecht continued, as follows:

PPLICA's proposed tariff language indicates only that flexible pricing may be imposed at the discretion of the Company or upon approval by the Commission of a customer's request.

\* \* \*

First, I strongly disagree with PPLICA's proposed criterion that flex rates may apply at the discretion of the Company, apparently without Commission approval. Such an approach would involve an abdication by the Commission of its responsibility to establish just and reasonable rates, and would provide the Company with the unfettered ability to discriminate among its customers in any manner that it chose. If the option for flex rates is incorporated

into the Company's tariff, all flex rate agreements should be subject to Commission approval in each base rates proceeding.

Second, PPLICA's language regarding when flex rates may be imposed is quite vague. As written, any customer with 'specific needs' could apply for a flex rate. As all customers have specific needs, this vague language could inundate both PPL Electric and the Commission with special flex rate requests. Furthermore, such a precedent established for PPL Electric in this proceeding would likely spread to other EDCs.

OSBA Statement No. 4, at 7-8 (footnote omitted).

### **c. Conclusion**

Simply put, both alternatives proposed by Mr. Baudino are much too broad to be adopted as the criteria for flexible rates on PPL's (or any other EDC's) system. In addition, there is no basis for evaluating the impact of either alternative on PPL's other ratepayers. Mr. Knecht summarized the OSBA's position on the impact on other ratepayers, as follows:

In remanding this issue for further consideration, the Commission was very clear that it wanted complete information regarding the impact of the alternatives on other ratepayers. Both of the PPLICA alternatives would provide rate reductions for Donsco, but would also provide rate reductions for other customers who qualify for the special tariff treatment proposed for Donsco. All customers eligible for Rate LP-4 SI would presumably face rates lower than regular LP-4 rates; otherwise, they would remain in LP-4. Similarly, all customers taking flex rates would presumably face lower rates than the regular LP-4 rates.

Nevertheless, PPLICA has offered zero evidence regarding the lost revenues from any customers other than Donsco. Therefore, the Commission cannot fully evaluate the full impact of any of Donsco's proposals. As such, Donsco's proposals should be rejected in this proceeding.

OSBA Statement No. 4, at 5 (footnote omitted).

#### **D. PPLICA's Rate Proposal**

The OSBA does not support the implementation of flexible rates for Donsco, or any other PPL customer, based upon the record in this proceeding.

However, in an effort to develop the record fully, the OSBA will address Mr. Baudino's specific proposal for setting flexible rates for Donsco if the Commission were to approve tariff language for flexible rate contracts.

Mr. Knecht summarized Mr. Baudino's specific flexible rate proposal for Donsco, as follows:

Mr. Baudino further proposes that Donsco be assigned a flat distribution rate of \$132,000 per year, regardless of the size of its billing demand, under this negotiated rate option. He estimates that flat distribution rate to be \$212,000 below the charges Donsco would face under the regular LP-4 tariff (\$344,000 per year total).

OSBA Statement No. 4, at 4 (footnote omitted).

In evaluating how a flexible rate could be set for Donsco, Mr. Knecht testified, as follows:

As I mentioned earlier, in the natural gas industry, the flex rate is often set based on market conditions, reflecting either the cost of bypass or the cost of the alternative fuel. In the case of Donsco, this approach is not viable, as Donsco has neither option.

For that reason, in my rebuttal testimony, I suggested that the Commission could consider a direct assignment cost-based approach. I stated:

'If the Commission makes that determination, I recommend that the distribution rate be based on the cost incurred by PPL Electric to provide service using the dedicated 12,470 volt facilities from the North Columbia substation. These costs should include the depreciation, return and income tax costs associated with the specific facilities that provide service, plus a provision for PPL Electric's O&M related to those facilities. Costs should also include a provision for the overhead costs borne by all other LP-4 customers, including those related to general plant, working

capital, customer service, other taxes, and administrative & general costs.<sup>7</sup>

OSBA Statement No. 4, at 10-11.

Mr. Knecht stated his disagreements with Mr. Baudino's proposal, as follows:

First, Mr. Baudino does not rely on a cost basis for setting Donsco's rates. He estimates a cost basis for the Donsco rate at \$157,000 per year, but proposes a rate well below that level (at \$132,000 per year).

Second, Mr. Baudino proposes to set the cost basis for the Donsco rate using an after-tax cost of capital of 7.78 percent. However, Mr. Baudino does not recognize that the LP-4 rate class, like all of PPL Electric's non-residential rate classes that take service at distribution voltage, provides a class rate of return in excess of system average. That is, non-residential distribution voltage rate classes all pay rates in excess of allocated cost. If the cost basis for Donsco's rates is to be its actual book costs, simple fairness requires that its rates should also reflect a reasonable share of the cost over-recovery imposed on other LP-4 customers.

OSBA Statement No. 4, at 11.

Based upon more realistic assumptions, Mr. Knecht recommended the following in regards to a specific, cost-based flexible rate for Donsco:

If the average LP-4 return on rate base of 13.19 percent is used in the calculations instead of Mr. Baudino's 7.78 percent, I estimate that the annual revenue requirement from Donsco would be in the \$237,000 to \$253,000 range. Based on Mr. Baudino's estimate of the revenues Donsco would pay under the regular LP-4 tariff (\$344,000), the annual shortfall under my calculation would therefore be \$91,000 to \$107,000.

OSBA Statement No. 4, at 11-12 (footnote omitted).

Therefore, if flexible rates were deemed by the Commission to be necessary for Donsco, the OSBA's recommendation would be to require Donsco to pay between \$237,000 and \$253,000 per year in distribution rates. The annual shortfall between that flexible rate and the

\$344,000 Donsco would pay under the regular tariff would then be recovered from other customers on PPL's system.

**E. PPL's Alternative**

In its remand direct testimony, PPL also proposed an alternative rate solution for Donsco if the Commission decides that Donsco should receive special rate treatment. Mr. Knecht summarized the Company's proposal, as follows:

PPL Electric proposes to modify the LP-4 tariff to cap the LP-4 billing demand at 10,000 kW. All kW in excess of 10,000 would be priced at zero. At present, Donsco is the only LP-4 customer with billing demand in excess of 10,000 kW. The Company proposes to recover the entire revenue reduction related to the preferential treatment of Donsco from other Rate LP-4 customers. According to the Company's calculations, the Donsco revenue reduction would be offset by an increase in the Rate LP-4 customer charge, from \$160.98 per month to \$176.87 per month. The Company would make no changes to the Rate LP-4 distribution demand charge.

OSBA Statement No. 5, at 3 (footnote omitted).

Mr. Knecht observed that PPL's rate proposal is, in some ways, superior to the proposals offered by PPLICA. *See Id.*, at 4. However, the Company made significant errors in the analysis underlying its rate proposal. Specifically, PPL witness Mr. Kasper asserted that customers with demands in excess of 10,000 kW are providing a rate of return which is in excess of the returns provided by other LP-4 customers. PPL Statement No. 8-RM, at 18. To reach that conclusion, Mr. Kasper claimed that "PPL Electric Exhibit JMK-10 is a cost of service study of the LP-4 class that calculates the cost of service for customers with demands less than 10,000 kW and those demands greater than 9,999 kW." *Id.* Mr. Knecht explained the Company's errors, as follows:

First, Mr. Kasper mis-states the nature of Exhibit JMK-10. Exhibit JMK-10 does not segregate Rate LP-4 costs between customers above and below 10,000 kW in billing demand. Exhibit JMK-10 reports total costs for all of LP-4 in one column (matching that from Exhibit JMK-2A), and also reports the costs to serve Donsco in the second column.

Second, and more importantly, all COSSs [cost of service studies] require that utility rate base be either directly assigned or allocated among the various rate classes. The COSS in Exhibit JMK-10 is based on direct assignment of certain plant costs to a single customer, Donsco. However, the COSS methodology approved by the Commission does not use the *direct assignment* of substation and primary distribution system plant costs to particular distribution voltage rate classes. On the contrary, the approved COSS methodology requires that these 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-coincident peak demands. The approved COSS methodology does not rely on *direct assignment* of substation and primary distribution system assets.

OSBA Statement No. 5, at 4-5.

The OSBA conducted discovery on this issue. Mr. Knecht summarized the results of that discovery, which contradicted the original conclusion reached by Mr. Kasper:

In its response to OSBA-III-1, PPL Electric prepared a COSS that comes much closer to being consistent with the Commission-approved method. Specifically, the OSBA-III-1 COSS allocates costs between LP-4 customers with demands below 10,000 kW and the two LP-4 customers with demands above 10,000 kW. In this simulation, the larger rate LP-4 customers provide an average rate of return at 'present rates' (meaning rates in effect at the filing of the rate case) of 11.9 percent, compared to a class average of 13.4 percent. Moreover, this calculation does not recognize that Donsco obtained a 6.7 percent rate decrease as a result of the original Commission decision in this proceeding. 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 10,000 kW.

OSBA Statement No. 5, at 5 (footnote omitted) (emphasis added).<sup>2</sup>

There is yet one more significant problem with the Company's rate proposal for Donsco: if Donsco's load were to increase, PPL's other customers would have to bear even more of Donsco's costs. Mr. Knecht explained that problem, as follows:

The Company's proposal would set the marginal demand charge for Donsco at zero. This approach has unfavorable implications under either an allocated cost (OSBA-III-1 COSS) or direct assignment (Exhibit JMK-10) cost philosophy.

Under the Commission's allocated cost method, the demand-related costs allocated to Rate LP-4 will increase as demand increases. Therefore, the amount paid by Donsco should increase as demand increases. In contrast, the Company's alternative would impose a zero rate increase on Donsco were its load to increase. ***Thus, load growth by Donsco would result in more costs being allocated to the LP-4 rate class, which would then need to be absorbed by other LP-4 customers.***

Under the Exhibit JMK-10 direct assignment method, the rates paid by Donsco are essentially based on the book costs of the dedicated facilities. However, the cost of the dedicated facilities could increase substantially in one of two ways. First, PPL Electric might need to replace the existing equipment, should the existing equipment fail. Second, Donsco could increase its need for power, requiring PPL Electric to expand the capacity serving Donsco. However, under the Company's alternative tariff design for Rate LP-4, PPL Electric would not be able to increase the revenues it collects from Donsco under either of those circumstances, at least until it filed another base rate case.

OSBA Statement No. 5, at 6 (footnotes omitted) (emphasis added).

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<sup>2</sup> According to PPL, there is now only one customer, *i.e.*, Donsco, with billing demand in excess of 10,000 kW. However, the Company's cost of service study as approved by the Commission in this proceeding included two customers with billing demands in excess of 10,000 kW, and PPL conducted its analysis on that basis. *See* OSBA Statement No. 5, Exhibit IEC-RR1, OSBA-III-5.

Mr. Knecht observed that some of these problems with PPL's alternative could be mitigated, as follows:

I recommend that the PPL Electric alternative be modified to require any LP-4 customer whose peak demand exceeds 10,000 kW to pay for the cost associated with replacing any dedicated equipment needed to serve that customer, and to pay for the cost of any system expansion needed to meet increases in customer contract demand. This recommendation can be implemented by requiring a CIAC [Contribution in Aid of Construction] in the amount of the replacement cost or system expansion cost. To the extent that the replacement or system expansion provides benefits to other ratepayers (e.g., avoiding the cost of alternative expansions or reduced O&M costs), the CIAC can be reduced by that benefit.

OSBA Statement No. 5, at 7.

Therefore, if some degree of additional rate relief for Donsco were deemed by the Commission to be necessary, the OSBA would recommend the PPL rate proposal with the modifications proposed by Mr. Knecht.

#### **F. Recovering the Revenue Shortfall**

As stated previously, the OSBA does not support the implementation of special rates for Donsco, or for any other PPL customer, based upon the record in this proceeding. Nevertheless, in an effort to develop the record fully, the OSBA will address the recovery of any revenue shortfall if the Commission decides to provide any form of special rates for Donsco.

To the extent that the Commission determines that some form of additional rate relief should be granted to Donsco (or any other customer), the Commission must also determine how the shortfall should be assigned among the various rate classes, and how the shortfall within each rate class should be recovered in rates.

## 1. PPLICA's Proposal

Mr. Knecht summarized PPLICA's proposal to recover the revenue shortfall if special rates were adopted for Donsco, as follows:

Mr. Baudino recommends that this shortfall in revenues be recovered from other LP-4 customers, or, in the alternative, deferred (with interest at a weighted average cost of capital) for future recovery in the Company's next base rates case.

OSBA Statement No. 4, at 5. *See also*, PPLICA Remand Statement No. 2, at 12-13.

The OSBA opposes PPLICA's proposal to defer the revenue shortfall for recovery in PPL's next base rates case. Mr. Knecht explained the OSBA position, as follows:

I disagree with Mr. Baudino's proposal to establish a regulatory deferral account for the shortfall. The costs in question are current costs and should be recovered from current rates; Mr. Baudino's suggestion would result in inter-generational inequities. Moreover, as long as this matter is limited to a rate discount for Donsco, the impact on other ratepayers will be quite small. Pushing the costs on to some indefinite future rate case, and allowing PPL Electric to earn a relatively high return on a relatively low risk asset, is simply unnecessary.

OSBA Statement No. 4, at 12. OCA witness Mr. Glenn A. Watkins reached a similar conclusion:

With respect to Mr. Baudino's alternative recommendation in which any revenue shortfall would be deferred until PPL's next rate case, I recommend that this scenario be rejected outright. 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.

OCA Remand Direct Statement No. 1, at 4.

Contrary to PPLICA's proposal to recover the revenue shortfall from the remaining customers in the LP-4 class, the OSBA recommends that any shortfall be recovered from the LP-5 and LP-6 classes. The OSBA's recommendation is based on two key points. First, LP-4 customers are already overpaying their cost of service. OSBA Statement No. 5, at 9. Second, LP-5 and LP-6 customers are significantly underpaying their cost of service. *Id.*, at 8.

Mr. Knecht explained the OSBA's recommendation, as follows:

[W]ith respect to Mr. Baudino's proposal to assign the shortfall to other LP-4 customers, I conclude that a cost-based approach would be superior at this stage of this proceeding.

From a strict cost basis, the only classes which are under-recovering allocated costs are the residential RS and RTS classes, and the transmission voltage LP-5 and LP-6 rate classes. (See Exhibit JMK-2A presented with Mr. Kleha's rebuttal testimony.) It would therefore be theoretically more appropriate to assign the revenue shortfall to these classes than to the LP-4 class, which produces a class rate of return well above system average. However, because the residential class has already absorbed the entire rate increase in this proceeding, adding the Donsco shortfall would likely be perceived as inequitable. In contrast, despite the fact that class rates of return for the LP-5 and LP-6 rate classes are below system average (and, in fact, are substantially negative), no rate increase was assigned to those customers. Thus, from a strict cost perspective, it would be best to assign recovery of the Donsco shortfall to the LP-5 and LP-6 rate classes.

OSBA Statement No. 4, at 12 (footnote omitted). In support of his recommendation, Mr. Knecht pointed out that class rates of return at present rates for LP-5 and LP-6 are -23.4 percent and -67.0 percent, respectively. This is compared to a system average return of 6.29 percent at the rates in effect at the time PPL filed the underlying rate case. *Id.*, at 12, footnote 11.

Mr. Knecht's recommendation would prevent an already overpaying customer class, LP-4, from paying even more just to benefit one customer. The Commonwealth Court has held that cost of service is the polestar of ratemaking. *Lloyd v. Pennsylvania Public Utility Commission*,

904 A.2d 1010, 1020 (Pa. Cmwlth. 2006), *appeals denied*, 916 A.2d 1104 (Pa. 2007). Even though Section 2806(h) does permit the Commission to adopt special rates, it is silent on how the resulting revenue shortfall is to be recovered. Placing the revenue shortfall resulting from a special rate for Donsco upon LP-5 and LP-6 would be just and reasonable, and would not cause revenues from those two customer classes to exceed allocated costs. With regard to the impact on the LP-5 and LP-6 classes, Mr. Knecht testified, as follows:

According to Exhibit JMK-2A, page 104, even at PPL Electric's system-wide rate of return *before any rate increase*, the revenue shortfall for the LP-5 and LP-6 rate classes is \$2.24 million. Thus, applying the Donsco shortfall [\$212,000] to those rate classes would still result in rates for the LP-5 and LP-6 classes that are well below allocated cost.

OSBA Statement No. 4, at 13 (emphasis in original).

Finally, the OSBA observes that PPLICA offered no proposal as to how the shortfall created by special rates for Donsco should be shared among the Rate LP-4 customers in rate design. As such, PPLICA's proposal is incomplete.

## **2. PPL's Proposal**

PPL also proposed that any shortfall be assigned to the other Rate LP-4 customers, and not assigned among the rate classes based on traditional revenue allocation criteria. For the reasons detailed in the preceding section, PPL's proposal should be rejected. However, if the Commission does determine that Donsco should be assigned special rates, *and* that the shortfall associated with those rates should be assigned to other LP-4 customers, PPL has offered a tariff design proposal for recovery of that shortfall.

There are two problems with the rate design advocated by the Company for recovering the shortfall. First, there is a mathematical error in the Company's proposal.

Specifically, PPL proposed to increase the LP-4 customer charge from \$160.19 to \$176.87. This increase is too large, as it would result in PPL collecting more revenue than authorized by the Commission in the *December 21<sup>st</sup> Order*. See OSBA Statement No. 5, at 9.

Second, the OSBA fundamentally disagrees with PPL's proposal to recover the entire revenue shortfall from the LP-4 customer charge. Such a rate design choice would require the smaller LP-4 customers to bear a disproportionate share of the shortfall created by a special rate for Donsco. Mr. Knecht explained the effect of PPL's proposal, as follows:

The Company's alternative tariff design would recover the entire shortfall from the customer charge, which would impose much larger percentage increases on the smaller customers within the Rate LP-4 class than on the larger customers in that class. Despite the fact that the Donsco shortfall as calculated by the Company would imply an average increase for non-Donsco LP-4 customers of about 0.4 percent, the Company's proposal would result in a distribution rate increase of more than 5 percent for over 100 customers, or about 10 percent of the Company's 1,100 LP-4 customers. The Company's proposal would result in a distribution rate increase of more than 3 percent for over 200 customers.

Moreover, this increase would compound the increase already faced by smaller LP-4 customers as a result of the Commission's initial decision in this proceeding. That decision mandated an increase in the Rate LP-4 customer charge from \$0.00 to \$160.19, and a corresponding reduction in the Rate LP-4 distribution demand charge. A relatively small LP-4 customer with, say, 100 kW of billing demand already experienced a 52.1 percent increase in distribution rates as a result of the Commission's decision. Imposing the Company's alternative would move that distribution increase to 58.1 percent.

OSBA Statement No. 5, at 10 (footnotes omitted).

In order to minimize the rate impact on the smaller customers in the LP-4 class, Mr. Knecht recommended two modifications to the Company's proposal:

First, I note that one of PPL Electric's tariff design objectives in this proceeding was to harmonize the Rate LP-4 and the Rate ISP distribution charges. In its Donsco alternative, however, PPL

Electric implicitly proposes to deviate from that objective by increasing the LP-4 customer charge and not increasing the ISP customer charge. As the Commission has already approved the harmonization of the two distribution tariffs, I believe that the harmony should be retained, and that any change to the Rate LP-4 tariff should be matched by a change in the Rate ISP tariff.

Second, to avoid tilting the tariff toward the customer charge, I suggest that equal (or near equal) percentage increases be imposed on both the LP-4/ISP customer charge and the LP-4/ISP distribution demand charge in order to make up the shortfall. Specifically, I suggest that the customer charge be increased from \$160.19 to \$160.88 (a 0.4 percent increase) and the demand charge be increased from \$2.1360 to \$2.1465 per kW per month (a 0.5 percent increase). As shown in Exhibit IEC-RR2, this change, combined with the billing demand cap proposed by the Company, would produce a reduction for Donsco of \$158,000, which is nearly equal to the \$159,000 reduction proposed by the Company. This change would also produce offsetting additional revenues from the non-Donsco LP-4 and ISP customers of \$158,000.


OSBA Statement No. 5, at 10-11.

As set forth above, the OSBA emphasizes its recommendation that any revenue shortfall be recovered from the LP-5 and LP-6 rate classes. The OSBA offers Mr. Knecht's modifications to the Company's proposal only if the Commission decides to recover the shortfall from the LP-4 class.

**IV. Conclusion**

For the reasons set forth above, the OSBA requests that the ALJ and the Commission deny PPLICA's Petition in its entirety. There is no basis for providing any special rate treatment for Donsco, either by granting Donsco flexible rates under Section 2806(h), or by altering the LP-4 customer class rate design to provide favorable treatment for Donsco.

Respectfully submitted,

  
Steven C. Gray  
Assistant Small Business Advocate  
Attorney I.D. No. 77538

For:

William R. Lloyd, Jr.  
Small Business Advocate  
Attorney I.D. No. 16452

Office of Small Business Advocate  
300 North Second Street, Suite 1102  
Harrisburg, PA 17101  
(717) 783-2525  
(717) 783-2831

Dated: October 6, 2011

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Pennsylvania Public Utility Commission** :  
v. : **DOCKET NO. R-2010-2161694**  
**PPL Electric Utilities Corporation** :

**CERTIFICATE OF SERVICE**

I certify that I am serving two copies of the Main Brief on Remand, on behalf of the Office of Small Business Advocate, by e-mail and first-class mail (unless otherwise noted) upon the persons addressed below:

Hon. Susan D. Colwell  
Administrative Law Judge  
Pa. Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105  
(717) 787-1191  
(717) 787-0481 (fax)  
[scolwell@pa.gov](mailto:scolwell@pa.gov)  
**(E-mail and Hand Delivery)**

Paul E. Russell, Esquire  
PPL Electric Utilities Corporation  
Two North Ninth Street  
Allentown, PA 18101-1179  
(610) 774-4254  
(610) 774-6726 (fax)  
[perussell@pplweb.com](mailto:perussell@pplweb.com)

David B. MacGregor, Esquire  
Post & Schell, PC  
1600 John F. Kennedy Boulevard  
Philadelphia, PA 19103  
[dmacgregor@postschell.com](mailto:dmacgregor@postschell.com)

Michael W. Gang, Esquire  
John H. Isom, Esquire  
Post & Schell, PC  
17 North Second Street - 12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
[mgang@postschell.com](mailto:mgang@postschell.com)  
[jisom@postschell.com](mailto:jisom@postschell.com)

John Costlow  
[jcostlow@thesef.org](mailto:jcostlow@thesef.org)  
**(E-mail Only)**

Tanya J. McCloskey, Esquire  
Aron J. Beatty, Esquire  
Darryl Lawrence, Esquire  
Office of Consumer Advocate  
555 Walnut Street - 5th Floor  
Harrisburg, PA 17101-1923  
(717) 783-5048  
(717) 783-7152 (fax)  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)  
[tmccloskey@paoca.org](mailto:tmccloskey@paoca.org)  
[abeatty@paoca.org](mailto:abeatty@paoca.org)  
**(E-mail and Hand Delivery)**

Richard A. Kanaskie, Esquire  
Lawrence F. Barth, Esquire  
Bureau of Investigation & Enforcement  
Pa. Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105  
(717) 787-1976  
(717) 772-2677 (fax)  
[rkanaskie@pa.gov](mailto:rkanaskie@pa.gov)  
[lbarth@pa.gov](mailto:lbarth@pa.gov)  
**(E-mail and Hand Delivery)**

Kenneth L. Mickens, Esquire  
316 Yorkshire Drive  
Harrisburg, PA 17111  
(717) 343-3338  
(717) 657-0938 (fax)  
[kmickens11@verizon.net](mailto:kmickens11@verizon.net)

**RECEIVED**  
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**PA PUC**  
**SECRETARY'S BUREAU**

Eric Joseph Epstein  
4100 Hillsdale Road  
Harrisburg, PA 17112  
(717) 541-1101  
[lechambon@comcast.net](mailto:lechambon@comcast.net)

Gary A. Jeffries, Esquire  
Dominion Retail, Inc.  
501 Martindale Street - #400  
Pittsburgh, PA 15212-5817  
(412) 237-4729  
(412) 237-4782 (fax)  
[gary.a.jeffries@dom.com](mailto:gary.a.jeffries@dom.com)

Craig A. Doll, Esquire  
25 West Second Street  
P. O. Box 403  
Hummelstown, PA 17036-0403  
(717) 566-9000  
(717) 566-9901 (fax)  
[Cdoll76342@aol.com](mailto:Cdoll76342@aol.com)

Pamela C. Polacek, Esquire  
Patrick L. Gregory, Esquire  
Adeolu A. Bakare, Esquire  
McNees Wallace & Nurick, LLC  
P. O. Box 1166  
Harrisburg, PA 17108-1166  
(717) 232-8000  
(717) 260-1763 (fax)  
[ppolacek@mwn.com](mailto:ppolacek@mwn.com)  
[Pgregory@mwn.com](mailto:Pgregory@mwn.com)  
[abakare@mwn.com](mailto:abakare@mwn.com)

Daniel Clearfield, Esquire  
Deanne M. O'Dell, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
(717) 237-7160  
(717) 237-2019 (fax)  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)  
[dodell@echertseamans.com](mailto:dodell@echertseamans.com)  
**(E-mail Only)**

Date: October 6, 2011

Stephen G. Hill  
Hill Associates  
P. O. Box 587  
4000 Benedict Road  
Hurricane, WV 25526  
(304) 562-3645  
[hillassociates@gmail.com](mailto:hillassociates@gmail.com)

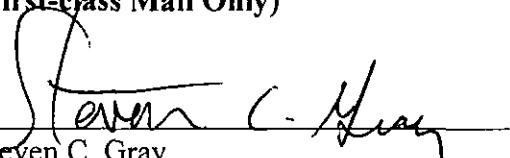
Frank Richards  
Richards Energy Group, Inc.  
781 S. Chiques Road  
Manheim, PA 17545  
[frichards@richardsenergy.com](mailto:frichards@richardsenergy.com)

Glenn Watkins  
Technical Associates, Inc.  
9030 Stony Point Parkway, Suite 580  
Richmond, VA 23235  
(804) 644-4000  
[watkinsg@tai-econ.com](mailto:watkinsg@tai-econ.com)

Thomas T. Niesen, Esquire  
Thomas Long Niesen & Kennard  
P. O. Box 9500  
Harrisburg, PA 17108-9500  
(717) 255-7641  
(717) 236-8278 (fax)\  
[tniesen@thomaslonglaw.com](mailto:tniesen@thomaslonglaw.com)

Thomas Catlin  
Lafayette Morgan  
Exeter Associates, Inc.  
10480 Little Patuxent Parkway - #300  
Columbia, MD 21044  
(410) 992-7500  
[topcat@exeterassociates.com](mailto:topcat@exeterassociates.com)  
[lmorgan@exeterassociates.com](mailto:lmorgan@exeterassociates.com)

Joseph L. Vullo, Esquire  
Burke Vullo Reilly Roberts  
1460 Wyoming Avenue  
Forty Fort, PA 18704  
**(First-class Mail Only)**

  
Steven C. Gray  
Assistant Small Business Advocate  
Attorney ID No. 77538