

# PENNSYLVANIA UTILITY LAW PROJECT

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November 22 , 2011

## VIA ELECTRONIC FILING (E-FILING)

Secretary Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: PPL Electric Utilities Corporation Universal Service and Energy Conservation Plan for 2011 through 2013, Docket No. M-2010-2179796**

Dear Secretary Chiavetta:

Please accept for filing, on behalf of Lorrie Koons, in the above captioned matter a Petition and Complaint to Stay Modification of PPL Electric Utilities Corporation Universal Service and Energy Conservation Plan for 2011 through 2013 and Implementation of revisions to Appendix A to Tariff-Electric PA. P.U.C. No 201 Concerning Implementation of a CAP-Plus Plan. All parties to this proceeding received notice of the Petition and Complaint via first class and electronic mail. Please feel free to contact me directly should you have any questions. A Certificate of Service is attached.

Very truly yours,



Harry S. Geller, Esq.

Enclosure

cc: Certificate of Service  
Hon. Robert F. Powelson, Chairman  
Hon. John F. Coleman Jr., Vice-Chairman  
Hon. James H. Caweley, Commissioner  
Hon. Wayne E. Gardner, Commissioner  
Hon. Pamela A. Witmer, Commissioner

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PPL Electric Utilities Corporation :  
Universal Service and Energy :                   Docket No. M-2010-2179796  
Conservation Plan for 2011 through 2013 :**

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**PETITION AND COMPLAINT TO STAY MODIFICATION OF  
PPL ELECTRIC UTILITIES CORPORATION UNIVERSAL SERVICE  
AND ENERGY CONSERVATION PLAN FOR 2011 THROUGH 2013 AND  
TO STAY IMPLEMENTATION OF APPENDIX A TO TARIFF —  
ELECTRIC PA. P.U.C. NO. 201 CONCERNING IMPLEMENTATION OF A  
CAP-PLUS PLAN**

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TO THE HONORABLE COMMISSION:

Lorrie Koons, through counsel, the Pennsylvania Utility Law Project, hereby Petitions for a stay of the unilateral modification of PPL Electric Utilities Corporation Universal Service and Energy Conservation Plan for 2011 through 2013 by implementation of a CAP-Plus plan and states as follows:

1. On June 1, 2010, pursuant to 52 Pa. Code §62.4(1), PPL Electric Utilities Corporation (“PPL” or “the Company”) filed for approval of its Universal Service and Energy Conservation Plan 2011-2013 (“Plan”) at Docket Number M-2010-2179796.
2. The Plan outlines how the Company will administer its Universal Service and Energy Conservation programs during the three-year period of 2011-2013,

including its OnTrack Payment Program; Winter Relief Assistance Program (“WRAP”); Customer Assistance, Referral and Evaluation Service (“CARES”); and hardship fund, Operation HELP. The Plan also discusses the Company’s administration of the federal Low Income Home Energy Assistance Program (“LIHEAP”).

3. The Petitioner, Lorrie Koons (“Petitioner”) is a residential customer of PPL.
4. Petitioner currently resides at 2830 N. 2<sup>nd</sup> Street, Harrisburg, PA 17110.
5. Petitioner is a low-income customer whose recertification to participate in PPL’s On Track CAP is pending.
6. Petitioner is afflicted with Hodgkin’s Lymphoma and is disabled.
7. On December 14, 2010, Petitioner filed a Petition to Intervene in this proceeding.
8. On January 6, 2010, the Petitioner was granted status as an Intervener in this proceeding.
9. On February 18, 2011, the Company filed a Joint Petition for Settlement of All Issues.
10. The Joint Petition for Settlement did not mention CAP-Plus and the Universal Service and Energy Conservation Plan attached as Exhibit A to the Joint Petition for Settlement of All Issues did not refer to CAP-Plus.
11. Statements in Support were filed and served by PPL, OTS, OCA, Eric Epstein and Petitioner. Letters of non-opposition were filed and served by PPLICA and SEF.
12. On March 4, 2011, the Honorable Susan Caldwell issued a Recommended Decision approving the settlement and the Universal Service Plan as modified by the settlement.

13. On May 5, 2011, the Commission approved the settlement and the Universal Service Plan.
14. On May 11, 2011, the Company filed Supplement No. 105 to PPL Electric's Tariff-Electric Pa. P.U.C. No. 201, which incorporates PPL Electric's Universal Service and Energy Conservation Plan for the Period 2011-2013 as Appendix A into the tariff as "compliance filing."
15. Neither the PPL Universal Service Plan, the settlement provisions incorporated into the Plan, the Commission Order, nor Supplement No. 105 to PPL Electric's Tariff-Electric Pa. P.U.C. No. 201, which incorporates PPL Electric's Universal Service and Energy Conservation Plan for the Period 2011-2013 as Appendix A into the tariff, addressed modification by PPL of its existing OnTrack monthly payment design to a CAP-Plus design.
16. CAP-Plus PPL's only reference to CAP-Plus in this proceeding was through the Testimony of Witness Tim Dahl, in which Mr. Dahl responded to the question "Are there any other *potential* changes regarding OnTrack and LIHEAP?" Direct Testimony of Timothy R. Dahl, PPL ST. No. 1 at 10. Emphasis added.
17. Mr. Dahl's response to this question about potential changes was stated conditionally:
  - A. Yes. As part of PPL Electric's proposed rate case settlement at Docket No. R-2010-2161694, the Company agreed to implement a CAP-Plus program suggested by the Office of Consumer Advocate. Under CAP-Plus program, PPL Electric would increase the payment amounts of OnTrack participants to make up for the loss of LIHEAP funding previously used to offset revenue shortfall. In 2009, this amount was approximately \$2 million.

***However, if DPW were to change its policy regarding the application of LIHEAP grants to CAP credits, then under the settlement agreement, PPL Electric would not implement the CAP-Plus program.***

PPL ST. 1 at 10. Emphasis added.

18. Petitioner Lorrie Koons was not a party in PPL's rate case settlement at Docket No. R-2010-2161694.
19. The issue of CAP-Plus was not presented by PPL as a specific proposal in its Universal Service Proceeding at Docket No. M-2010-2179796 until November 3, 2011.
20. On October 21, 2011, the Company filed revised Page 3 of PPL Electric's OnTrack Program set forth in Appendix A to Tariff - Electric Pa. P.U.C. No. 201. This filing was made to correct what the Company described as a mathematical error concerning the OnTrack minimum payment amount. At no place does this Revised Page 3 refer to or incorporate CAP-Plus payments.
21. On November 3, 2011, the Company filed with the Secretary "Revised Page 13 and new Page 13A of PPL Electric's Universal Service and Energy Conservation Plan for the Period 2011 — 2013" ("USP Plan") which is set forth in Appendix A to Tariff — Electric Pa. P.U.C. No. 201.
22. The Company stated that Revised Page 13 and new Page 13A were filed to include a description of the CAP-Plus program, which was approved by the Pennsylvania Public Utility Commission ("Commission") in the Company's 2010 base rate proceeding at Docket No. R-2010-2161694.

23. The Company asserted that the CAP-Plus provisions were inadvertently omitted from the Company's compliance filing made on May 11, 2011 in the above-referenced proceeding.
24. The modification of the OnTrack payment design to a CAP-Plus design will result in a significant change to the PPL CAP design.
25. The modification to the OnTrack payment design to a CAP-Plus design is contrary to the settlement provisions, which had specific tariff terms and conditions as set forth in Appendix A attached to the Settlement Agreement, to which Petitioner agreed and which the Commission incorporated into the approved Universal Service Program.
26. The Company has not petitioned the Commission to amend the Universal Service Plan approved on May 5, 2011.
27. The Company has not filed a petition to amend its tariff filing of May 11, 2011.
28. The Company has not provided 60 days notice of its intent to implement CAP-Plus through its amended tariff.
29. The Company's revised tariff filing concerning CAP-Plus does not comply with the requirements of the PA Code:
  - a. **§ 53.31. Requirement of notice.**

Unless the Commission otherwise orders, a public utility to which this subchapter applies may not change an existing and duly established tariff, except after notice of 60 days to the public.
  - b. **§ 53.101. Statutory notice.**

No public utility shall file any tariff, revision, or supplement on less than notice of 60 days, unless it first receives special permission from the Commission to do so.
  - c. **§ 53.102. Exception to requirement for statutory notice.**

Applications for permission to file tariffs, revisions or supplements on less than the notice specified in § 53.101 (relating to statutory notice) shall be made by a responsible officer of the applicant, and shall contain all of the following:

(1) A statement that the petitioner public utility desires permission from the Commission to file the tariff changes outlined in the petition to become effective ( ) days after the tariff, revision, or supplement is filed.

(2) A detailed statement of the changes desired to be made, identifying the matters in existing tariffs or supplements which will be affected.

(3) The tariff, supplement, or revised page number under which the changes will be published.

(4) The number of the tariff or supplement which will be superseded.

(5) A comprehensive statement of the circumstances and conditions in justification of proposed tariff changes.

30. The Company has not provided any details of the design or method of implementation of its proposed CAP-Plus Plan.
31. The Company has not provided any details or specifics so as determine the ability of its low-income CAP participants to afford monthly payments as modified by CAP-Plus.
32. PPL has not yet implemented CAP-Plus. It has indicated that it intends to implement CAP-Plus on December 1, 2011, unless otherwise directed by the Commission.
33. The Company has provided no information from which to determine if the CAP-Plus plan it will implement on December 1, 2011 is in compliance with the Commission Policy statement regarding maximum energy burdens.
34. The issue as to whether a CAP-Plus design violates state and federal LIHEAP policy and law is presently pending before the Commission in the base rate

proceeding filed by Columbia Gas of Pennsylvania, Inc. at Docket No. R-2010-2215623. The Commission has not yet addressed this issue.

35. The implementation of CAP-Plus is in specific contradiction to sections of the Joint Settlement in this matter and which has been incorporated into the approved Universal Service Plan;

36. The Settlement Provision states:

PPL Electric agrees to conduct an analysis of the four (4) payment plan options offered through OnTrack. The analysis will address issues including, but not limited to, the number of customers participating in each payment option, the average payment amount of each option and the default rate of each payment plan option. PPL Electric will complete this analysis within three (3) months of the Commission's final approval of the Company's USP Plan (i.e., date final order is entered) and provide the analysis at that time to each of the parties in this proceeding.

37. The reference to four payment options did not anticipate an additional CAP-Plus payment option.

38. The Proposed Settlement at paragraph 40, page 7 and the ALJ's Recommended Decision at 11 both refer to PPL Electric's revised USP Plan as provided in Attachment A to the Joint Petition for Settlement and indicate that upon Commission approval of this Settlement, PPL Electric will file the Revised USP Plan to become effective on January 1, 2011. Neither the settlement nor the Recommended Decision nor Attachment A refer to CAP-Plus.

39. In its Final Investigatory Order, the Commission specifically addressed the importance of a detailed and complete tariff filing to be made in conjunction with the Triennial Universal Service filing. The Commission stated:

In order to remedy this truncated consideration of CAP issues, we direct that Commission regulations be amended so that (1) a

utility's CAP rules are placed in its tariff, (2) the triennial update filing take the form of a tariff filing and (3) adjustments to the CAP surcharge be addressed in the same tariff filing. This revised process has several advantages. First, the Commission and affected parties will be able to determine the rate impact of the Commission's decisions on CAP design and funding levels. Second, consistent with the first factor, the Commission can balance impacts on paying customers. Third, this tariff process provides due process to utilities in the event that the staff of the Commission or other parties seek to modify a utility's CAP proposal.

Final Investigatory Order, Docket No. M-00051923, at 19-20, Order entered December 18, 2006.

40. PPL has provided no details of its CAP-Plus rules within any of its tariffs filed to this matter, including its November 3, 2011, Revised Page 13 and new Page 13A of PPL Electric's Universal Service and Energy Conservation Plan for the Period 2011 — 2013" ("USP Plan") which is set forth in Appendix A to Tariff — Electric Pa. P.U.C. No. 201 which was filed as a letter to the Secretary..

**WHEREFORE**, Lorrie Koons respectfully requests that the Pennsylvania Public Utility Commission stay the intended implementation on December 1, 2011 by PPL of CAP-Plus, require PPL to file an amended Universal Service Plan, stay the implementation and effect of Revised Page 13 and new Page 13A of PPL Electric's Universal Service and Energy Conservation Plan for the Period 2011 — 2013 ("USP Plan") which is set forth in Appendix A to Tariff — Electric Pa. P.U.C. No. 201 and grant formal hearings on this matter.

Respectfully submitted,

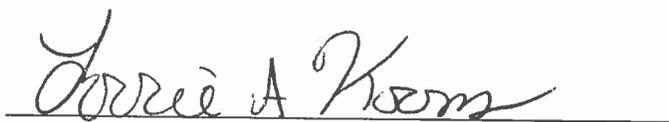
  
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Date: November 21, 2011

## VERIFICATION

I, Lorrie Koons, 2830 N. 2<sup>nd</sup> Street, Harrisburg, PA 17110, hereby state that the averments contained in the Petition and Complaint are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

A handwritten signature in cursive script that reads "Lorrie A. Koons". The signature is written in black ink and is positioned above a solid horizontal line.

November 21, 2011

Lorrie Koons

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PPL Electric Utilities Corporation Universal  
Service and Energy Conservation Plan for  
2011 through 2013

Docket No. M-2010-2179796

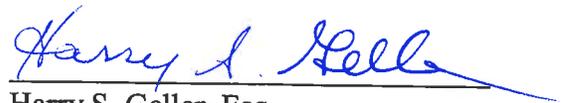
**CERTIFICATE OF SERVICE**

I hereby certify that I have today served a true copy of the foregoing Petition and Complaint upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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

ALJ Susan D. Colwell PA Public Utility Commission Commonwealth Keystone Building 400 North Street, Fl. 2 West POB 3265 Harrisburg, PA, 17105	Aron J. Beatty, Esq. Tanya J. McCloskey, Esq. Office of Consumer Advocate 5th Floor, Forum Place 555 Walnut Street Harrisburg, PA 17101-1923
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Dated: November 22, 2011