



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

Adeolu A. Bakare  
Direct Dial: 717.237.5290  
Direct Fax: 717.260.1712  
abakare@mwn.com

October 18, 2011

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

**VIA HAND DELIVERY**

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

Dear Secretary Chiavetta:

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

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document. Please date stamp the extra copy of this transmittal letter and Remand Main Brief, and kindly return them for our filing purposes. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

Adeolu A. Bakare

Counsel to PP&L Industrial Customer Alliance

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c: Administrative Law Judge Susan D. Colwell (via E-mail and Hand Delivery)  
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**REMAND REPLY BRIEF OF THE  
PP&L INDUSTRIAL CUSTOMER ALLIANCE**

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Pamela C. Polacek (I.D. No. 78276)  
Adeolu A. Bakare (I.D. No. 208541)  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 237-5300

Counsel to the PP&L Industrial Customer Alliance

Dated: October 18, 2011

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## I. INTRODUCTION

On March 31, 2010, PPL Electric Utilities Corporation ("PPL" or "Company") filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") Supplement No. 83 to Tariff-Electric-Pa. P.U.C. No. 201 ("Supplement No. 83"), to become effective on June 1, 2010. Supplement No. 83 proposed to increase PPL's distribution rates by approximately \$114.7 million, or 16.5% over the Company's present annual distribution revenues.

On August 26, 2010, the Company, along with the Office of Trial Staff ("OTS"), Office of Consumer Advocate ("OCA") and Richards Energy Group ("Richards"), submitted a Joint Petition for Partial Settlement of Rate Investigation ("Joint Petition").<sup>1</sup> ALJ Colwell issued a Recommended Decision recommending approval of the Joint Petition without modification and disposing of the litigated issues. On December 21, 2010, the Commission entered an Opinion and Order ("December 21 Order") adopting the Recommended Decision with modifications and disposing of the litigated issues addressed in exceptions and reply exceptions.

On January 5, 2011, PPLICA filed a Petition for Reconsideration of the December 21 Order addressing solely the Commission's denial of its request to establish an LP-4 Special Industrial tariff ("LP-4 SI") for Donsco, Inc., a member of PPLICA. In the December Order, the Commission concluded that Section 2806 of the Public Utility Code did not provide authority for adjusting distribution rates and that Donsco would be eligible for a negotiated rate only if PPL charged unjust and unreasonable rates or provided inadequate service. Based on its review of the record, the Commission ruled that Donsco had failed to show unjust and unreasonable rates or inadequate service.

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<sup>1</sup> As indicated in Footnote 1 of the Joint Petition, the other active parties in this proceeding (PPLICA, Dominion Retail Inc. ("Dominion"), Commission on Economic Opportunity ("CEO"), Office of Small Business Advocate ("OSBA"), Sustainable Energy Fund of Central Eastern Pennsylvania ("SEF"), Eric Epstein and Retail Energy Supply Association ("RESA")) did not oppose the Joint Petition. Similarly, Citizens of Pennsylvania's Future ("PennFuture"), in its August 26, 2010, letter submitted to the Commission, also indicated its non-opposition to the Settlement.

In the Petition for Reconsideration, PPLICA argued that Section 2806(h) explicitly authorizes the Commission to adjust distribution rates and that Donsco's special circumstances merit such relief. PPLICA cited the unambiguous statutory language contained in Section 2806(h) and pointed to record evidence demonstrating that Donsco faces special circumstances and that a negotiated rate would not unduly burden other ratepayers. PPL filed an Answer opposing the Petition for Reconsideration on January 18, 2011.

The Commission entered an Opinion and Order on April 27, 2011 ("Remand Order"). In the Remand Order, the Commission agreed that Section 2806(h) of the Public Utility Code provides direct authority for flexible pricing of distribution rates and that Donsco presents a special situation. Accordingly, the Commission granted PPLICA's Petition for Reconsideration, urged the parties to find a solution to Donsco's problems that would not unduly burden other customers, and remanded the case to the ALJ for further proceedings and the issuance of a Recommended Decision on Remand.

On April 27, 2011, a Notice of Initial Prehearing Conference on remand was issued which set the prehearing conference on remand for May 16, 2011. Prior to the prehearing conference, PPL, PPLICA, OTS, OCA, OSBA, and Mr. Epstein ("Parties") filed prehearing memos. Additionally, Dominion, CEO, Whitehall Township, SEF, and RESA informed the ALJ that they would not actively participate in the proceeding unless the scope changed from the parameters set forth in the Remand Order. IBEW and PennFuture requested to be removed from the service list entirely.

The prehearing conference was held as scheduled. The ALJ modified the service list pursuant to the above-referenced requests and directed the Parties to develop a plan for

compiling a reproduced record. Additionally, the Parties agreed to a litigation schedule establishing dates for testimony, hearings and briefs.

On October 6, 2011, PPLICA filed its Remand Main Brief. PPLICA received Remand Main or Initial Briefs filed by PPL, OSBA, OTS and OCA. Pursuant to the schedule set forth in the Second Prehearing Order on Remand, PPLICA now submits this Remand Reply Brief.

## **II. SUMMARY OF ARGUMENT**

First, the Commission should reject the attempts to portray Donsco's situation as "normal" because such arguments are beyond the scope of this remand proceeding and unsupported by record evidence. PPL and OSBA set forth numerous arguments suggesting that Donsco has failed to show uniqueness among PPL ratepayers. Such arguments do not address the issue identified by the Commission to be addressed in this remand proceeding should be summarily dismissed and beyond the scope of these proceedings. Further, these arguments take a microscopic view a of situation requiring much more perspective. Donsco's unique situation is anchored by two basic facts and amplified by a historic chain of events and interrelated circumstances. The company is a uniquely large user amongst the Rate Schedule LP-4 class unable to take service at Rate Schedule LP-5 due to immutable geographical and environmental barriers imposing prohibitive costs. Additionally, it suffered a 1,300% increase in its billed distribution rates following the elimination of Time-of-Day rates, which were influential to the company's acquiescence to taking LP-4 service in the first place. It is the overall combination of Donsco's factual scenario that creates the special circumstances acknowledged in the Remand Order.

Second, the Commission should reject the contentions that PPLICA's recommended negotiated rate and rate design contradict standard ratemaking principles, violate Section 2806(h) of the Public Utility Code, and unduly disadvantage other ratepayers. These arguments should

be denied as PPLICA meets the standard for relief under Section 2806(h) and has calculated a *fixed monthly rate and proposed both a preferred and an alternative rate design in accordance* with the objectives of the Remand Order. While PPLICA's recommended negotiated rate deviates somewhat from traditional ratemaking concepts, such flexibility is necessary to construct an appropriate negotiated rate and inherent to the application of Section 2806(h). PPLICA has worked diligently to comply with the Remand Order and calculate a rate that mitigates Donsco's special circumstances without unduly burdening other ratepayers. The Commission should summarily reject the arguments set forth by PPL and OSBA and approve PPLICA's recommended negotiated rate and preferred rate design.

### **III. DONSCO IS UNIQUE AMONG PPL CUSTOMERS**

As a preliminary matter, PPLICA reiterates that the arguments disputing the uniqueness of Donsco's situation fall outside the scope of this remand proceeding and should be disregarded. As discussed at length in PPLICA's Remand Main Brief, the Commission identified specific issues to be developed for the record in the remand proceeding. None of the Commission's directives requested further discussion or analysis of Donsco's eligibility for rate relief under Section 2806 of the Public Utility Code. As this analysis was comprehensively addressed in PPLICA's Remand Main Brief, the specifics will not be reproduced in full.

Suffice to say, this issue was addressed by all parties in the original proceeding through the evidentiary hearing, main briefs, reply briefs, exceptions, reply exceptions, PPLICA's Petition for Reconsideration and PPL's subsequent Answer. At that point, the Commission decided that Donsco's situation was unique and deserving of rate relief under Section 2806(h). Remand Order pp. 11, 13. The Commission remanded the case to develop an evidentiary record that would allow it to assess rate solutions that alleviate Donsco's circumstances without unduly impacting other ratepayers. Accordingly, the Commission should disregard the arguments beyond its clearly defined scope of

issues and proceed to the matter of addressing the negotiated rate and rate designs proposed to alleviate Donsco's circumstances in a reasonable and equitable fashion.

To the extent that the Commission wishes to consider the arguments disputing Donsco's uniqueness, PPLICA asserts that such arguments are without merit. PPLICA incorporates by reference the discussion of Donsco's special circumstance provided in its Remand Main Brief and further addresses the contrary arguments in the PPL and OSBA Remand Main Briefs below.

**A. Establishing Negotiated Rates for Customers Is Not Poor Public Policy When Compelling Circumstances Warrant Flexible Rates**

In its Main Brief, PPL takes the position that establishing special rates for individual customers or small groups of customers is poor ratemaking policy and inconsistent with longstanding precedent. This position is curious as PPL has already acknowledged situations where special rates benefit all ratepayers. PPL has repeatedly stated that special rates are appropriate and beneficial in order to keep large users on the system when a threat of bypass, competitive fuel or other loss of load materializes.<sup>2</sup> PPLICA Remand I.B. p. 33. Perhaps more importantly, PPL's disregard for the public policy benefits of flexible rates contradicts the goals and purpose of Section 2806(h) of the Public Utility Code which implicitly states that flexible rates, under certain circumstances, are in the public interest. 66 Pa. C.S. § 2806(h).

Additionally, PPL's reliance on *Southeastern Pennsylvania Transportation Authority v. Pa. P.U.C.*, 470 A.2d 1092, 1094-95 (Pa Cmwlth. 1984) ("SEPTA") is not persuasive. In *SEPTA*, the Commonwealth Court stated that the "A large volume of use does not entitle customer to a preferred rate." PPL Remand I.B. p. 12. However, this statement should not be read to imply that the Commission cannot exercise its discretion and approve a negotiated rate

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<sup>2</sup> Although directed towards OSBA testimony, the issue of applying Section 2806(h) to situations beyond threats of bypass, competitive fuel or loss of load was addressed in PPLICA's Remand Main Brief. PPLICA Remand M.B. p. 15.

based partly upon the large demand of a customer. *SEPTA* was a Commonwealth Court proceeding where the Commonwealth Court appropriately applied a high standard of deference to the Commission's determination of the facts at hand. Put another way, the Commonwealth Court decided that the petitioner was not entitled to a reversal of the Commission's decision because of a large volume of use. But the court also found that:

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.

PPL Remand I.B. p. 12.

Presumably, in a case where the Commission has approved a negotiated rate based on the facts presented, the Commonwealth Court would apply the same standard of deference and uphold the Commission's decision absent a clear error of law. This situation is more analogous to the instant case as the Commission has already determined that Donsco faces unique circumstances and indicated its willingness to consider a negotiated rate. Remand Order p. 13. The Commission, by virtue of its decision to remand this proceeding, would likely disagree with PPL's assertion that many customers could make a claim similar that made by Donsco. PPL Remand I.B. p. 13. To do so, an organization would have to rely upon a tariff rate in agreeing to accept electric service at an undesirable rate schedule, suffer a tariff modification resulting in a 1300% distribution rate increase when the critical tariff provision is eliminated, operate at an approximately 33% higher demand rate than the next closest customer, and show a geological impediment to connecting to the nearest transmission facility for LP-5 service. PPLICA Remand M.B. pp. 11-12, 14. Donsco's uniqueness will be addressed in greater detail in the subsequent section but the relevancy at this point comes from the Commission's acknowledgement of Donsco's uniqueness. PPL concludes that flexible rates should not be approved absent a

compelling reason to do so. PPL Remand I.B. p. 13. What PPL ignores is that unlike the petitioner in *SEPTA*, PPLICA has provided the Commission with compelling circumstances as evidenced by the Commission's action in the Remand Order.

**B. Donsco's Unique Situation Presents a Compelling Reason for Establishing a Negotiated Rate**

The arguments set forth by PPL and OSBA should not alter the Commission's prior conclusion because the record contains facts showing that Donsco faces unique circumstances. As stated above, Donsco's unique situation arises from two principal facts and certain ancillary events. First, the Susquehanna River lies between Donsco's Wrightsville plant and PPL's North Columbia substation, rendering construction of 69 kV transmission lines both environmentally restricted and prohibitively expensive. Second, since converting to an electric melting process at the behest of the Pennsylvania Department of Insurance, Donsco has become an extraordinarily high demand customer, making its current Rate Schedule LP-4 rates impractical. These facts, coupled with the circumstances of Donsco's decision to accept Rate Schedule LP-4 service and the rate impact of the elimination of Time-of-Day rates, create the unique situation recognized by the Commission in the Remand Order.

However, PPL and OSBA attempt to diminish Donsco's situation by alleging that PPL's customer base includes legions of customers experiencing the same or comparable circumstances as Donsco. PPL begins by providing an overly narrow definition of "unique" which creates an unreasonable burden of proof. PPL then misconstrues Donsco's assertions of uniqueness by presenting each factor of the eligibility criteria suggested for Donsco's proposed Rate Schedule LP-4 SI as a claimed basis for negotiated rates. Additionally, PPL and OSBA collectively argue that:

- The 2010 base rate increase, including the elimination of Time-of-Day rates, did not affect Donsco any more than other ratepayers;
- The size of Donsco's load is not unique; and
- The environmental obstacles impeding Donsco's efforts to obtain Rate Schedule LP-5 service are not unique.

As demonstrated below, these arguments are not credible on their own merits. More importantly, PPL and OSBA ignore the cumulative contributions of each individual factor towards the creation of an overall unique situation.

### **1. PPL Applies Inappropriate Standards for Claims and Evidence of Uniqueness**

PPL's definition of unique should be rejected as overly narrow and contradictory to Commission precedent. PPL references an Illustrated Oxford Dictionary definition of unique as meaning: "of which there is only one, unequaled; having no like, equal or parallel." PPL Remand I.B. p. 15. However, PPL ignores an alternate definition meaning: "particularly remarkable, special or unusual."<sup>3</sup> As acknowledged by PPL, negotiated rates are often approved for situations involving bypass threats, alternative fuel supply or other loss of load scenarios. PPL Remand I.B. p. 33. If the Commission accepted PPL's definition of "unique," it would be virtually estopped from approving negotiated rates as the problems most commonly addressed by negotiated rates are not exclusively associated with any single customer. PPL's definition of unique is clearly inappropriate and should be rejected.

In tandem with its overly narrow definition of "unique," PPL applies a misplaced evidentiary standard for petitioners seeking relief under Section 2806(h). PPL claims that Donsco cannot testify to its uniqueness because it has not reviewed the circumstances of other LP-4 customers. PPL Remand I.B. p. 14. In fact, PPLICA has established that Donsco has a higher maximum monthly demand rate than any other LP-4 customer and experienced a higher

<sup>3</sup>Oxford Dictionaries available at <http://oxforddictionaries.com/definition/unique?region=us>. The definition provides the following example: "a unique opportunity to see the spectacular Bolshoi Ballet." *Id.*

percentage distribution rate increase than all but 5 of PPL's 1,100 LP-4 customers<sup>4</sup>. PPLICA Remand M.B. p. 14. PPLICA has also established the impediment that exists to Donsco converting to Rate Schedule LP-5, which would result in monthly distribution charges of \$709 rather than \$35,000. Id. at 11-12. PPLICA has established that Donsco's direct competitors in the territory are served on Rate Schedule LP-5, and that their voltage conversions were done prior to the policy change requiring customers to pay upfront for the costs of the conversion rather than providing revenue guarantees. PPLICA Remand Statement No. 1-R p. 5. All of this evidence is un rebutted. If PPL or OSBA had information to the contrary, those parties should have submitted it. PPLICA has carried its burden of proof and ultimate persuasion to demonstrate the existence of special circumstances warranting a flexible rate under Section 2806(h).<sup>5</sup> Donsco's direct competitors are the appropriate PPL customers to use as a comparison for purposes of this analysis to understand the competitive disadvantage that exists due to Donsco's inability to reasonably convert to Rate Schedule LP-5. Requiring a single customer to survey the entire PPL customer base is an insurmountable burden of proof. PPL's claim that Donsco has failed to produce evidence of its uniqueness should be rejected.

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<sup>4</sup> According to PPL's discovery response, only six of the LP-4 customers who experienced an increase of greater than 1000% remain PPL customers. PPLICA Cross Examination Exh. No. 7. Of those six, Donsco is the largest and has the highest difference in billing demand pre- and post-Time of Day billing. The other customers are a smaller foundry, a hotel, an entertainment complex, a packing and crating company, and a water supply facility. Id.

<sup>5</sup> While PPLICA bears the burden of persuasion on this matter, it is important to note that the burden of proof, or production, is shared between the various parties to this remand proceeding. As argued by none other than PPL in *Application of PPL Electric Utilities Corporation*, Recommended Decision, Docket No. A-2009-2082652, et. al. (Pa. P.U.C. Nov. 2009), "[T]he burden of persuasion never leaves the party on whom it is originally cast, but the burden of production may shift during the course of the proceedings." *Riedel v. County of Allegheny*, 159 Pa.Cmwth. 583, 591, 633 A.2d 1325, 1328 n. 11 (1993), see also *Hurley v. Hurley*, 2000 Pa. Super. 178, 754 A.2d 1283 (2000). Following the issuance of the above-referenced Recommended Decision, the Commission issued an Order affirming that "Once the party with the initial burden of production introduces sufficient evidence to make a *prima facie* case, that burden shifts to the opposing party." *Application of PPL Electric Utilities Corporation*, Opinion and Order, Docket No. A-2009-2082652, et. al. (Pa. P.U.C. Feb. 2010).

**2. PPL's Representation That Donsco Claimed Each Eligibility Standard for Rate Special LP-4 SI as a Unique Circumstance is Inaccurate**

By referencing the eligibility standards for Rate Schedule LP-4 SI as the substance of Donsco's claims of uniqueness, PPL has misinterpreted the reasons underlying Donsco's uniqueness and requested relief. In its attempt to depict Donsco as a normal customer, PPL states that:

- 1) Donsco also claims that it is unique because electric distribution costs affect its ability to provide jobs for the workforce;
- 2) *Donsco also contends that it is unique because it has a demand of greater than 4 MW;*
- 3) Donsco next contends that it is unique because its Wrightsville Foundry is in close proximity to a PPL Electric 69 kV facility;
- 4) 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;
- 5) 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.

See PPL Remand I.B. pp. 19-21. However, PPL misrepresents the context of Donsco's statements. PPLICA Witnesses Christopher A. Buck and Richard A. Baudino each address the five factual issues referenced by PPL. PPLICA Statement No. 1 p. 14, PPLICA Statement No. 2 p. 7. *However, they list the five factors as a minimum standard for eligibility for Rate Schedule LP-4 SI. This analysis serves as a method for implementing Donsco's alternative rate design, but the five factor qualifying standard was not presented as the defining elements of Donsco's uniqueness. The criteria was intended to identify an alternative for larger Rate Schedule LP-4 customers to obtain intraclass rate relief, which PPL has now agreed is warranted in its testimony supporting its alternative rate design for Rate Schedule LP-4. See PPL Statement No. 8-RM, p. 18 (explaining that higher demand customers in Rate Schedule LP-4 are paying*

disproportionately high rates in comparison to lower demand customers.) Donsco's uniqueness was clearly described by Mr. Buck as follows:

First, the elimination of the Time of Day option and the economic impact that we experienced is not the primary reason that we believe the Commission should approve the flexible pricing proposal. The primary reason is that we cannot take the steps that other similarly-sized customers can take to convert to Rate Schedule LP-5. We wanted 69 kV service in 1999 when we converted the melting process at Wrightsville to a more environmentally-friendly, but electric intensive process as discussed in my Direct Testimony. PPL concluded at that time that 69 kV service was not feasible because of the location of their transmission voltage facilities in relation to our plant and the need to place transmission voltage facilities across the Susquehanna River to meet our request. The same situation exists today, and presumably will exist into the future that *effectively prevents us from converting to Rate Schedule LP-5. Our electrical load is about 5 times larger than the average LP-5 customer.*

PPLICA Remand Statement No. 1-R p. 4. Mr. Buck's statement clarifies the foundations of Donsco's claim. Obviously, Donsco is not the only PPL customer located close to a PPL 69 kV substation. Neither is it the only PPL customer that has paid a revenue guarantee. Donsco similarly cannot claim to be the exclusive PPL customer concerned about employment in the face of high energy costs.

These are merely criteria that Donsco proposed as minimum standards for rate relief under its Rate Schedule LP-4 SI rate design. Based on PPL's testimony, these criteria could apply to 20 customers on Rate Schedule LP-4, which is less than two percent of the class. PPLICA Remand M.B. p. 26. If the Commission chooses to address Donsco's situation through this option, this is an appropriately small portion of the class to minimize the impact on the other Rate Schedule LP-4 customers. If the Commission wants to further limit the availability of Rate Schedule LP-4 SI, it could increase the demand threshold above 4 MW. *Id.* at 23. As the Commission's Remand Order recognized, the goal is to balance appropriate rate relief for

Donsco and the impact on other LP-4 customers. The criteria for Rate Schedule LP-4 SI can achieve that balance.

**3. PPL and OSBA Fail to Acknowledge the Special Aspects of Donsco's Circumstances**

As discussed above, PPLICA requests rate relief for Donsco because the company is unique in terms of its geographical and environmental barriers to obtaining 69 kV service and its operation of an extraordinarily high demand facility for an LP-4 customer. Although the Commission has already acknowledged Donsco's unfortunate and unique situation, PPL and OSBA continue to ignore the record evidence establishing that Donsco's circumstances merit negotiated rates. As emphasized in PPLICA's Remand Main Brief, Donsco experienced a tremendous increase in distribution rates due to the expiration of Time-of-Day rates but requests a negotiated rate primarily because of its uniquely high demand level, inability to convert to Rate Schedule LP-5 for 69 kV service, and the service of its direct competitors in the territory on Rate Schedule LP-5.

First, although not an essential element of its claim, Donsco was uniquely affected by the elimination of Time-of-Day rates. OSBA initially attempts to obfuscate the dramatic effect of the January 1, 2010 tariff modifications by claiming that any such increase is irrelevant to this docket since PPL filed its base rate increase on March 31, 2010. OSBA Remand M.B. pp. 3-4. PPLICA contends that the first base rate case filed by PPL since the elimination of Time-of-Day rates is a proper forum for addressing unreasonable consequences of the tariff change. Additionally, both PPL and OSBA claim that Donsco was not uniquely affected because many other customers incurred rate increases and financial challenges following the elimination of Time-of-Day rates. PPL Remand I.B. pp. 16-19, OSBA Remand M.B. p. 14. Unfortunately, many customers in PPL's territory did experience rate increases following the elimination of

Time-of-Day rates. However, as explained in PPLICA's Remand Main Brief, the data provided by PPL shows that Donsco is one of only six Rate Schedule LP-4 customers that experienced a distribution rate increase of more than 1000%. PPLICA Remand M.B. p. 15. The fact that five of PPL's 1,100 Rate Schedule LP-4 customers experienced rate increases commensurate with Donsco's hardly detracts from the uniqueness of Donsco's overall situation. Particularly as the large rate increase is merely an ancillary basis for Donsco's request. See supra pp. 10-11.

Second, the arguments set forth by PPL and OSBA significantly understate Donsco's uniquely large demand in comparison to other LP-4 customers. All parties to this proceeding acknowledge that Donsco has, by a wide margin, the highest billing demand of any customer on Rate Schedule LP-4. PPLICA Remand M.B. pp. 15-16. The numbers are compelling; Donsco's monthly billing demand is approximately 16 MW with the next highest LP-4 customer measuring approximately 12 MW and the class average at 1 MW. Id. at 12.

Regardless of Donsco's tremendous billing demand, PPL and OSBA continue to unpersuasively argue that Donsco is not unique. PPL cites to *SEPTA* and *United States Steel Corp. v. Pa. P.U.C.*, 390 A.2d 849 (Pa. Cmwlth. 1978) ("US Steel") for the proposition that large customers are not entitled to a special rate due to their size. PPL Remand I.B. p. 22. However, as discussed above, the Commonwealth Court's concurrence with the Commission's denial of special rates on account of size in particular circumstances does not remove or disturb the Commission's discretionary power to approve a negotiated rate in a subsequent proceeding. See supra pp. 5-6. This is a particularly important distinction because the Commission rejected the petitioner's claims in *SEPTA* and *US Steel*, but this Commission has already recognized that "PPLICA has demonstrated reasoned arguments for this Commission to consider the rate relief requested." Remand Order p. 13.

Both PPL and OSBA improperly dismiss the significance of Donsco's large billing demand by referencing other large users. OSBA observes that 20 other LP-4 customers have billings demands greater than 4 MW. OSBA Remand M.B. p. 15. Although Donsco set a 4 MW threshold for Rate Schedule LP-4 SI, it is the company's maximum monthly billing demand of 16 MW, far in excess of any other LP-4 customer, which establishes its uniqueness. PPLICA Remand M.B. p. 12. Moreover, even a quality distinguishing 20 customers out of 1,100, i.e. 2% of the LP-4 class, could be considered unique. PPLICA Remand M.B. p. 23.

Following the same pattern, PPL claims that Donsco's billing demand is not unique because each rate class, from residential through LP-5, has a high user with a billing demand much greater than the class average. PPL Remand I.B. pp. 22-24. Donsco's billing demand is not only far in excess of the class average, but also far beyond that of the next highest customer. More importantly, the fact that every class has a high user cannot logically rebut Donsco's claim that its billing demand is unique among LP-4 customers. Despite PPL's insistence that billing demand is irrelevant to a customer's rate schedule classification, its own data demonstrates a clear correlation between rate class and billing demand. Id. at 23. For example, GS-3 customers have an average monthly demand of 82 kW versus 6 kW for GS-1 customers. Id. at 23. At 16 MW, Donsco's billing demand is even higher than the class average demand for Rate Schedule LP-5, which is approximately 4 MW. PPLICA Remand Statement No. 1-R p. 4. The evidence overwhelmingly establishes that Donsco's monthly billing demand is unique among LP-4 customers and PPL's and OSBA's arguments to the contrary should be disregarded.

Third, the contention that Donsco is just like any other LP-4 customer in that it is connected to the distribution grid ignores the detailed history surrounding the unique geographical and environmental impediments that have prevented Donsco from obtaining service

on Rate Schedule LP-5. PPL argues that the impediments posed by the Susquehanna River are no different from those faced by other LP-4 customers. PPL Remand I.B. pp. 21, 25-27. Both OSBA and PPL claim that Donsco is physically connected to the distribution system and therefore should not be treated differently from any other LP-4 customer. OSBA Remand M.B. p. 15, PPL Remand I.B. p. 25. These positions inappropriately downplay the historical ramifications of the Susquehanna River upon Donsco's electric distribution rates.

The Susquehanna River imposes prohibitive costs upon Donsco's attempts to obtain LP-5 service. PPL claims that Donsco is "not correct factually" in its assertion that the Susquehanna River is an obstacle to receiving service under Rate Schedule LP-5. PPL Remand I.B. p. 21. In support of this claim, PPL cites Donsco's inquiry into an option of receiving service from a Metropolitan Edison substation. Id. This argument must fail because Donsco would not consider the \$12 million Metropolitan Edison project, which would require construction of a 5.5 mile underground transmission line, if not for the Susquehanna River creating a barrier between Donsco's Wrightsville's facility and PPL's North Columbia substation. More importantly, Donsco is located in PPL's territory. PPL cannot provide the 69 kV service that Donsco desires. The two most viable options for traversing the Susquehanna River proposed by PPL are either environmentally infeasible (constructing an overhead transmission line across the river) or estimated to cost upwards of \$10 million with no guarantee of success (tunneling under the river and laying underground cable). PPLICA Statement No. 1, pp. 10-11 (R.R. Tab 3). Comparatively, the most expensive conversion project that PPL has completed since 1996 cost \$7.5 million and did not carry the risks of traversing a river. PPLICA Cross-Examination Exh. No. 3 (R.R. Tab 12).

The Susquehanna River's impact upon Donsco's distribution rates dates back to the company's initial request for service from PPL. As stated previously, PPL and OSBA believe that Donsco is no different from any other Rate Schedule LP-4 customer because it takes service at primary voltage. PPL Remand I.B. p. 25, OSBA Remand M.B. p. 15. This may be a correct assessment of Donsco's current tariff rate classification but it certainly does not adequately represent the totality of the situation faced by Donsco and recognized by the Commission in the Remand Order. The fact is, Donsco would never have agreed to take service at primary voltage but for the environmental issues and cost issues related crossing the Susquehanna River. PPLICA Remand M.B. p. 14. PPLICA Witness Christopher A. Buck describes the effect of the Susquehanna River on Donsco's distribution service as follows:

We requested service on Rate Schedule LP-5, but were told that, due to our location across the Susquehanna River from Columbia, 69 kV service on Rate Schedule LP-5 was impractical because of environmental concerns and cost. There were also concerns about whether the 69 kV service could be installed on a timeframe that would satisfy DEP's requirements.

PPLICA Statement No. 1 p. 9 (R.R. Tab 3). As referenced in PPLICA's Remand Main Brief, Donsco was historically able to mitigate the financial impact of operating a high demand facility on 12 kV service through Time-of-Day rates. PPLICA Remand M.B. p. 11. However, following the elimination of Time-of-Day rates, Donsco is relegated to operating the same high demand facility at a distribution cost of \$35,000 per month versus the \$2,500 monthly distribution charges paid under Time-of-Day rates or the \$709 monthly distribution charges paid by Rate Schedule LP-5 customers. *Id.* at 11-12. Contrary to PPL's claims, Donsco vigorously pursued the option to purchase the 12 kV facilities to connect directly to PPL's 69 kV line but was informed by PPL that the proposal was not practical due to reliability concerns and electrical code restrictions. *Id.* at 27. The record demonstrates that Donsco's geographic location in

relation to PPL's North Columbia substation presents enormous cost and environmental barriers to obtaining the service that Donsco originally requested from PPL.

PPLICA also notes that the arguments advanced by PPL and OSBA claiming that Donsco has been treated "fairly" also undermine the unique circumstances faced by the company. PPL points out that Donsco has not been singled out for adverse treatment, citing PJM's change to its Open Access Transmission Tariff ("OATT") which now requires connections to be paid for by the entity requesting the connection. PPL Remand I.B. p. 26. OSBA makes a similar argument, stating that Donsco's 1,300% increase in distribution rates is "fair" because the company should not have been receiving Time-of-Day savings for distribution rates. However, these policy changes dramatically impacted Donsco because of its unique situation. PJM's OATT modification did not cause Donsco's situation but nevertheless, because Donsco cannot connect to PPL's 69 kV line, it must pay \$35,000/month for distribution service while its direct competitors in the same service territory pay \$709/month for distribution service. PPLICA M.B. pp. 11-12. Those direct competitors installed 69 kV service prior to the policy changes, and were not required to pay the costs of making that conversion. PPLICA Remand Statement No. 1-R p. 5, PPL Remand I.B. p. 26. Similarly, the fact that Time-of-Day rates were originally devised to mitigate generation-related costs does not make Donsco's participation in the program a historic inequity. Donsco used Time-of-Day rates to mitigate the otherwise unjust and unreasonable costs of operating an extraordinarily high demand facility on Rate Schedule LP-4 and now faces a present inequity following their elimination. While not the origin of Donsco's unique situation, the policy changes referenced by PPL and OSBA highlight the consequences of Donsco's inability to obtain 69 KV service.

Finally, the combination of Donsco's substantial distribution rate increase, geographic and environmental impediments to taking 69 kV service, and extraordinarily high demand rate results in a unique situation that the Commission should remedy through its Section 2806(h) power to approve negotiated rates. As recognized in the Remand Order, the Commission has the power to address the specific needs of a utility. Further, the Commission found that Donsco has demonstrated sufficiently unique circumstances to justify relief under Section 2806(h). As previously stated, the Commission should disregard the arguments of PPL and OSBA attempting to diminish the unique nature of Donsco's situation as the Remand Order did not place this question before the parties. However, if the Commission desires to consider such arguments, they should be rejected as unsupported by record evidence.

#### **IV. PPLICA'S RECOMMENDED NEGOTIATED RATE AND PROPOSED RATE DESIGNS MEET THE OBJECTIVES OF THE REMAND ORDER**

*The negotiated rate and preferred rate designs proposed by PPLICA in its Remand Main Brief satisfy the objectives of the Remand Order and should be approved by the Commission. In response to the Commission's directives in the Remand Order, PPLICA calculated a negotiated fixed rate for Donsco's distribution service. PPLICA then proposed two options for implementing the negotiated rate. In calculating the negotiated rate and structuring the rate design proposals, PPLICA adopted non-conventional ratemaking measures, which normally establish a rate applicable to an entire class. This is hardly surprising as negotiated rates are most needed where traditional ratemaking proves inadequate. Consequently, the claims that PPLICA violated traditional ratemaking principles are irrelevant. PPLICA's negotiated rate is based on cost of service principles and balanced against the circumstances of Donsco's situation. The negotiated rate and proposed rate designs also comply with the Remand Order's directive to address Donsco's unique circumstances without unduly burdening other ratepayers. The*

Commission should reject PPL and OSBA's arguments regarding the impropriety of PPLICA's recommendations, approve the negotiated rate, and modify PPL's tariff in accordance with either (or both) of PPLICA's recommendations.

**A. PPLICA's Recommendations**

PPLICA has calculated a negotiated rate and proposed rate designs in accordance with the Commission's directives. However, PPL and OSBA claim that PPLICA's recommendations violate standard ratemaking principles by incorporating non-traditional cost of service and rate of return principles. Their arguments should be rejected as PPLICA proposed negotiated rate properly accounts for Donsco's cost of service.

PPLICA Witness Richard A. Baudino began the process of calculating a negotiated rate by determining an annual revenue requirement for the facilities used to serve Donsco. PPLICA Remand M.B. p. 19. His methodology resulted in an annual revenue requirement of \$156,741 and a monthly revenue requirement of \$13,062. Id. This was based on the costs and utility plant identified by PPL, and Mr. Baudino's expert opinion that the return on equity proposed by OCA Witness Steven Hill was appropriate for purposes of calculating a flexible rate such as this.<sup>6</sup> To develop an appropriate negotiated rate based on the monthly revenue requirement, Mr. Baudino considered the large increase in monthly distribution charges from Donsco's December 2009 expense of \$2,500 to the \$13,000 revenue requirement.<sup>7</sup> Id. at 11-12, 19. He also considered the fact that O&M expenses were estimated rather than actual and the potential for overstatement of administrative and general costs in PPL's data. Id. at 19. To account for these factors, Mr. Baudino recommended a fixed negotiated rate of \$11,000 per month for Donsco's

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<sup>6</sup> As Mr. Baudino explained on cross-examination, his expertise includes providing rate of return testimony. See Tr. at 555.

<sup>7</sup> Donsco's December 2009 distribution expense were \$2,500 but Mr. Baudino references a \$5,000 figure which represents the 2009 expense adjusted for the expiration of the Remand Riders and EDI credits. PPLICA Remand M.B. p. 11-12, 19.

distribution service to be retroactively applied as of effective date of new rates from the base rate proceeding. Id. at 20-21.

To implement the negotiated rate, Mr. Baudino proposed two rate options. The preferred method would modify PPL's tariff to include explicit recognition of the Company's authority to allow flexible rate pricing pursuant to Section 2806(h) of the Public Utility Code. PPLICA Remand M.B. p. 22. The language to be added to PPL's Tariff was attached as Appendix A to PPLICA's Remand Main Brief. This solution would provide maximum flexibility by allowing the Commission to grant Donsco's requested relief without proscribing standards that would be applicable to any qualifying entity.<sup>8</sup> Id. The tariff language mirrors the statutory language that the Commission must apply to requests for negotiated rates under Section 2806(h).

Alternatively, the Commission could create the LP-4 SI Rate Schedule in accordance with Mr. Baudino's eligibility criteria. PPLICA Remand M.B. p. 23. Unlike the preferred solution, PPLICA's alternative would require objective standards like any other tariff rate which would necessarily expand the applicability of the rate beyond Donsco. This solution would potentially extend the negotiated rate to as many as 20 customers based on PPL's assessment of Mr. Baudino's eligibility criteria. Id. at 23. However, the Commission could reduce the number of potential qualifying customers by increasing the demand eligibility requirement from 4 MW to 6 MW. Id. As a final alternative, Mr. Baudino noted that the Commission could consider the modified version of Rate Schedule LP-4 proposed by Mr. Kasper provided that Mr. Kasper's proposed 10 MW demand cutoff is reduced to at least 6 MW. Id. at 24.

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<sup>8</sup> PPL and OSBA fail to appreciate that this solution makes negotiated rates discretionary and therefore limited to customers that PPL or the Commission designate for negotiated rate contracts. Therefore, this option provides greater limits on eligibility than the Rate Schedule LP-4 SI rate design which would allow customers meeting the tariff criteria to demand the negotiated rate. See PPLICA Remand M.B pp. 22-23 contra OSBA Remand M.B. p. 20 citing PPL Statement No. 8-RM.

**B. PPLICA's Recommended Negotiated Rate Is Based On Cost of Service Principles**

The Commission should disregard PPL and OSBA's assertions that the negotiated rate and proposed rate design methods ignore traditional ratemaking principles. PPL argues that PPLICA's negotiated rate fails to incorporate the Commission's approved cost of service methodology. PPL Remand I.B. p. 29. However, Mr. Baudino addresses the necessity for deviating from the Commission's traditional cost of service method:

I am very well aware that my proposal does not follow a traditional allocated cost of service approach. But for the reasons that are set forth in my testimony and the testimony of Mr. Christopher Buck, PPLICA is asking the Commission to follow a different, non-traditional alternative for Donsco. The application of traditional cost of service ratemaking simply does not fit Donsco and results in Donsco paying excessive rates that are harming the company economically.

PPLICA Statement No. 2-S p. 3. Mr. Baudino's statement exposes the critical flaw in PPL's argument. Because Donsco takes service on two dedicated 12 kV lines and does not benefit from the broader distribution system, an individualized direct assignment of costs is necessary to accurately calculate the true cost of its distribution facilities. See PPLICA Remand M.B. p. 11. Therefore, Mr. Baudino's use of an alternative ratemaking methodology is entirely appropriate.

Similarly, the Commission should reject PPL's and OSBA criticism of the rate of return deriving from Mr. Baudino's proposal. Both parties claim that the rate of return at PPLICA's recommended negotiated rate of \$11,000 per month is insufficient. OSBA argues that the cost basis to determine the revenue requirement should be the current LP-4 rate of 13.19%. OSBA Remand M.B. p. 23. PPL does not appear to recommend a specific rate but notes that the rate of return at Mr. Baudino's cost of service of \$13,062 (7.78%) or recommended rate of \$11,000 (5.52%) falls below the approved returns from recent Commission decisions. PPL Remand I.B. pp. 29-30. These arguments should be rejected because the efforts to impose traditional rate of return principles ignore the overall purpose of the negotiated rate "to alleviate Donsco's inability

to take LP-5 service and the resulting inequity under current rates." PPLICA Remand M.B.

p. 25.

The monthly distribution costs of Donsco's direct competitors in the territory are \$10,000 less than the \$11,000 rate that Donsco proposed, and \$120,000 less per year. Without a negotiated rate, this differential grows to over \$411,000 annually  $[(\$35,000 - \$709) \times 12 = \$411,492]$ . As Mr. Buck explained, the money paid by Donsco to PPL for distribution service is money that is not available to reinvest in equipment for the Wrightsville facility. PPLICA Remand Statement No. 1-R, p. 3. Over time, Donsco's competitors can use this differential to either undercut Donsco's prices or to make plant upgrades that Donsco must forgo. Or, Donsco's competitors can use this differential to offer more competitive salary and benefits packages to attract the best employees. "For each additional \$100,000 that Donsco pays for electric distribution service, this would amount to almost a \$900 annual wage and benefit increase" for Donsco's 112 workers. *Id.* at 2. Mr. Baudino's recommendation to reduce the monthly rate from \$13,000 to \$11,000 takes into account the competitive situation of Donsco vis-à-vis its direct competitors in the territory, as well as the previously discussed reasons that PPL's cost data may be overstated (*i.e.*, O&M costs are estimated) and gradualism. PPLICA Remand M.B. p. 19.

PPL's contention that Donsco's negotiated rate conflicts with *Lloyd v. Pa. PUC*, 904 A.2d 1010 (Pa. Cmwlth. 2006) should also be rejected. PPL states that PPLICA's negotiated rate of \$11,000 per month is not based on cost of service as required by *Lloyd*. PPL Remand I.B. p. 30. As explained above, Mr. Baudino based the negotiated rate on cost of service principles and gradualism and other relevant factors. PPLICA Remand M.B. p. 19. PPLICA believes that Mr. Baudino's recommended negotiated rate adequately balances Donsco's cost of service with the

protections of gradualism. However, if the Commission disagrees with Mr. Baudino's recommended negotiated rate, at most the rate should be set at the monthly revenue requirement of \$13,062 as calculated by Mr. Baudino.

**C. PPLICA's Preferred Rate Design and Alternative Rate Design Do Not Unduly Burden Other Ratepayers and Are Tailored To Meet Donsco's Specific Needs**

OSBA makes various claims regarding allegedly unfair effects of PPLICA's proposals upon other customer classes. Each of these claims is without merit and should be rejected. PPLICA's recommended negotiated rate was designed to relieve Donsco's inequitable situation without unduly burdening other ratepayers in compliance with the Remand Order. Further, if implemented through PPLICA's preferred rate option, the negotiated rate imposes minimal costs upon the remaining LP-4 customers. Accordingly, PPLICA's recommended negotiated rate should be approved by the Commission.

OSBA first claims that granting PPLICA's requested relief would be unfair to PPL's GS-1 and GS-3 customers because they were denied a rate decrease in the base rate case while LP-4 customers experienced a rate decrease. OSBA Remand M.B. p. 5. In the base rate case, the Commission approved a rate structure allocating 100% of the rate increase to the residential class but rejected OSBA's proposal to allocate more than 100% of the allowed increase to the residential class to create a rate decrease to GS-1 and GS-3 customers. December 21 Order, pp. 46-47. Although the Commission's approved rate structure did not allocate any of the increase to the Large C&I class, the approved rate redesign resulted in a decreased volumetric charge for LP-4 customers which amounts to on approximately 6.7% decrease in distribution rates for Donsco. The OSBA's characterizes the effects of the LP-4 rate design as a "rate decrease" only by refusing to acknowledge the de facto rate increase resulting from the January 1, 2010 elimination of Time-of-Day rates. See OSBA Remand M.B. p. 5. Considering that Donsco's

distribution rates increased by 1,300% on January 1, 2010, the subsequent 6.7% "decrease" referenced by OSBA hardly places Donsco in a better position than the GS-1 and GS-3 customers.

OSBA's arguments concerning the recovery of the revenue shortfall resulting from PPLICA's recommended negotiated rate should be rejected in favor of the recovery proposal set forth in PPLICA's Remand Main Brief. OSBA claims that recovering the revenue shortfall from the remaining LP-4 customers unfairly burdens LP-4 customers because they are already paying above the cost of service whereas LP-5 and LP-6 customers are paying below their cost of service. OSBA Remand M.B. p. 30. OSBA also claims that PPLICA's proposed rate designs violate Section 2806(h) because neither is narrowly tailored to meet the needs of a "specific customer." Id. at 19.

Initially, PPLICA is surprised by the OSBA's newly discovered interest in the welfare of any Rate Schedule LP-4 customers. OSBA's testimony in the initial proceeding did not list Rate Schedule LP-4 as one of the small commercial rates that is under the OSBA's constituency. OSBA Statement No. 1, p. 2 (Appendix A). OSBA did not address the rate design for Rate Schedule LP-4 in its original testimony. Tr. at 592. OSBA's witness did not know how many LP-4 customers employ less than 250 employees, which is part of the definition of "Small Business" in the OSBA's enabling statute.<sup>9</sup> See Tr. at 592., contra Small Business Advocate Act, 73 P.S. § 399.42 (2011). Most importantly, OSBA actually argued in favor of increasing rates for customers on Rate Schedule LP-4, stating that "[PPL's] revenue allocation proposal at the full requirement can be made more consistent with allocated cost results by assigning rate increases

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<sup>9</sup> PPLICA respectfully adds that that the Small Business Advocate Act authorizes the OSBA to represent the interest of small business consumers and defines such consumers as business entities employing fewer than 250 employees and which receive public utility service under a small commercial, small industrial or small business rate classification. Small Business Advocate Act, 73 P.S. § 399.42, 45 (2011). Notably, the LP-4 Rate Schedule is a Large General Service class.

to the LP-4, LP-5 and LP-6 rate classes... " OSBA Statement No. 1, p. 2, see also Tr. at 593. Now, despite the fact that the LP-4 is a Large General Service rate class, OSBA has expended considerable resources to argue that a flexible rate proposing to recover costs from within the LP-4 customer class is unfair to other LP-4 ratepayers and apparently to GS-1 and GS-3 customers as well.

In response, PPLICA reiterates that approving Mr. Baudino's negotiated rate will result in a 0.64% increase to LP-4 revenue, with eligibility restricted to Donsco under PPLICA's preferred rate design. PPLICA Remand M.B. p. 26. The LP-4 customers, including Donsco's Mount Joy facility, will experience a 0.64% increase so that Donsco's Wrightsville plant can go from paying distribution costs that increased by over 1000% in excess of December 31, 2009 levels, to paying distribution costs representing a 400% increase from December 31, 2009 levels.<sup>10</sup> Donsco is not proposing to pay the LP-5 charge of \$709 per month that its direct competitors pay, nor the \$2,500 per month that it paid under the Time of Day option; rather, Donsco is accepting a 400% increase in its distribution costs over the December 2009 level. Under PPLICA's alternative rate design, only 19 additional customers, out of the 1,100 LP-4 customer base, would be potentially be able to seek a negotiated rate under Rate Schedule LP-4SI. Id. at 23. The Commission could reduce this number further by raising the maximum monthly demand eligibility requirement from 4 MW to 6 MW.<sup>11</sup> PPLICA Remand M.B. 23. Mr. Baudino's proposal to recover the shortfall from within the LP-4 customer class is sufficiently tailored in compliance with Section

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<sup>10</sup> Mr. Baudino's recommended \$11,000 monthly distribution charge represents an approximately 400% increase from Donsco's December 2009 distribution expense of \$2,500. Using the \$5,000 figure derived from adjusting Donsco's December 2009 distribution expense for the expiration of the Remand Rider and EDI credits, the \$11,000 monthly distribution charge represents an approximately 120% increase. See PPLICA Remand M.B. p. 19, see also supra note 7.

<sup>11</sup> Mr. Baudino also recommends that the benefits accruing to all customers from special contract customer fixed cost contributions be examined in a future case to determine whether such lost revenues should be recovered from all customers. PPLICA Remand M.B. p. 26.

2806(h), imposes minimal burdens upon other ratepayers, and should be approved by the Commission.

**V. CONCLUSION**

**WHEREFORE**, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission accept the PP&L Industrial Customer Alliance's Recommendation to grant flexible rate pricing for Donsco, Inc. by adopting the Suggested Tariff Provision, Rate Schedule LP-4 SI, or otherwise revising PPL's tariff to implement a monthly charge of \$11,000 for distribution service.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Pamela C. Polacek (I.D. No. 78276)  
Adeolu A. Bakare (I.D. No. 208541)  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 237-5300

Counsel to the PP&L Industrial Customer Alliance

Dated: October 18, 2011

OSBA STATEMENT NO. 1

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY  
COMMISSION

v.

PPL ELECTRIC  
UTILITIES, INC.

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Docket No. R-2010-2161694

Direct Testimony and Exhibits of

ROBERT D. KNECHT

On Behalf of the

Pennsylvania Office of Small Business Advocate

Topics:

Cost Allocation  
Revenue Allocation  
Rate Design

Date Served: June 29, 2010

Date Submitted for the Record: \_\_\_\_\_

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**DIRECT TESTIMONY OF ROBERT D. KNECHT**

1    **I.    Witness Identification and Summary of Conclusions**

2    **Q.    Mr. Knecht, please state your name and briefly describe your qualifications.**

3    A.    My name is Robert D. Knecht. I am a Principal and the Treasurer of Industrial  
4        Economics, Incorporated ("IEc"), a consulting firm located at 2067 Massachusetts  
5        Avenue, Cambridge, MA 02140. I specialize in the economic analysis of basic industries.  
6        As part of my consulting practice, I have prepared analyses and expert testimony in the  
7        field of regulatory economics on a variety of topics. I obtained a B.S. degree in  
8        Economics from the Massachusetts Institute of Technology in 1978, and a M.S. degree in  
9        Management from the Sloan School of Management at M.I.T. in 1982, with  
10       concentrations in applied economics and finance. I am appearing in this proceeding on  
11       behalf of the Pennsylvania Office of Small Business Advocate ("OSBA"). I also  
12       represented OSBA in the base rates proceedings for PPL Electric Utilities, Inc. ("PPL  
13       Electric" or "the Company") and its predecessor in 1995 (Docket No. R-00943271), 2004  
14       (Docket No. R-00049255) and 2007 (Docket No. R-00072155), and in the Company's  
15       restructuring proceeding in 1997 (Docket No. R-00973954).

16       My résumé and a listing of the expert testimony that I have filed in utility regulatory  
17       proceedings during the past five years are attached in Exhibit IEc-1.

18    **Q.    Please describe your assignment in this matter.**

19    A.    OSBA requested that I review the filing of PPL Electric in this proceeding to evaluate  
20        whether the rates proposed for small business customers are consistent with sound  
21        economics and regulatory principles. My analysis focuses primarily on issues related to  
22        cost allocation, revenue allocation and rate design.

23    **Q.    Please summarize the conclusions from your review.**

24    A.    My conclusions are as follows:

- 1           1. In this proceeding, PPL Electric proposes to modify its methodology for classifying  
2           and allocating primary electric distribution system costs from the methodology that it  
3           has used for many years. While the proposed method is (for the most part) not  
4           outside the range of accepted practice, I recommend that the Commission also  
5           consider an alternative cost allocation approach advanced in this testimony when  
6           evaluating revenue allocation and rate design issues.
  
- 7           2. PPL Electric witness Mr. Joseph Kleha presents the results of various alternative  
8           simulations of the PPL Electric cost of service study ("COSS"). Because none of  
9           these simulations is grounded in cost causation principles, none should be given any  
10          weight by the Commission in this proceeding.
  
- 11          3. At the full requested rate increase of \$114.7 million, PPL Electric proposes to assign  
12          no rate increase to small business customers served under rate classes GS-1, GS-3,  
13          and GH. The Company's proposal in this respect is directionally consistent with the  
14          average of the results of the updated PPL Electric COSS and the alternative "PPL  
15          Prior Method" COSS that I present in this testimony. However, my COSS analysis  
16          indicates that the Company's revenue allocation proposal at the full requirement can  
17          be made more consistent with allocated cost results by assigning rate increases to the  
18          LP-4, LP-5 and LP-6 rate classes, with offsetting reductions to the proposed increase  
19          for the residential RS class.
  
- 20          4. If the requested overall increase of \$114.7 million is reduced by the Commission, the  
21          COSSs upon which I rely support an assignment of first dollar relief ("FDR") to the  
22          GS-1, GS-3 and LPEP rate classes. I offer a specific FDR proposal in this testimony.
  
- 23          5. PPL Electric's proposal to continue the transition to recovering distribution costs  
24          from GS-1 and GS-3 rate classes through the customer and demand charges is  
25          reasonable.
  
- 26          6. PPL Electric's proposal for the GH-1 customers will result in rates paid by that class  
27          which exceed those for comparable service under schedule GS-3. The GH-1 tariff  
28          should be closed, and the customers moved to GS-3 service. Revenues lost as a result

1 of the closure of the GH-1 schedule should be recovered through increases to the  
2 schedule GH-2 demand charge. Increasing the GH-2 demand charge will also reduce  
3 the differences between rates for GH-2 and GS-1 service.

4 **Q. How is the balance of your testimony organized?**

5 A. Section 2 reviews the Company's cost allocation methodology, focusing on the  
6 significant change proposed by PPL Electric in this proceeding. Section 3 addresses  
7 revenue allocation, under both the full proposed and reduced revenue requirements.  
8 Section 4 addresses rate design for the GS-1, GS-3 and GH rate classes.

9 **Q. Is your testimony final?**

10 A. No, it is not. I received responses to some of the OSBA interrogatories from the  
11 Company less than three days prior to the time of this writing. In those responses, the  
12 Company identifies a number of errors in its filed COSS, which the Company apparently  
13 plans to address by issuing an updated version of its filed COSS.<sup>1</sup> While I have  
14 attempted to recognize these responses in an updated COSS presented in this testimony,  
15 my analysis is ongoing. I also have not completed my analysis of other aspects of the  
16 COSS based on the interrogatory responses just received, and have not received responses  
17 to all of the OSBA interrogatories. If my continuing analysis results in substantive  
18 changes to my analytical results or to the conclusions in this testimony, I will submit  
19 supplemental direct testimony.

20 **2. Cost Allocation**

21 **Q. What is the purpose of a utility's COSS?**

22 A. The most important factor for establishing regulated utility rates is the cost incurred by  
23 the utility for providing the service.<sup>2</sup> To assign costs to specific customers, utilities  
24 aggregate customers into rate classes, within which the customers have similar load sizes,

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<sup>1</sup> As a result of my schedule, this testimony needed to be in near-final form by June 17, 2010.

<sup>2</sup> The Commonwealth Court re-affirmed this basic principle, referring to cost of service as the "polestar" criterion. Lloyd v. Pennsylvania Public Utility Commission, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006).

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

**VIA E-MAIL AND FIRST CLASS MAIL**

Aron J. Beatty, Esq.  
Tanya J. McCloskey, Esq.  
Office of Consumer Advocate  
5<sup>th</sup> Floor, Forum Place Bldg.  
555 Walnut Street  
Harrisburg, PA 17101-1921  
[abeatty@paoca.org](mailto:abeatty@paoca.org)  
[tmccloskey@paoca.org](mailto:tmccloskey@paoca.org)

Todd S. Stewart, Esq.  
Hawke McKeon & Sniscak, LLP  
P.O. Box 1778  
100 North Tenth Street  
Harrisburg, PA 17105-1778  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

Steven C. Gray, Esq.  
Office of Small Business Advocate  
1102 Commerce Building  
300 North Second Street  
Harrisburg, PA 17101  
[sgray@state.pa.us](mailto:sgray@state.pa.us)

Daniel Clearfield, Esq.  
Deanne M. O'Dell, Esq.  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8<sup>th</sup> Floor  
P.O. Box 1248  
Harrisburg, PA 17101  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)

Richard A. Kanaskie, Esq.  
Lawrence F. Barth, Esq.  
Carrie B. Wright, Esq.  
Office of Trial Staff  
PA Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor West  
Harrisburg, PA 17105-3265  
[rkanaskie@state.pa.us](mailto:rkanaskie@state.pa.us)  
[lbarth@state.pa.us](mailto:lbarth@state.pa.us)  
[carwright@state.pa.us](mailto:carwright@state.pa.us)

John H. Isom, Esq.  
David B. MacGregor, Esq.  
Post & Schell, P.C.  
17 N. Second St., 17<sup>th</sup> Floor  
Harrisburg, PA 17101  
[jisom@postschell.com](mailto:jisom@postschell.com)  
[dmacgregor@postschell.com](mailto:dmacgregor@postschell.com)

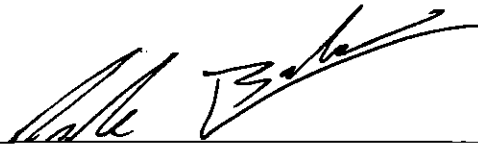
Eric Joseph Epstein  
4100 Hilldale Road  
Harrisburg, PA 17112  
[lechambon@comcast.net](mailto:lechambon@comcast.net)

Kenneth L. Mickens, Esq.  
Attorney for the Sustainable Energy Fund  
316 Yorkshire Drive  
Harrisburg, PA 17111-6933  
[kmickens11@verizon.net](mailto:kmickens11@verizon.net)

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SECRETARY'S BUREAU

Joseph L. Vullo, Esq.  
Burke Vullo Reilly Roberts  
1460 Wyoming Avenue  
Forty Fort, PA 18704  
jlvullo@aol.com

Craig A. Doll, Esq.  
25 West Second Street  
P.O. Box 403  
Hummelstown, PA 17036-0403  
cdoll176342@aol.com



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Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

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