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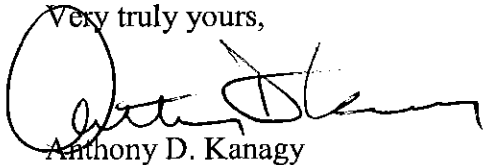
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**RE: Petition of PPL Electric Utilities Corporation for Approval to Implement a
Reconciliation Rider for Default Supply Service
Docket No. P-2011-2256365**

Dear Secretary Chiavetta:

Enclosed please find the Main Brief of PPL Electric Utilities Corporation for the above-referenced proceeding. Copies have been provided as indicated on the Certificate of Service.

Very truly yours,



Anthony D. Kanagy

ADK/skr

Enclosure

cc: Certificate of Service
Honorable Susan D. Colwell

CERTIFICATE OF SERVICE

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

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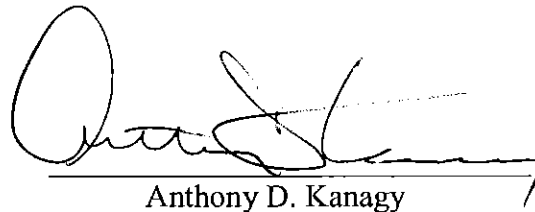
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :
for Approval to Implement a Reconciliation : Docket No. P-2011-2256365
Rider for Default Supply Service :

**MAIN BRIEF OF
PPL ELECTRIC UTILITIES CORPORATION**

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I. INTRODUCTION AND BACKGROUND

On August 25, 2011, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) filed with the Pennsylvania Public Utility Commission (“Commission”) the Amended “Petition of PPL Electric Utilities Corporation for Approval to Implement a Reconciliation Rider for Default Supply Service” at Docket No. P-2011-2256365.¹ Therein, PPL Electric seeks Commission approval to implement two new Section 1307(e) cost recovery mechanisms to both: (1) refund or recover the experienced net over or under collection balances related to transmission service and generation supply charges; and (2) provide a better methodology for refunding or recovering future over or under collection balances.

In its Amended Petition, PPL Electric seeks to implement a Reconciliation Rider (“RR”) to refine its existing default service recovery mechanisms to refund or recover net over and under collection balances after the effective date of the RR. PPL Electric also seeks to implement a one-time Competitive Transition Rider (“CTR”) to provide a temporary, non-bypassable, reconcilable Section 1307(e) cost recovery mechanism that will provide a fresh start by refunding or recovering any remaining net historic over or under collections balances related to transmission service and generation supply service that were incurred prior to the effective date of the RR. In addition, PPL Electric seeks Commission approval to modify the reconciliation of its Generation Supply Charge-1 (“GSC-1”) from a quarterly basis to an annual basis and to net the GSC and Transmission Service Charge (“TSC”) over and under collection balances for each

¹ PPL Electric initially filed a Petition on August 3, 2011, seeking Commission approval to implement only a Reconciliation Rider to both refund or recover the experienced net over or under collection balances related to transmission service and generation supply charges from default service customers and to revise the methodology for refunding and recovering future over and under collection balances. However, upon further review, the Company determined that, because of the levels of customer shopping on PPL Electric’s system at the time and the level of historic net over and under collection balances, it also was appropriate to seek Commission approval to implement a separate mechanism to refund or recover all the historic over and under collection balances. Accordingly, PPL Electric filed an Amended Petition seeking Commission approval to implement both a Reconciliation Rider and Competitive Transition Rider.

customer class. For the reasons explained below, PPL Electric's proposals will help alleviate the significant volatility and uncertainty in PPL Electric's default service rates and the Price to Compare, while at the same time ensure PPL Electric fully recovers its reasonable costs related to providing default service.

Notices of Intervention were filed by the Office of Consumer Advocate ("OCA"), Office of Small Business Advocate ("OSBA"), Retail Energy Supply Association ("RESA"), Dominion Retail, Inc. d/b/a Dominion Energy Solutions ("Dominion"), Richards Energy Group ("REG"), and Wal-Mart Stores East, L.P. and Sam' East, Inc. ("Wal-Mart"). Answers to the Amended Petition were filed by OSBA, PP&L Industrial Customer Alliance ("PPLICA"), RESA, and Dominion.

An Initial Prehearing Conference was held on October 5, 2011, at 10:00 a.m., before the Honorable Susan D. Colwell (the "ALJ"). The Parties agreed to a procedural schedule at the Initial Prehearing Conference, which was adopted in the ALJ's Scheduling Order dated October 5, 2011. Pursuant thereto, the Parties undertook formal and informal discovery and submitted testimony in support of their respective positions. Direct testimony was served by PPL Electric, the Bureau of Investigation and Enforcement ("I&E"), OCA, OSBA, Dominion, RESA, REG, and Walmart. Rebuttal testimony was served by PPL Electric, OSBA, and Dominion. Surrebuttal testimony was served by PPL Electric, I&E, OCA, OSBA, RESA, and Dominion.²

An evidentiary hearing was held on December 5, 2011, at which the Parties moved their respective testimonies and exhibits into the record.³ Certain Parties' witness were cross-examined and presented rejoinder testimony. Pursuant to the Scheduling Order and Sections

² PPLICA did not serve any testimony in this proceeding.

³ REG did not move into the record all of the testimony it served.

5.501 and 5.502 of the Commission's regulations, 52 Pa. Code §§ 5.501, 5.205, PPL Electric herein submits this Main Brief in support of the proposals set forth in the Amended Petition.

As explained below, it cannot reasonably be disputed that PPL Electric has experienced significant over and under collections related to its transmission service and generation supply service charges, and that PPL Electric has experienced significant levels of shopping within its service territory. Further, it is unrefuted that these over and under collection balances and high shopping levels have caused significant volatility and uncertainty in PPL Electric's default service rates and the Price to Compare, and that this volatility is unrelated to the market price of electricity. PPL Electric's proposals to implement the RR and CTR, to modify the GSC-1 reconciliation to an annual basis, and to net the GSC and TSC over and under collection balances for each customer class will help alleviate the significant volatility and uncertainty in PPL Electric's default service rates and the Price to Compare, while at the same time promoting retail competition and ensuring PPL Electric fully recovers its reasonable costs related to providing default service. For these reasons, as more fully explained below, PPL Electric has met its burden to demonstrate that its proposals are just, reasonable, and in the public interest.

II. STATEMENT OF QUESTIONS INVOLVED

1. Whether PPL Electric is entitled to fully recover its costs of providing default service for default service customers?

Suggested answer: *In the affirmative.*

2. Whether PPL Electric has met its burden to demonstrate that the RR is a just and reasonable Section 1307(e) cost recovery mechanism to refund or recover over and under collection balances incurred for transmission service and generation supply service charges incurred after the effective date of the RR?

Suggested answer: *In the affirmative.*

3. Whether PPL Electric has met its burden to demonstrate that the CTR is a just and reasonable temporary, non-bypassable, reconcilable Section 1307(e) cost recovery mechanism to refund or recover any remaining net historic over and under collection balances incurred for transmission service and generation supply service prior to the effective date of the RR?

Suggested answer: *In the affirmative.*

4. Whether PPL Electric has met its burden to demonstrate that it is just and reasonable to include the Residential and Small Commercial & Industrial (“Small C&I”) Time of Use (“TOU”) program over and under collections in the RR and CTR rates applicable to the respective Residential and Small C&I customer classes?

Suggested answer: *In the affirmative.*

5. Whether PPL Electric has met its burden to demonstrate that it is just and reasonable to net the over and under collections of the respective GSC-1 and GSC-2, with the TSC reconciliations for each customer class for recovery purposes?

Suggested answer: *In the affirmative.*

6. Whether PPL Electric has met its burden to demonstrate that the proposal to modify the reconciliation of the GSC-1 to an annual basis is just and reasonable?

Suggested answer: *In the affirmative.*

III. LEGAL STANDARDS/BURDEN OF PROOF

Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. It is well established that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. P.U.C.*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). The preponderance of evidence standard requires proof by a greater weight

of the evidence. *Commonwealth v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). Consequently, as the party seeking Commission approval of the proposed RR and CTR, PPL Electric bears the burden of proving that its proposals are just, reasonable, and in the public interest. 66 Pa.C.S. § 315.

Although PPL Electric, as the applicant, bears the burden of proving that its proposals are in the public interest, a party that proposes an issue that is not included in a public utility's proposal bears the burden of proof. For example, in *Pa. P.U.C. v. Metropolitan Edison Company, et al.*, Docket Nos. R-00061366, *et al.*, 2007 Pa. PUC LEXIS 5 (January 11, 2007), a party offered proposals that were not included in the public utilities' filings. The ALJ held that, as the proponent of a Commission order with respect to the offered proposals, the party bears the burden of proof as to proposals that are not included in the companies' filings. The Commission agreed and adopted the ALJ's conclusion that the Public Utility Code cannot reasonably be read to place the burden of proof on the utility with respect to an issue the utility did not include in its filing and which, frequently, the utility would oppose. *Id.* at *184-87. *See also Joint Default Service Plan for Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company for the Period of June 1, 2010 through May 31, 2013*, Docket Nos. P-2009-2110798, *et al.*, 2010 WL 1259684 at *2, 19-20 (February 25, 2010) (the companies had the burden of proof as to the proposed plan, but other parties that had submitted their own proposals bore the burden of proof with respect to their proposals).

IV. SUMMARY OF ARGUMENT

The record demonstrates that PPL Electric has experienced significant over and under collections related to its transmission service and generation supply service charges, and that PPL Electric has experienced significant levels of shopping within its service territory. PPL Electric is statutorily entitled to refund or recoup these over and under collections related to

transmission service and generation supply service on a full and current basis, including the costs incurred under its default service TOU program.

The reconciliation of over and under collection balances under PPL Electric's current default service reconciliation mechanisms has caused significant volatility in PPL Electric's default service rates and the Price to Compare, and has had a significant impact on the rates paid by the small number of remaining non-shopping customers. Further, this volatility in rates complicates shopping decisions for customers and encourages customers to shift between default service and competitive supply for reasons entirely unrelated to actual competitive market conditions. There is little doubt that these events have adversely affected shopping in PPL Electric's service territory.

In order to fully refund or recover its over or under collection balances, reduce rate volatility, promote retail competition, and better assign costs to customers, PPL Electric seeks Commission approval to: (1) implement the RR; (2) implement the CTR; (3) include the Residential and Small C&I TOU program over and under collections in the RR and CTR rates applicable to the respective Residential and Small C&I customer classes; (4) net the over and under collections of the respective GSC-1 and GSC-2 with the TSC reconciliations for each customer class; and (5) modify the provisions of the GSC-1 to permit reconciliation on an annual PJM Planning Year basis.

PPL Electric carefully and appropriately balanced the need to reduce rate volatility, promote retail competition, better assign costs to customers, and ensure that PPL Electric fully recovers these costs as required by law. As explained below, the RR and CTR are new Section 1307(e) cost recovery mechanisms that will help alleviate the volatility and uncertainty associated with the over and under collection balances related to transmission service and

generation supply costs, while at the same time ensure that PPL Electric fully recovers these costs. Further, changing the GSC-1 to an annual reconciliation basis and netting the GSC and TSC over and under collection balances for each customer class will help to reduce the volatility of the RR, reduce the number of calculations required, and reduce customer confusion regarding this issue. For these reasons, as more fully explained below, PPL Electric's proposals should be approved.

The OSBA generally supports the RR, while the OCA opposes the RR. The OCA generally supports the CTR, while the OSBA and Walmart oppose the CTR. Dominion, RESA, REG, and PPLICA generally oppose both the RR and CTR.

The Parties opposing PPL Electric's proposals present a variety of criticisms but fail to present an alternative plan that permits full cost recovery, removes anti-competitive distortions from the Price to Compare, promotes retail competition, and better assigns costs to customers. By their nature, default service rates must balance a number of competing interests, not just retail competition. Narrow criticisms that fail to reflect this fact are not useful in reaching a reasonable and balanced result.

For example, several parties assert that PPL Electric's proposals are anti-competitive or will not adequately promote retail competition. These arguments are flawed for two reasons. First, they only look at retail competition and fail to consider default service rate volatility and the need ensure that PPL Electric fully recovers its default service costs as required by law. If promoting retail competition were the only goal of Act 129, then the General Assembly would not have provided for the full and timely reconciliation of over and under collections related to transmission service and generation supply service because the E-factor, admittedly, distorts the Price to Compare. Further, focusing solely on competition would be contrary to Act 129's

concern about rate stability. PPL Electric's proposals in this proceeding reflect a careful and reasonable balance of several competing interests and should be evaluated on that basis.

Second, the Parties' anti-competitive criticisms of PPL Electric's proposals fail to provide any comparative analysis or constructive alternatives. PPL Electric's proposals clearly reflect very substantial improvements over existing procedures and will certainly promote retail competition, particularly as compared to the status quo. The parties generally ignore these improvements and, more importantly, present no reasonable and lawful alternatives.

Finally, several parties present examples of potential unfairness in PPL Electric's proposals as they might be applied to individual customer circumstances. PPL Electric fully refutes these examples below, but it is important to emphasize that utility rates are not, never have been, and cannot be designed to reflect individual customers costs and usage patterns. As recognized in a series of Commission and appellate court decisions, rates are designed on a class basis and should be evaluated on that basis as well.

V. ARGUMENT

A. **PPL ELECTRIC IS ENTITLED TO RECOVER COSTS INCURRED IN PROVIDING DEFAULT SERVICE THROUGH A RECONCILABLE SURCHARGE**

Through this proceeding, PPL Electric seeks Commission approval to refine its methodology for refunding and recovering historic and future over and under collections related to transmission service and generation supply service. Act No. 129 states that providers of last resort service ("POLR" or "default service") are entitled to recover, on a full and current basis, all reasonable costs incurred in providing default service through a reconcilable surcharge. 66 Pa.C.S. § 2807(e)(3.9).

Initially, it was argued that reconciliation of generation supply costs for default service plans was not necessary because the amount to be reconciled was anticipated to be small or non-

existent. Indeed, the Commission initially denied a proposal of the Pennsylvania Power Company (“Penn Power”) to reconcile its POLR costs. *See Petition of Pennsylvania Power Company for Approval of Interim POLR Supply Plan*, Docket No. P-00052188, Slip Op. at p. 100-02 (April 28, 2006) (concluding that “a competitive market will not develop if an incumbent utility has the ability to reconcile its POLR costs”). On appeal, the Commonwealth Court reversed and remanded, concluding that Penn Power is entitled to full recovery of its reasonable costs as a provider of last resort, and that the use of a reconciliation mechanism does not violate Section 2807(e), 66 Pa. C.S. § 2807(e). *Pa. Power Co. v. Pa. PUC*, 932 A.2d 300, 307 (Pa. Cmwlth. 2007).

On August 28, 2008, PPL Electric filed the *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 Through May 31, 2013*, Docket No. P-2008-2060309 (“DSP Plan”).⁴ The DSP Plan established the terms and conditions under which PPL Electric would provide default service and obtain generation supply for that service for the period January 1, 2011 through May 31, 2013. On June 30, 2009, the Commission approved PPL Electric’s DSP Plan, concluding that the DSP Plan is just, reasonable, within the public interest, in accord with the rules and regulations of the Commission, and consistent with the provisions of the Pennsylvania Public Utility Code, including Act No. 129, applicable law, and the prevailing industry standards. *See* Slip Op. pp. 35-36.

As explained in more detail below, it is undisputed that PPL Electric experiences net over and under collections associated with the costs incurred under its Commission-approved DSP

⁴ On October 15, 2008, Governor Rendell signed House Bill No. 2200, subsequently identified as Act No. 129, which established, *inter alia*, certain new requirements for the acquisition of default supply by electric distribution companies. Because the legislation was passed after PPL Electric filed its DSP Plan, the Company, without objection of the parties, requested and was granted the right to file revisions to the DSP Plan. On November 3, 2008, PPL Electric filed its amended DSP Plan.

Plan to provide transmission service and generation supply to its default service customers. Consistent with the statutory requirement of Act No. 129, as well as the Commonwealth Court's decision in *Pa. Power Co. v. Pa. PUC*, PPL Electric is entitled to recover these over and under collections related to transmission service and generation supply service on a full and current basis.

B. PPL ELECTRIC'S PROPOSALS

1. Reasons for the Reconciliation Rider and Competitive Transition Rider

Under its currently effective tariff, PPL Electric recovers any applicable over or under collections related to the TSC, Generation Supply Charge-1 ("GSC-1"), and Generation Supply Charge-2 ("GSC-2") through the E-Factor applied to the transmission and generation rates paid by customers that take default service from PPL Electric in the next application period. PPL Electric has experienced significant volatility in the under and over collection balances related to the transmission service and generation supply charges. Although PPL Electric is entitled by law to fully recover its costs of providing default service, due to a variety of factors, including increased shopping levels and disparities between TOU rates and default service rates, PPL Electric, to date, has not been able to recover/refund all of its default service costs in a full and timely manner. PPL St. 1-R, p. 4.

It is undisputed that PPL Electric has experienced significant under collection balances related to the TSC, GSC-1 and GSC-2. For example, in calendar year 2010, PPL Electric experienced an under collection of approximately \$8 million for generation supply charges associated with Large Commercial & Industrial ("Large C&I") default service customers under the then effective 2010 GSC. The Company also experienced an under collection of approximately \$3.5 million in the 2010 TSC for Large C&I-Primary customers. Likewise, the

Company experienced under collections for the Residential and Small C&I customer classes, as well as the TOU default service rate option for these classes, through the May 31, 2011 application period. The reconciliation of these under collections significantly increased the transmission service and generation supply rates that each of the remaining default service customers in these customer classes had to pay. These under collection balances arose primarily as a result of the proration of customer bills between the revenue related to electric service provided in December 2009 and the revenue related to electric service provided in January 2010.⁵ PPL St. 1, p. 13.

It also is undisputed that PPL Electric has experienced significant over collection balances related to the TSC, GSC-1, and GSC-2. For example, in 2010, PPL Electric experienced an over collection of approximately \$2 million in the 2010 TSC applicable to Large C&I Transmission default service customers. PPL St. 1, p. 16. Further, PPL Electric's most recent GSC-1 reconciliation filed on November 14, 2011, at Docket No. M-2011-2258733, included significant over collections for the Residential-Fixed Price customer class of approximately \$11.3 million and the Small C&I-Fixed Price customer class of approximately \$5.9 million. PPL St. 1-SR, p. 9. These over collections arose primarily as a result of the

⁵ Anytime there is a change in rates, including a new Section 1307(e) cost recovery mechanism, customers bills must be prorated because the rate change becomes effective before the billed revenue for utility service provided in the month prior to the rate change is actually received by the utility. Tr. 55-55. The proration of customers' bills is a fundamental utility process that follows generally accepted ratemaking principles and proper regulatory accounting procedures, as well as the Commission's long-standing practice and precedent regarding Section 1307(e) cost recovery mechanisms. As such, the proration of customers' bills for ratemaking purposes properly matches the actual billed revenue for utility service provided in a given month with the actual incurred costs to provide such utility service in the same month. Whenever utility rates change "for service rendered on and after" a given date, especially when those rate changes are related to the initial implementation month of a new Section 1307(e) cost recovery mechanism, the proration of actual billed revenue is both necessary and appropriate so that customers are not billed new rates for service rendered before the effective date of those rates. Accordingly, in the implementation month of any Commission-approved rate change, customers' bills are prorated between the actual billed revenue for utility service provided in the month prior to the rate change becoming effective and the actual billed revenue for utility service provided in the current month following the effective date of the approved rate change. PPL St. 1, p. 14; PPL St. 1-SR, pp. 3-8.

quarterly reconciliation of the GSC-1 and weather-related increased usage during the applicable reconciliation periods. PPL St. 1-SR, pp. 7, 9-10.

Importantly, under PPL Electric's current tariff, the reconciliation of over and under collection balances for the TSC, GSC-1, and GSC-2 currently is only charged or credited to those customers who take default service during the applicable reconciliation period regardless of whether or not they were default service customers during the application period in which the over or under collection was created. PPL Electric's current tariff does not contain a mechanism to recover or credit such over and under collection balances from customers who were default service customers when an over/under collection was created, but are shopping customers when the over/under collection is refunded or recouped. PPL St. 1, pp. 11-12.

In addition to the significant volatility in the over/under collections described above, since the expiration of the generation rate caps on December 31, 2009, PPL Electric has experienced a significant number of customers that have switched from default service to competitive supply. At the time PPL Electric served its direct testimony, approximately 86% of PPL Electric's Large C&I customers, who represent 97% of Large C&I class' load, took competitive supply from electric generation supplies ("EGSs"). Approximately 486,787 Residential customers (or 40% of the total number of residential customers and 45% of the class' load) and 90,614 Small C&I customers (or 51% of the total number of Small C&I customers and 93% of the class' load) in PPL Electric's service territory were either taking service from an EGS or signed up to begin competitive supply pending the issuance of their next bill. PPL St. 1, pp. 12-13.

Customers can shop or leave default service at any time. However, under the Company's current mechanism, customers may take default service for several months and pay rates that do

not fully recover the Company's costs, thereby helping to create an under collection. However, if the customer then shops, the customer can avoid paying for the under collection, thereby forcing the remaining default service customers to pay it. In the alternative, the same customer could take default service and pay rates that cause an over collection. If the customer then shops, the customer does not receive a refund as a result of the over collection. PPL St. 1-R, pp. 5-6.

Further, recovering under collection balances related to transmission service and generation supply charges from the small number of remaining non-shopping default service customers can inflate the Price to Compare. These inflated prices for generation supply will have a significant impact on customers who are unable to shop for whatever reason or who are returned to default service, *i.e.*, customers that are dropped from competitive supply for whatever reason and are returned to default service. PPL St. 1, pp. 15-16. Conversely, the refund of over collection balances related to transmission service and generation supply charges can deflate the applicable Price to Compare, which could potentially encourage shopping customers to return to default service. PPL St. 1, pp. 16-17.

For example, the reconciliation of the under collection of the GSC-2 through the May 31, 2011 application period added approximately 2.63 cents per kilowatt-hour (excluding Gross Receipts Tax) to the generation rates that each of the remaining GSC-2 customers had to pay. This was a substantial increase in the GSC-2 rates paid by the few remaining GSC-2 default service customers. PPL St. 1, p. 15. Similarly, the reconciliation of the over collection of the 2010 TSC applicable to Large C&I Transmission reduced the transmission service rate by approximately 1.8 cents per kilowatt-hour that each Large C&I- Transmission customer taking default service had to pay through May 31, 2011. PPL St. 1, p. 16.

The volatility of the over and under collection balances experienced by PPL Electric continues to have a significant impact on the rates paid by the remaining default service customers. Tr. 50. For example, the quarterly reconciliation of the under collection of the GSC-1 for the January 1 through May 31, 2011 application period resulted in an addition of approximately 4.154 cents per kilowatt-hour to the generation rates that each of the remaining Small C&I GSC-1 customers had to pay during the quarterly period of June 1 through August 31, 2011. Further, the quarterly reconciliation of the over collection of the GSC-1 for the period of the September 1 through November 30, 2011 application period resulted in a reduction of approximately 1.533 cents per kilowatt-hour to the generation rates that each of the remaining Small C&I GSC-1 customers will pay for the quarterly period of December 1, 2011 through February 29, 2012. OSBA Hearing Exhibit No. 1. Clearly, PPL Electric continues to experience significant volatility in the over and under collection balances related to transmission service and generation supply costs.⁶

As demonstrated above, the reconciliation of over and under collection balances under PPL Electric's current default service reconciliation mechanisms have caused significant volatility in PPL Electric's default service rates and the Price to Compare, and has had a significant impact on the rates paid by the small number of remaining non-shopping customers. As explained by REG, this volatility in rates has complicated shopping decisions for customers and encourages customers to shift between default service and competitive supply for reasons entirely unrelated to actual competitive market conditions. Tr. 163-64.

⁶ The ongoing volatility in the over and under collection balances related to transmission service and generation supply charges, and the resulting rate instability, is further exemplified by the various proceedings currently pending before the Commission challenging the reconciliation of these over and under collections. *See, e.g.*, Docket Nos. C-2011-2245906, M-2011-2243137, C-2011-2279176, M-2011-2274191.

In order to fully refund or recover its over and under collection balances, reduce rate volatility, and better assign costs to customers, PPL Electric seeks to implement a RR and CTR. The RR will refine PPL Electric's existing default service recovery mechanisms to refund or recover net over and under collection balances after the effective date of the RR. The CTR is a one-time, temporary, non-bypassable, reconcilable Section 1307(e) cost recovery mechanism that will provide a fresh start by refunding or recovering any remaining net historic over or under collections balances related to transmission service and generation supply service that were incurred prior to the effective date of the RR. PPL St. 1, pp. 6-7. The RR and CTR mechanisms are more fully described below.

It should be noted that the Commission previously has found reconciliation mechanisms similar to PPL Electric's proposed RR as reasonable and appropriate means to recover under collections from or refund over collections to customers who switch from default to competitive supply. For example, the Commission approved a migration rider for Peoples Natural Gas Company LLC, concluding as follows:

The Migration Rider, by design, addresses a unique situation. With the advent of retail choice for residential and small commercial customers, purchased gas cost under or over-recoveries may be severely impacted by customers switching to transportation service. The Migration Rider appears to appropriately address the extraordinary situation where many customers leave sales service in a relatively short time period while the application of the E-Factor to new customers appropriately recognizes the limited effect of normal customer additions and deletions on the E-Factor. Accordingly, we find that Peoples' Migration Rider does not allow Peoples to double recover for gas reconciliations associated with sales customer's overall experience.

On consideration of the positions of the parties, we find that the Migration Rider is a reasonable and appropriate means to recover or credit purchased gas costs under or over collections from customers who switch from sales service to transportation service.

The Rider ensures that the migrating customer is responsible for the purchased gas costs that Peoples incurred to serve that customer while on retail service. Because these costs were already incurred at the time that the customer switched to transportation service, the Migration Rider is an attempt to ensure that those customers that caused Peoples to incur those costs are responsible for paying them, or in the alternative, receive a credit in the event of an over-recovery.

Enron Capital & Trade Resources Corporation v. The Peoples Natural Gas Company, et al., Docket No. R-00973928C0001, 1998 Pa. PUC LEXIS 199 at *20-22 (August 24, 1998) (citing to the Reply Brief of the Office of Consumer Advocate). The Commission further concluded that migration riders are not unduly discriminatory and does not inhibit competition or confer an unfair advantage. *Id.* at *28-29, *35-37. See also *Pennsylvania Public Utility Commission, et al. v. The Equitable Gas Company*, Docket No. R-00963858, 1997 Pa. PUC LEXIS 92 (December 4, 1997) (noting that the PUC has “approved other Migration Riders similar to that proposed by Equitable for other utilities such as The Peoples Natural Gas Company, National Fuel Distribution Corporation and Columbia Gas of Pennsylvania.”).

It also should be noted that the Commission has not only approved migration riders for gas companies, but also has approved a migration rider for an electric distribution company. In PECO Energy Company’s (“PECO”) 2009 default service proceeding, the Commission approved a migration rider for PECO. *Petition of PECO Energy Company for Approval of Its Default Service Program and Rate Mitigation Plan*, Docket P-2008-2062739 (June 2, 2009). PPL Electric respectfully requests that the ALJ and Commission take official and judicial notice of PECO’s migration rider pursuant to 52 Pa. Code § 5.408. See PECO Electric Service Tariff Pa. P.U.C. No. 4, Supplement No. 6, Page No. 34.

2. Description of the RR

PPL Electric seeks to implement the RR, to become effective on June 1, 2012. The RR is a refinement of PPL Electric's current default service recovery mechanisms. The RR will refund or recoup over or under collection balances associated with default service provided on and after its effective date. PPL St. 1, p. 18.

PPL Electric originally proposed that the RR be calculated and reconciled on a fixed annual basis pursuant to the reconciliation provisions for TSC, GSC-1, and GSC-2 included in PPL Electric's retail tariff. PPL St. 1, p. 19. The OSBA generally supports the RR but recommended that the RR be calculated and reconciled on a rolling 12 month annual basis. Under OSBA's recommendation, the RR balance would continue to be recovered over a 12-month period, but the calculation of the RR would be updated quarterly. OSBA St. 1, p. 7; OSBA St. 3, pp. 1-3. OSBA's proposal is acceptable to PPL Electric and, therefore, the RR will be calculated and reconciled on a rolling twelve-month annual basis if approved by the Commission. Tr. 31-32.

The RR will be either an additional charge or a credit on the customer's monthly bill under the applicable rate schedule depending on whether PPL Electric is reconciling an under or over collection of transmission service and generation supply charges. PPL St. 1, p. 19. The RR will be shown as a separate line item on customers' bills and will not be a part of PPL Electric's Price to Compare. PPL St. 1, p. 18.

The RR will reflect different rates for the following three customer classes: Residential, Small C&I, and Large C&I. Any Residential and Small C&I TOU Program over and under collections incurred after the effective date of the RR will be included with the RR rate applicable to the respective Residential and Small C&I customer classes. PPL St. 1, p. 19; PPL St. 1-R, p. 30.

Application of the RR will be determined each time a customer's status changes from default service to shopping or from shopping to default service. The application of the RR will be based on the customer's status during the period immediately preceding the customer's status change. If a customer switches from default service to shopping, the customer will be subject to the RR for a period equal to the number of consecutive months, not to exceed twelve months, that the customer took default service immediately prior to becoming a shopping customer. If a customer switches from shopping to default service, the customer will be exempt from the RR for a period equal to the number of consecutive months, not to exceed twelve months, that the customer was a shopping customer immediately prior to switching to default service. The applicability of the RR then is re-determined anytime a customer's status changes between default service and shopping. PPL St. 1, p. 20.

For example, PPL Electric's expert witness Joseph M. Kleha offered the following hypothetical examples of how the RR would be determined for a default service customer that becomes a shopping customer:

- (i) If the customer was a default service customer for twelve consecutive months preceding June 2012 and then becomes a shopping customer in June 2012, the now shopping customer would be subject to the RR for the twelve-month period June 2012 through May 2013. This is equivalent to the consecutive number of months the customer took default service immediately prior to becoming a shopping customer. If, after the twelve-month period ending May 2013, the customer continues to be a shopping customer then the RR would not apply. Thereafter, application of the RR would be determined if and when the customer's status changed.
- (ii) If a customer is a default service customer for two consecutive months preceding June 2012 (April 2012 and May 2012) and then becomes a shopping customer in June 2012, the now shopping customer would be subject to the RR for the two-month period June 2012 through July 2012. This is equivalent to the consecutive number of months the customer took default service immediately prior to becoming a shopping customer. If, after the two-month

period ending July 2012, the customer continues to be a shopping customer then the RR would not apply. Thereafter, application of the RR would be determined if and when the customer's status changed.

- (iii) If the shopping customer continues to take competitive supply for an additional three months for a total of five months (June 2012 through October 2012) and then becomes a default service customer in November 2012, the now default service customer would be exempt from the RR for the five-month period November 2012 through March 2013. This is equivalent to the consecutive number of months the customer was a shopping customer immediately before switching to default service. If, after the five-month period ending March 2013, the customer continues to be a default service customer then the RR would apply. Thereafter, application of the RR would be determined if and when the customer's status changed.
- (iv) However, if the default service customer were to become a shopping customer after month three of the five-month exemption period, February 2013, the now shopping customer would pay the RR for a period of three months, February 2013 through April 2013. This is equivalent to the consecutive number of months the customer took default service immediately prior to becoming a shopping customer. Thereafter, application of the RR would be determined if and when the customer's status changed.

PPL St. 1, p. 21.

Mr. Kleha also offered the following hypothetical examples of how the RR would be determined for a shopping customer that becomes a default service customer:

- (i) If the customer was a shopping customer for twelve consecutive months preceding June 2012 and then becomes a default service customer in June 2012, the now default service customer would be exempt from the RR for the twelve-month period June 2012 through May 2013. This is equivalent to the consecutive number of months the customer took as a shopping customer immediately prior to becoming a default service customer. If, after the twelve-month period ending May 2013, the customer continues to be a default service customer then the RR would apply. Thereafter, application of the RR would be determined if and when the customer's status changed.
- (ii) If a customer is a shopping customer for two consecutive months preceding June 2012 (April 2012 and May 2012) and then becomes

a default service customer in June 2012, the now default service customer would be exempt from the RR for the two-month period June 2012 through July 2012. This is equivalent to the consecutive number of months the customer was a shopping customer immediately prior to switching to default service. If, after the two-month period ending July 2012, the customer continues to be a default service customer then the RR would apply. Thereafter, application of the RR would be determined if and when the customer's status changed.

- (iii) If the customer remains a default service customer for an additional three months for a total of five months (June 2012 through October 2012) and then becomes a shopping customer in November 2012, the now shopping customer would pay the RR for the five-month period November 2012 through March 2013. This is equivalent to the consecutive number of months the customer took default service immediately prior to becoming a shopping customer. If, after the five-month period ending March 2013, the customer continues to be a shopping customer then the RR would not apply. Thereafter, application of the RR would be determined if and when the customer's status changed.
- (iv) However, if the shopping customer were to become a default service customer after month three of the five-month period, February 2013, the now default service customer would not pay the RR for a period of three months, February 2013 through April 2013. This is equivalent to the consecutive number of months the customer was a shopping customer immediately prior to switching to default service. Thereafter, application of the RR would be determined if and when the customer's status changed.

PPL St. 1, p. 22.

The OSBA generally supports the RR, but offers a recommendation related to new customers. With respect to new customers, PPL Electric originally proposed that the RR initially be applicable to any new PPL Electric customers. PPL St. 1, p. 23. In its direct testimony, OSBA recommended that the RR should not be applicable to new PPL Electric customers, because they did not contribute to the prior annual over or under collection and should not be charged or credited for such over or under collections. OSBA St. 1, p. 7. OSBA's proposal is acceptable to PPL Electric and, if approved by the Commission, new PPL Electric customers will

be exempt from the RR for the first twelve months. Thereafter, application of the RR would be determined if and when the customer's status changed.

If a customer moves within PPL Electric's service territory, he or she will be treated as a new customer as described above. PPL St. 1, p. 23. Similarly, when a tenant's service is terminated and placed in the landlord's name/account, the landlord will be treated as a new customer subject to the RR as explained above, unless and until a status changes or a new tenant initiates service. The new tenant would be treated as a new customer as described above. PPL St. 1, p. 23.

3. Description of the CTR

In order to fully recover and refund its outstanding historic over or under collection balances related to transmission service and generation supply charges, PPL Electric seeks to implement the CTR. The CTR is a one-time mechanism that will provide a fresh start by eliminating net historic over and under collection balances related to transmission service and generation supply charges. The CTR will be a temporary, reconcilable, non-bypassable Section 1307(e) cost recovery mechanism to refund or recoup any remaining net historic over or under collection balances that were incurred prior to the effective date of the RR, or as of May 31, 2012. PPL St. 1, p. 24.

As explained above, PPL Electric has incurred substantial over and under collection balances under its current transmission service and generation supply charges reconciliation mechanisms. In addition, a significant number of customers have switched to competitive generation supply from EGSs. As a result, there are fewer non-shopping customers from which to refund or collect these historic over and under collection balances. As explained above, PPL Electric is proposing to implement the RR to provide a prospective mechanism to refund or recover the experienced net over or under collection balances related to transmission service and

generation supply charges from customers after the effective date of the RR. However, because of the levels of customer shopping on PPL Electric's system at this time, and the timing of the implementation of the RR, it is not clear that the RR alone will fully address the timely refund or recovery of all the historic over and under collection balances incurred prior to the effective date of the RR. PPL St. 1, pp. 24-25.

Given the magnitude of the over and under collection balances and the small number of non-shopping customers, it may not be likely or reasonable to refund or recover all the historic over and under collection balances from such a very small number of customers in a timely manner. For example, if PPL Electric were to attempt to recover significant under collections from a small subset of customers, default service rates would increase so significantly that almost all customers would shop and there would be no customers left to pay the outstanding under collection balance. As a result, it is necessary and appropriate to establish a temporary, reconcilable, non-bypassable cost recovery mechanism to recoup these prudently incurred costs from customers. By creating a non-bypassable Section 1307(e) cost recovery mechanism, PPL Electric will recover the costs from all customers, which will result in much lower rates to customers. PPL St. 1, pp. 25-26.

The temporary CTR will be applicable to all customers, both default service and shopping customers, and will reflect different rates for different customer classes. The CTR will be either an additional charge or a credit on the customer's monthly bill under the applicable rate schedule depending on whether PPL Electric is reconciling a net historic under or over collection of transmission service and generation supply charges. PPL St. 1, p. 26. The CTR will be shown as a separate line item on customers' bills. PPL St. 1, p. 24. The CTR will not be included in the Price to Compare. PPL St. 1, p. 30.

The CTR will become effective June 1, 2012, and will remain in effect for a twelve-month period. At the end of the initial 12-month application period, the CTR will be reconciled. The CTR will continue for the minimum number of months necessary to true-up the balance of any over or under collections existing as of May 31, 2012, that were not refunded or recouped during the initial 12-month application period. Once the balance of any remaining over or under collection balances existing as of May 31, 2012, have been fully collected or refunded, the CTR will be discontinued. PPL St. 1, p. 26-27.

4. Netting of the GSC and TSC Balances.

Under its Commission-approved, tariff-based reconciliation methodology, PPL Electric currently does not net the GSC-1 and GSC-2 balances with the TSC balances for each customer class for reconciliation purposes. In this proceeding, PPL Electric is proposing to net the over and under collections of the respective GSC-1 and GSC-2 with the TSC reconciliations for each customer class. PPL St. 1-R, p. 26; PPL Ex. 1, App. A and F.

It is not uncommon for PPL Electric to experience an over collection for generation supply charges and an under collection for transmission service charges, or vice versa. For example, in calendar year 2010, PPL Electric experienced an under collection of approximately \$8 million for generation supply charges associated with Large C&I default service customers under the 2010 GSC. However, PPL Electric also experienced an over collection of approximately \$2 million in the 2010 TSC applicable to Large C&I-Transmission default service customers.⁷ PPL St. 1, pp. 13, 16.

⁷ Although it did not submit testimony, PPLICA submitted a list of potential issues as agreed to at the hearing, which indicated that PPLICA did not oppose the CTR for purposes of the transmission service charges but opposed the CTR for generation supply charges. Stated otherwise, PPLICA supports receiving a refund of the TSC over collection, which would reduce the TSC rates its customers would pay, but opposes PPL Electric's recovery of the GSC under collection, which would increase the rates its customers would pay. PPLICA provided no evidence to support its proposal. Further, it is clear that PPLICA's proposal is inconsistent on its fact and apparently self-serving.

Combining the respective over or under collections related to the transmission service and generation supply charges will help reduce the overall impact of reconciling the over and under collections. This, in turn, should help to reduce the volatility in both the default service rate and transmission supply charges.

5. Annual Reconciliation of GSC-1.

PPL Electric proposes to modify the provisions of the GSC-1 to permit reconciliation on an annual PJM Planning Year basis (June 1 through May 31), rather than on a quarterly basis. This change should reduce the volatility of the RR, reduce the number of calculations required, and reduce customer confusion. PPL St. 1, p. 8.

On June 30, 2009, at Docket No. P-2008-2060309, the Commission approved PPL Electric's DSP Plan. Under the Commission-approved DSP Plan, PPL Electric implemented the GSC-1 for customers in the Residential and Small C&I Customer Classes who had not elected to take service from an EGS and continued to take default service from PPL Electric. The GSC-1 is an automatic Section 1307(e) cost recovery mechanism that provides for quarterly re-calculation of the GSC-1 rates and quarterly reconciliation of any over or under collection of the Company's actual costs incurred to acquire generation supply on behalf of the Residential and Small C&I Customer Classes. PPL St. 1, p. 10.

Under the Commission-approved DSP Plan, PPL Electric also implemented the GSC-2 for customers in the Large C&I Customer Class who had not elected to take service from an EGS and continued to take default service from PPL Electric. The GSC-2 also is an automatic Section 1307(e) cost recovery mechanism for the over or under collection of the Company's actual costs incurred to acquire generation supply on behalf of the Large C&I Customer Class who had not elected to take service from an EGS and continued to take default service from PPL Electric.

However, the GSC-2 is re-calculated and reconciled on an annual basis, rather than on a quarterly basis. PPL St. 1, p. 10.

Similar to the GSC-2, PPL Electric's TSC is calculated and reconciled on an annual basis.⁸ By order entered May 17, 2007, the Commission approved PPL Electric's Competitive Bridge Plan ("CBP"). Under the Commission-approved CBP, PPL Electric implemented the TSC for each of three Customer Classes (Residential, Small C&I, and Large C&I). The TSC is an automatic Section 1307(e) cost recovery mechanism that provides for annual reconciliation of any over or under collections of the Company's actual transmission service costs incurred on behalf of each of the three Customer Classes. The TSC is applied to the monthly bill of each customer receiving default service from PPL Electric. PPL St. 1, p. 9.

As explained above, both the TSC and GSC-2 are reconciled on an annual basis, while the GSC-1 currently is reconciled on a quarterly basis. The primary reason that PPL Electric has experienced significant volatility in its E-Factor charges associated with its generation supply costs is attributable to the Commission's requirement that PPL Electric reconcile its over and under collections on a quarterly basis. Quarterly reconciliation adjustments can be substantially larger than annual reconciliation adjustments and can cause a much greater distortion. The quarterly reconciliation of the GSC-1, together with the decreasing default service customer base, has caused continued rate instability for the GSC-1 rates. PPL St. 1-R, p. 33; PPL St. 1-SR, p. 7; OSBA Hearing Exhibit No. 1.

For example, PPL Electric's most recent GSC-1 reconciliation filed on November 14, 2011 at Docket No. M-2011-2258733, included significant over collections for the Residential-

⁸ On December 16, 2010, at Docket No. R-2010-2208496, the Commission approved the implementation of Supplement No. 97. Supplement No. 97 provided for a change to the calculation and reconciliation of the GSC-1, GSC-2 and TSC from a calendar-year basis (January 1 through December 31) to a PJM Planning Year basis (June 1 through May 31). PPL St. 1, p. 11.

Fixed Price customer class of approximately \$11.3 million and the Small C&I-Fixed Price customer class of approximately \$5.9 million. PPL St. 1-SR, p. 9. The significant volatility created by the quarterly reconciliation of the GSC-1 also is demonstrated by OSBA Hearing Exhibit No. 1, which provides as follows:

Small C&I (Fixed) Default Service GSC/GSC-1 Rate History

Application Period	Total Rate	C-Factor Rate	E-Factor Rate	E-Factor Amount
Jan. 1, 2010 – Dec. 31, 2010	10.125¢ per kWh	10.125¢ per kWh	0.000¢ per kWh	--
Jan. 1, 2011 – May 31, 2011	9.276¢ per kWh	8.293¢ per kWh	0.983¢ per kWh	\$22,351,152 under-collection as of Nov. 30, 2010
Jun. 1, 2011 – Aug. 31, 2011	12.171¢ per kWh	8.017¢ per kWh	4.154¢ per kWh	\$18,533,734 under-collection as of Apr. 30, 2011
Sept. 1, 2011 – Nov. 31, 2011	9.319¢ per kWh	7.212¢ per kWh	2.107¢ per kWh	\$8,923,864 under-collection as of Jul. 30, 2011
Dec. 1, 2011 – Feb. 29, 2012	5.900¢ per kWh	7.433¢ per kWh	(1.533¢ per kWh)	\$5,851,871 over-collection as of Oct. 31, 2011

OSBA Hearing Exhibit No. 1 (footnotes omitted). These over collections arose primarily as a result of quarterly reconciliation of the GSC-1 and weather-related increased usage during the quarterly reconciliation period August 1, 2011 through October 31, 2011. PPL St. 1-SR, pp. 7, 9-10.

In this proceeding, PPL Electric proposes to modify the reconciliation provisions under its GSC-1 to permit reconciliation on an annual PJM Planning Year basis (June 1 through May 31), rather than on a quarterly basis. Changing the GSC-1 to an annual reconciliation basis will help to reduce the volatility of the RR, reduce the number of calculations required, and reduce

customer confusion. Although the GSC-1 and GSC-2 would be reconciled annually under PPL Electric's proposal, the Company would continue to revise GSC-1 rates on a quarterly basis, and GSC-2 rates on an annual basis, to reflect changes in the cost of purchasing default service supplies. PPL St. 1-R, p. 32; PPL St. 1-SR, p. 7.

As explained above, OSBA generally supports the RR but recommended that the RR be calculated and reconciled on a rolling 12 month annual basis. OSBA St. 1, p. 7; OSBA St. 3, pp. 1-3. OSBA's proposal is acceptable to PPL Electric and, therefore, the RR will be calculated and reconciled on a rolling twelve-month annual basis if approved by the Commission. Tr. 31-32.

PPL Electric notes that in a recent Final Order, the Commission stated as follows:

The Commission also finds merit in the comments that the method of calculation of reconciled amounts may also have contributed to the volatility of reconciliation adjustment amounts to the generation and transmission bills.

Investigation of Pennsylvania's Retail Electricity Market: Recommendations Regarding Upcoming Default Service Plans, Docket No. I-2011-2237952, Slip Op. p. 54 (December 16, 2011) ("*Retail Investigation Order*"). In addition, the Commission specifically agreed that longer reconciliation periods may help to smooth out over/under collections. *Retail Investigation Order*, p. 54. Therefore, in response to comments received in that proceeding, the Commission recommended that EDCs specifically contemplate incorporation of quarterly, semi-annual and/or annual reconciliations in their next default service plans. *Retail Investigation Order*, p. 55. PPL Electric clearly has demonstrated in this proceeding that its quarterly reconciliation methodology has produced significant rate volatility, and that annual reconciliation, with quarterly rolling adjustments, will reduce rate volatility.

C. OTHER PARTIES' ISSUES

The Parties to this proceeding have taken a wide variety of positions on PPL Electric's proposals and many support at least some parts of the Company's proposals. The OSBA generally supports the RR, with two minor modifications that, as discussed above, are both acceptable to PPL Electric. The OCA opposes the RR and generally supports the CTR. Both the OSBA and Walmart oppose the CTR. Dominion, RESA, REG, PPLICA⁹ generally oppose both the RR and CTR. I&E argues that, if approved by the Commission, the RR and CTR should be included in the Price to Compare. Finally, PPLICA did not file testimony and its position on PPL Electric's proposals is not known at the time this Main Brief was filed.

Although there is a lack of consensus among the Parties to this proceeding, this does not change the fact that PPL Electric is statutorily entitled to refund and recover the over and under collections associated with the cost incurred under its Commission-approved DSP Plan to provide transmission service and generation supply to its default service customers. Further, the lack of consensus does not change the fact that PPL Electric's current default service reconciliation mechanisms, together with the small number of remaining non-shopping customers, have made it increasingly difficult for PPL Electric to refund and recover its over and under collections related to transmission service and generation supply service on a full and timely basis. Finally, the lack of consensus among the parties does not change the unrefuted fact that PPL Electric's current default service reconciliation mechanisms, together with the small number of remaining non-shopping customers, have created significant volatility and uncertainty in PPL Electric's default service rates and the Price to Compare.

⁹ PPLICA did not file any testimony in this proceeding. Further, PPLICA's prehearing memorandum identified very broad general issues and a review of PPLICA's cross-examination of PPL Electric's witness provides little in the way of clearly identifiable positions. However, as agreed to at the hearing, PPLICA submitted a list of possible issues that it intends to advance in its main brief. PPL Electric briefly responds in this Main Brief to the issues identified by PPLICA and will respond more fully in its Reply Brief.

The Parties offer a number of criticisms to PPL Electric's proposals but fail to offer any alternative plan that properly balances the need to promote competition with the need to alleviate the volatility and uncertainty associated with the over and under collection balances related to transmission service and generation supply costs, while at the same time ensure that PPL Electric recovers these costs on a full and timely basis, as required by law. Indeed, the Parties fail to provide any comparative analysis to support their anti-competitive arguments and, instead, focus solely on individual customers. Such an approach fails to properly balance all the interest that must be considered and is contrary to class ratemaking principles.

As described above, the RR and CTR are new Section 1307(e) cost recovery mechanisms that will help alleviate the volatility and uncertainty associated with the over and under collection balances related to transmission service and generation supply costs, while at the same time ensure that PPL Electric fully recovers these costs. For these reasons alone, PPL Electric's proposals should be approved. Notwithstanding the foregoing, the Parties to this proceeding raise certain issues in support of their respective positions and in opposition to PPL Electric's proposals. PPL Electric herein briefly responds to the various issues raised in the Parties' respective testimonies. PPL Electric will more fully respond in its reply brief, as appropriate and necessary, to any issues raised in the Parties' main briefs.

1. Recovery of Default Service Costs

In this proceeding, I&E witness Scott Granger contends that PPL Electric should not be permitted to refund or recover any over or under collection balances related to its transmission service and generation supply charges because such costs are "risk management" costs and should be included in the default service rate. In support of his legal conclusion, Mr. Granger contends that 52 Pa. Code § 69.1808(a)(3) mandates that the Price to Compare must include

supply management costs, including risk management costs.¹⁰ Mr. Granger, therefore, concludes that PPL Electric's proposal to refund or recover over or under collection balances through the RR and CTR, and not in the default service rate violates Pennsylvania Law and the Commission's regulations. I&E St. 1, pp. 5-7; I&E St. 1-SR, pp. 4-5; Tr. 113-15. Mr. Granger's legal conclusions are without merit and must be rejected for several reasons.

First, there is nothing in the Commission's regulations that specifically defines "risk management" costs to include the refund or recovery of over or under collection balances related to its transmission service and generation supply charges. Further, PPL Electric has been unable to locate and is unaware of any order from the Commission or the Pennsylvania appellate courts that specifically defines "risk management" costs to include the refund or recovery of over or under collection balances related to its transmission service and generation supply charges, nor any order that prohibits the refund or recovery of such over or under collection balances outside the default service rate. Moreover, Mr. Granger's legal conclusion is directly contrary to the plain language of Act No. 129, which expressly provides that default service providers shall have the right to recover on a full and current basis all reasonable costs incurred in providing default service through a reconcilable surcharge. 66 Pa.C.S. § 2807(e)(3.9).

Second, Mr. Granger's contention that Section 69.1808(a)(3) is a mandatory and binding regulation of the Commission is incorrect. As acknowledged by I&E's counsel, Section 69.1808(a)(3) is a Commission Policy Statement and Guideline. Tr. 113-14. Unlike formally adopted regulations,¹¹ statements of policy and guidelines do not establish binding norms or

¹⁰ RESA witness Richard J. Hudson similarly contends that the over or under collection balances related to its transmission service and generation supply charges must be included in the Price to Compare. RESA Statement No. 1, p. 7 (citing 52 Pa. Code § 69.1808.)

¹¹ "A regulation, ...once properly promulgated, cannot be collaterally attacked as being inaccurate, or incorrect, if it was adopted following the proper statutory procedures, is within the scope of its enabling legislation, and otherwise passes constitutional muster." *Einsing v. Pa. Mines Corp.*, 452 A.2d 558, 568-69 (Pa. Cmwlth. 1982). To be a

obligations. See *Dep't of Evntl. Res. v. Rushton Mining Co.*, 591 A.2d 1168,1173 (Pa. Cmwlth. 1991); *Mid-Atlantic Power Supply Association v. Pa. P.U.C.*, 746 A.2d 1196, 1201 (Pa. Cmwlth. 2000); 45 P.S. § 1102; 1 Pa. Code § 1.4. Therefore, despite Mr. Granger's characterization to the contrary, Section 69.1808 is not a mandatory and binding obligation.¹² Indeed, the Commission's Default Service and Retail Electric Markets Statement of Policy recognizes that it is not binding and that there is discretion in developing the appropriate mechanisms to recover reasonable costs associated with default service.¹³

Finally, Mr. Granger's legal conclusion is inconsistent with the Commission's actual, and formally promulgated, default service regulations, which provide, in pertinent part, as follows:

- (a) The costs incurred for providing default service shall be recovered through a default service rate schedule. The rate schedule shall be designed to recover fully all reasonable costs incurred by the [default service provider] during the period default service is provided to customers, based on the average cost to acquire supply for each customer class.
- (b) *Except for rates available consistent with subsection (f)*, a default service customer shall be offered a single rate option, which shall be identified as the [Price to Compare] and displayed as a separate line item on a customer's monthly bill.

valid, a regulation must conform with the Commonwealth Documents Law. *Metro Transp. Co. v. Pa. P.U.C.*, 525 A.2d 24, 27 (Pa. Cmwlth. 1987). The Commonwealth Documents Law provides the procedures for an agency to promulgate regulations. 45 P.S. §§ 1201-1208. The Commonwealth Documents Law requires an administrative agency to, *inter alia*, provide public notice of its intention to promulgate a regulation, publish the proposed regulation in the Pennsylvania Bulletin, and solicit comments from interested parties. 45 P.S. § 1201. The Commonwealth Documents Law further requires that all administrative regulations shall be approved as to legality by the Commonwealth and shall be deposited with the Legislative Reference Bureau. 45 P.S. § 1205. Additionally, the Regulatory Review Act provides for review of a proposed regulation by the Independent Regulatory Review Commission. 71 P.S. §§ 745.5, 745.51a.

¹² Despite his willingness to offer legal conclusions into the record, Mr. Granger was unable to explain the difference between formally promulgated regulations, statements of policy, and guidelines. Indeed, Mr. Granger incorrectly opined that Section 69.1808 had the same binding affect regardless of whether it was a statement of policy or a formally adopted regulation. Tr. 113-15.

¹³ The Commission's Statement of Policy provides that it is "not designed to resolve every possible issue relating to the acquisition of electric generation supply, the recovery of reasonable costs, the conditions of service and the relationship with the competitive retail market." 52 Pa. Code § 69.1802(a). The Statement of Policy further recognizes that it is intended to "provide guidelines on those matter when a degree of flexibility is required to respond effectively to regulatory and market challenges." 52 Pa. Code § 69.1802(c).

(f) *A [default service provider] may use an automatic energy adjustment clause to recover reasonable nonalternative energy default service costs. The use of an automatic adjustment clause shall be subject to audit and annual review, consistent with 66 Pa.CS. § 1307(d) and (e).....*

52 Pa. Code §§ 54.187(a), (b), (f) (emphasis added). Consistent with Act No. 129, the Commission's regulations clearly provide that default service providers shall have the right to recover on a full and current basis all reasonable costs incurred in providing default service. Furthermore, the plain language of Sections 54.187(b) and (f), when read *in pari materia*, clearly contemplates a reconcilable automatic Section 1307(e) cost recovery surcharge that is not required to be included in the Price to Compare.

To the extent that Mr. Granger contends that the RR and CTR should be rejected because the costs are not reasonable, this contention also must be rejected. There is nothing in the record to suggest that the over and under collection balances incurred by PPL Electric are not reasonable. Mr. Granger ignores that PPL Electric's procurements of default service supply are conducted pursuant to a DSP Plan that the Commission previously concluded was just, reasonable, within the public interest, in accord with the rules and regulations of the Commission, and consistent with the provisions of the Pennsylvania Public Utility Code, including Act 129, applicable law, and the prevailing industry standards. *See Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 Through May 31, 2013*, Docket No. P-2008-2060309, Slip Op. pp. 35-36 (June 30, 2009). Furthermore, Mr. Granger disregards the fact that the actual over and under collections related to transmission service and default supply service charges undergo an annual review and audit to determine if such costs are reasonable and recoverable default service costs under Act No. 129. *See 66 Pa.C.S. §§ 1307(d), (e).*

In summary, Mr. Granger's contention that PPL Electric is legally obligated to recover over or under collection balances in the default service rate, rather than through the separate RR and CTR, is contrary to fundamental legal principles, Act No. 129, and the Commission's default service regulations. For these reasons, Mr. Granger's contentions and incorrect legal conclusions must be rejected.

2. Discretion in Setting Default Service Prices

Dominion recommends that the RR and CTR both be denied. In support, Dominion's witness Thomas J. Butler contends that the RR and CTR, if approved, will remove incentives for PPL Electric to accurately estimate its price for default service. Mr. Butler suggests that PPL Electric has substantial discretion in setting prices for default service, and that the volatility experienced in over and under collection balances is the direct result of PPL Electric's inaccurate default service price estimates. Dominion St. 1, pp. 4-6, 12-14; Dominion St. 1-SR, p. 3; Tr. 142-43, 147. For the reasons explained below, Mr. Butler misunderstands how PPL Electric's default service rates are determined.

Mr. Butler seems to believe that PPL Electric has discretion when it estimates its default service rates; that is not true. PPL Electric procures default service supply pursuant to the DSP Plan approved by the Commission. *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 Through May 31, 2013*, Docket No. P-2008-2060309 (June 30, 2009). The Commission adopted a settlement reached by the parties, concluding that the DSP Plan, as modified by the settlement, is just, reasonable, within the public interest, in accord with the rules and regulations of the Commission, and consistent with the provisions of the Pennsylvania Public Utility Code, including Act No. 129, applicable law, and the prevailing industry standards. *See Slip Op.* pp. 35-36.

Under PPL Electric's Commission-approved DSP Plan, each solicitation is a competitive bidding process administered by an independent third party, the National Economic Research Association ("NERA"). NERA selects the winning bidders after preparing an independent market analysis to determine whether the competitive bidding process, and the results thereof, are consistent with current market practices and forecasts. NERA then provides the results of the competitive bidding process, including the prices and independent market analysis, to the Commission for review and approval. In turn, the Commission approves the results of the competitive bidding process, if it determines that the information provided by NERA is accurate. Tr. 13-14.

Once the Commission approves the competitive bidding process and the procurement price is determined, PPL Electric estimates its default service price pursuant to the TSC, GSC-1, and GSC-2 rate riders in the Company's Commission-approved tariff, all of which include very specific formulae for calculating transmission service charges and generation supply charges applicable to default service. PPL St. 1-R, p. 9. PPL Electric merely takes a weighted average of the pricing from the default service procurement solicitations and develops the average market price for all customers, as adjusted for losses, gross receipts tax, and any administrative costs incurred in the procurement process. Tr. 34, 60-61.

Under its current reconciliation of its default service cost recovery mechanisms, PPL Electric has little if any discretion when it estimates its default service rates. However, it is unrefuted that PPL Electric has experienced significant volatility in the over and under collections associated with transmission service and default service supply charges. Therefore, Mr. Butler's suggestion that PPL Electric's discretion over its default service pricing caused the volatility in the over and under collections is without merit and should be rejected.

Further, there is nothing in the proposed RR and CTR that would provide PPL Electric with discretion in setting prices for default service. Indeed, if the RR and CTR are approved, PPL Electric will continue to estimate its default service rates based on the results of the procurement solicitations administered by NERA and pursuant to the formulae set forth in the TSC, GSC-1, and GSC-2 rate riders. Accordingly, if the RR and CTR are approved, PPL Electric will continue to have little, if any, discretion to set the default service pricing and, therefore, Dominion's contention that the RR and CTR will remove incentives for PPL Electric to accurately estimate its price for default service must be rejected.

3. Price to Compare

I&E, Dominion, and RESA contend that the RR and CTR will not be competitively neutral because those riders will not be included in the Price to Compare. These parties argue that removing the RR and CTR from the Price to Compare will not accurately reflect the actual costs to acquire default service, will cause confusion regarding the Price to Compare, and will complicate customer's shopping decisions.¹⁴ I&E St. 1, pp. 5-6; RESA St. 1, pp. 6-7, 10-11; Dominion St. 1 p. 15. However, by excluding the RR and CTR, the Price to Compare will more accurately reflect the actual costs to acquire default service supply, which in turn should facilitate customers' ability to make accurate comparisons and better informed shopping decisions.

Presently, PPL Electric's Price to Compare includes both the cost factor ("C-Factor") and the reconciliation of over and under collections ("E-Factor"). As explained above, under PPL

¹⁴ Mr. Granger additionally argues on behalf of I&E that excluding the over and under collection balances associated with transmission service and generation supply service from the Price to Compare violates Pennsylvania law and the Commission's regulations. I&E Statement No. 1-SR, pp. 2-3. Mr. Granger's position is based on his legal conclusion that the Commission's regulations require over and under collection balances associated with transmission service and generation supply service to be included in the Price to Compare. For the reasons explained in Section V.C.1, *supra*, Mr. Granger's legal conclusion is incorrect and must be rejected.

Electric's current default service reconciliation mechanisms, the over and under collection balances associated with transmission service and generation supply service have caused significant volatility in the Price to Compare. *See* Section V.B.1, *supra*. Indeed, as noted by REG, the historical variances in the Price to Compare are attributable to the over and under collection balances, rather than significant changes in the pricing of power. Tr. 163-64.

Including the E-Factor in the Price to Compare does not accurately reflect the actual costs to acquire default service. As a result, customers shift between default service and competitive supply for reasons entirely unrelated to actual competitive market conditions. PPL St. 1-R, pp. 10-11; Tr. 163-64. Indeed, the refund of over collection balances related to transmission service and generation supply charges can reduce the applicable Price to Compare, which could encourage customers to return to or remain with default service to pay a reduced default service rate attributable to a credit for the over collection, rather than any change in the competitive market prices. Conversely, recovering under collection balances related to transmission service and generation supply charges from such a small number of non-shopping default service customers can inappropriately inflate the Price to Compare, which could encourage customers to shop to avoid paying an increase in default service rate attributable to the under collection rather than any change in the competitive market prices. PPL St. 1-R, pp. 10-11.

For example, the under collection as of April 30, 2011, increased the Price to Compare by 4.154¢ per kWh for Small C&I GSC-1 customers for the period of June 1, 2011 through August 31, 2011; while the over collection as of October 31, 2011, decreased the Price to Compare by 1.533¢ per kWh for Small C&I GSC-1 customers for the period of December 1, 2011 through February 29, 2012. OSBA Hearing Exhibit No. 1. As explained by REG, the volatility caused by including the over and under collections in the Price to Compare under the current mechanism

has created the potential for customers to shift between default service and competitive supply for reasons entirely unrelated to actual competitive market conditions. Tr. 162-63.

Including the RR and CTR in the Price to Compare, as suggested by I&E, Dominion, and RESA, will complicate shopping decisions for customers and promote shifting between default service and competitive supply for reasons unrelated to actual competitive market conditions. Consequently, PPL Electric is proposing that the RR and CTR not be included in the Price to Compare.

By excluding the RR and CTR, the Price to Compare will more accurately reflect the actual costs to acquire default service supply. It will help eliminate the reconciliation distortions from the Price to Compare and align it more closely with competitive market prices. The Price to Compare then will become simply the cost of generation supply and transmission service purchased by PPL Electric to meet its default service obligations. This approach will make the Price to Compare easier for customers to understand, because it will remove from the Price to Compare all balances arising from reconciliation of PPL Electric's default service rates and will more accurately reflect the actual costs to acquire default service. Customers will more easily use that data to evaluate offers from competitive suppliers and make informed shopping decisions. PPL St. 1-R, pp. 10-11, 21-24.

4. Other Parties' Reconciliation Rider Issues

a. Competitively Neutral

Dominion and REG oppose the RR and contend that it is not competitively neutral. Specifically, Dominion contends that migration-type riders, such as the RR, scare customers from shopping and encourage shopping customers to return to default service. Dominion St. 1, pp. 4, 11. REG states that the proposed RR punishes shopping customers and results in shopping customers losing their savings from shopping. REG St. 1, p. 2. These marketers appear to

misunderstand the RR and its purpose. Further, other than their speculative and conclusory allegations, these marketers have provided no factual support for their position that the RR will “scare” or “punish” shopping customers.

Preliminarily, it must be noted that no regulatory policy or rule can be completely competitively neutral, and there is nothing in the Public Utility Code or in the Commission’s regulations or policies that expressly requires absolute competitive neutrality to the exclusion of the many other factors that must be considered in developing just and reasonable rates. If promoting retail competition were the only goal, then the General Assembly would not have provided for the full and timely reconciliation of over and under collections related to transmission service and generation supply service because the E-Factor, admittedly, distorts the Price to Compare. Further, focusing solely on competition would be contrary to Act 129’s concern about rate stability. *See Implementation of Act 129 of October 15, 2008; Default Service And Retail Electric Markets*, Docket No. L-2009-2095604, 2011 Pa. PUC LEXIS 114 at *20 (October 4, 2011) (“Act 129 requires that the Commission be concerned about rate stability as well as other considerations”). PPL Electric’s proposals in this proceeding reflect a careful and reasonable balance of several competing interests and should be evaluated on that basis.

The Parties’ anti-competitive criticisms of PPL Electric’s proposals fail to provide any comparative analysis or constructive alternatives. PPL Electric’s proposals clearly reflect very substantial improvements over existing procedures and will certainly promote retail competition, particularly as compared to the status quo. The parties generally ignore these improvements and more importantly, present no reasonable and lawful alternatives. Further, the parties ignore that the Commission previously has concluded that migration riders are not unduly discriminatory and do not inhibit competition or confer an unfair advantage. *See Enron Capital & Trade*

Resources Corporation v. The Peoples Natural Gas Company, et al., Docket No. R-00973928C0001, 1998 Pa. PUC LEXIS 199 at *35-37 (August 24, 1998).

Finally, several Parties present examples of potential unfairness in PPL Electric's proposals as they might be applied to individual customer circumstances. Although PPL Electric fully refutes these examples, it is important to emphasize that utility rates are not, never have been, and cannot be designed to reflect individual customers costs and usage patterns. As recognized in a series of Commission and appellate court decisions, rates are designed on a class basis and should be evaluated on that basis as well. The Parties' anti-competitive arguments simply are not enough to overturn or reject PPL Electric's carefully balanced plan.

The purpose and design of the RR is not to "lure" or otherwise entice shopping customers to return to default service. Default service providers are statutorily required to be ready, willing, and able to provide default service to any requesting customer within the provider's service territory, *i.e.*, any existing or new default service customers and customers returning to default service. 66 Pa.C.S. § 2807(e). However, unlike competitive suppliers, default service providers do not procure and provide customers with default service supply for a profit.

The proposed RR attempts to align transmission service and generation supply costs with the customers that caused such costs to be incurred. If a customer switches from default service to shopping, the customer will be subject to the RR for a period equal to the number of consecutive months, not to exceed twelve months, that the customer took default service immediately prior to becoming a shopping customer. This approach will help to assure that shopping customers bear their fair share of the reconciliation impacts that arose while the customer took default service. If a customer switches from shopping to default service, the customer will be exempt from the RR for a period equal to the number of consecutive months,

not to exceed twelve months, that the customer was a shopping customer immediately prior to switching to default service. This approach will help to assure that returning default service customers are not subject to the reconciliation impacts that arose while those customers were taking competitive supply. PPL St. 1-R, pp. 7-8.

Further, the RR does not penalize or punish customers that shop. The RR does not somehow remove or eliminate a customer's benefit from shopping. Rather, it attempts to assure that customers bear their fair share of under collected transmission service and generation supply charges or receive their fair share of any refund of over collected of transmission service and generation supply charges created while the customers took default service from PPL Electric. PPL St. 1-R, pp. 7-8.

b. Remaining Balance and Shopping Levels

OCA and Dominion contend that the RR is not needed because the over and under collection balances will be relatively small, and because shopping levels and the default service customer base have both stabilized. OCA St. 1, pp. 10-11; Dominion St. 1, p. 6. PPL Electric acknowledges that the total number of shopping customers has stabilized and that, prospectively, there may be reconciliation periods where the over or under collections for the applicable period are relatively small. PPL St. 1-R, p. 11; Tr. 57-58. However, this does not change the fact that customers will continue to switch between default service and shopping, and that the RR will more closely align over and under collection balances with the customers that created such balances, remove volatility from the Price to Compare, and help ensure that PPL Electric recovers its costs to provide default service in a full and timely manner.

Although shopping and default service customer levels have stabilized, *i.e.*, the total number of shopping customers as compared to the total number of default service customers, individual customers will continue to switch from default service to competitive supply and vice

versa. Tr. 57-58. This is precisely why the RR is appropriate. The RR attempts to align transmission service and generation supply costs with the customers that caused such costs to be incurred. PPL St. 1-R, pp. 11-12. In addition, shopping and default service customer levels could change dramatically in the future as a result of changes in global energy prices and events, as well as the results of the Commission's current Retail Market Investigation at Docket No. I-2011-2237952. Tr. 58; PPL St. 1-R, p. 12.

Initially, it must be noted that the small balance argument against reconciliation was previously considered and rejected by the Commonwealth Court. In *Petition of Pennsylvania Power Company for Approval of Interim POLR Supply Plan*, Docket No. P-00052188, Slip Op. p. 100-02 (April 28, 2006), Penn Power proposed to reconcile its generation supply costs for default service costs. Parties opposing the reconciliation argued that reconciliation of default service plans was not necessary because the amount to be reconciled was anticipated to be small or non-existent. The Commission agreed, concluding that "a competitive market will not develop if an incumbent utility has the ability to reconcile its POLR costs." Slip Op. p. 100-02. On appeal, the Commonwealth Court reversed and remanded, concluding that Penn Power is entitled to full recovery of its reasonable costs as a provider of last resort, and that the use of a reconciliation mechanism does not violate Act No. 129. *Pa. Power Co. v. Pa. PUC*, 932 A.2d 300, 307 (Pa. Cmwlth. 2007). Here, consistent with Act No. 129 and the holding of the Commonwealth Court, PPL Electric is proposing the RR to provide a new prospective cost recovery mechanism to refund or recover the experienced net over or under collection balances, however large or small they may be.

As explained above, PPL Electric historically has experienced reconciliation periods with significant over and under collections. However, PPL Electric's tariff currently does not contain

a mechanism to recover or credit over and under collection balances from customers who were default service customers when an over or under collection balance was created, but who are shopping customers when the over or under collection balance is refunded or recouped. Instead, these over or under collection balances are refunded to, or recouped from, those customers who are default service customers during the application period regardless of whether or not they were default service customers when the over or under collection balance was created. PPL St. 1-R, pp. 11-12.

The proposed RR attempts to align transmission service and generation supply costs with the customers that caused such costs to be incurred. Aligning over and under collection balances with the customers that created such balances, regardless of the amount or number of customers that took default service during the application period, ensures that customers bear their fair share of under collected transmission service and generation supply charges or receive their fair share of any refund of over collected transmission service and generation supply charges created while the customers took default service from PPL Electric. PPL St. 1-R, pp. 11-12.

c. Continue the Current Reconciliation Mechanism

OCA, Dominion, RESA, and REG all recommend that the Commission deny the RR because the current Section 1307(e) cost recovery mechanisms are working reasonably well. *See* OCA St. 1, p. 11; Dominion St. 1, p. 11; RESA St. 1, pp. 7-8; and REG St. 1, p. 4. This argument simply ignores that, as explained above and as demonstrated by the various complaints currently pending before the Commission,¹⁵ the current reconciliation default service cost recovery mechanisms have resulted in significant over and under collections.

¹⁵ *See, e.g.*, Docket Nos. C-2011-2245906, M-2011-2243137, C-2011-2279176, M-2011-2274191. PPL Electric notes that, in the list of issues submitted by PPLICA, PPLICA recommended that the Commission resolve these pending matters prior to the RR or CTR taking effect. PPL Electric disagrees with the recommendation that these matters be decided simultaneously with this proceeding. Tr. 168-70.

As noted by OSBA, there have been several complaints filed with the Commission challenging the existing default service cost recovery mechanisms. OSBA St. 1, pp. 5-6. Although PPL Electric's existing recovery mechanisms presently are working as they were designed, there are events beyond the control of PPL Electric that can quickly have a significant adverse effect on over and under collection balances associated with the Company's Commission-approved GSC-1, GSC-2, and TSC rate riders. PPL St. 1-R, p. 13.

For example, lower default service customer bases for several customer classes (primarily due to shopping) have hampered PPL Electric's ability to recover under collection or refund over collection balances. As a result, in its order entered on May 25, 2011, at Docket No. M-2011-2239805, the Commission ordered PPL Electric to defer the refund of approximately \$5 million for Large C&I customers, and to set the TSC application period (June 1, 2011 through May 31, 2012) E-Factor to zero, in order to avoid a distortion in prices that would be disruptive to retail markets. Further, in its order entered on August 25, 2011, at Docket No. M-2011-2258733, the Commission suspended PPL Electric's proposed default service TOU rates for the application period (September 1, 2011 through November 30, 2011) for further investigation, because of a significant under collection of approximately \$2 million and its potential impact on remaining default service TOU customers. In addition, Small C&I default service customers experienced a significant rate increase on June 1, 2011, due to a large under collection balance for that customer class. PPL St. 1-R, pp. 13-14.

Unlike the proposed RR, the current default service reconciliation mechanisms fail to properly align transmission service and generation supply costs with the customers that caused such costs to be incurred. Further, as discussed above, the current default service cost recover mechanisms include the over and under collection balances in the Price to Compare, which has

distorted Price to Compare, complicated shopping decisions for customers, and has promoted shifting between default service and competitive supply for reasons unrelated to actual competitive market conditions.

d. Customer Confusion

The OCA opposes the RR stating that it will be confusing to customers because customers may be subject to the RR for some months and not others. OCA St. 1, pp. 10-11. Although customers may be subject to the RR for some months and not others, PPL Electric believes that the RR will simplify the Price to Compare and should be easy for customers to understand. Further, PPL Electric will provide detailed customer education prior to the implementation of the RR.

As explained above, the RR should make the Price to Compare easier for customers to understand because it will remove from the Price to Compare all balances arising from reconciliation of PPL Electric's default service rates and will more accurately reflect the actual costs to acquire default service. Customers will be able to more easily use that data to evaluate offers from competitive suppliers and make informed shopping decisions. PPL St. 1-R, pp. 21-22, 23-24.

Further, the application of the RR should be easy for customers to understand because it will be based on a customer's change in status. Application of the RR will be determined each time a customer's status changes from default service to shopping or from shopping to default service. The application of the RR will be based on the customer's status during the period immediately preceding the customer's status change. PPL St. 1, p. 20. Basically, a shopping customer will receive a charge or a credit through the RR for the same number of months they were a default service customer (up to 12 months). At the end of that period, the RR will go to zero. A default service customer will be exempt from the RR when they return to default service

for the same number of months that they were shopping (up to 12 months). After that period, they will be charged the RR. PPL St. 1-R, pp. 21-22.

Finally, PPL Electric will provide customers with detailed education about the RR before it is implemented. PPL Electric will include a detailed description of the RR in its monthly newsletter, Connect. That description also will include a toll-free telephone number and a website address where customers can obtain additional information and receive answers to specific questions. Further, information about the RR will be posted on PPL Electric's website. In addition, the Company's Customer Service Representatives will be thoroughly trained on the details of the RR and CTR so that they can respond to any calls received at the Company's Customer Contact Center. PPL St. 1-R, p. 22.

e. Interest Rate

Although OSBA generally supports the RR, Mr. Knecht recommends adjustments to the interest rate applied under the RR to over and under collection balances. Specifically, Mr. Knecht recommends that the interest rate on under collections in the RR be set at an interest rate equivalent to what PPL Electric earns on short-term deposits, and that the interest rate in the RR on over collections also be set at approximately the short-term cost of capital. Alternatively, Mr. Knecht recommends that the interest rate in the RR paid by PPL Electric on over collections be based on a published bank prime lending rate, and that the interest rate in the RR earned by PPL Electric on under collections be set at 200 basis points below the prime bank lending rate. OSBA St. 1, p. 8. Mr. Knecht's concerns regarding the appropriate interest rate in the RR for over and under collection balances already has been resolved by the Commission.

The Commission's default service regulations provide for the appropriate interest rate on over and under collection balances associated with generation supply charges. Specifically, Section 54.187(f) of the Commission's default service regulations provides as follows:

(f) A DSP may use an automatic energy adjustment clause to recover reasonable nonalternative energy service costs. The use of an automatic adjustment clause shall be subject to audit and annual review, consistent with 66 Pa.C.S. § 1307(d) and (e). A DSP may collect interest from retail customers on the recoveries of under collection of default service costs at the legal rate of interest. Refunds to customers for over recoveries shall be made with interest, at the legal rate of interest plus 2%.

52 Pa. Code § 54.187(f).

Consistent with the requirements of the Commission's default service regulations, the interest rate in the RR for under collection balances will be set at the legal rate of interest, *i.e.*, 6%. The interest rate in the RR for over collection balances will be set at the legal rate of interest plus 2%, *i.e.*, 8%. Mr. Knecht's alternative interest rate adjustments are unnecessary and contrary to the Commission's regulations.

5. Other Parties' Competitive Transition Rider Issues

a. Competitively Neutral

OSBA, REG, and Walmart contend that the non-bypassable CTR is not competitively neutral because there is no evidence that the historic over and under collections were created by the existing shopping customers. OSBA St. 1, p. 10; REG St. 1, p. 4; Walmart St. 1, p. 5-7. REG further states that the CTR is not competitively neutral because it punishes shopping customers and results in shopping customers losing their savings from shopping. REG St. 1, p. 2. As explained above in Section V.C.4.a, *supra*, these anti-competitive arguments look solely at retail competition and fail to consider default service rate volatility and recovery of transmission service and generation supply service costs. PPL Electric's proposal to implement the CTR carefully and appropriately balances the need to promote competition, alleviates the volatility and uncertainty associated with the over and under collection balances related to transmission

service and generation supply costs, and the need to ensure that PPL Electric fully recovers these costs as required by law.

The proposed CTR is a temporary, non-bypassable Section 1307(e) cost recovery mechanism that will refund or recoup the net historic over or under collection balances related to transmission service and generation supply charges that were incurred prior to the effective date of the RR. These historic net over and under collections primarily arose when PPL Electric's generation rate caps expired in December 31, 2009.¹⁶ PPL St. 1-R, p. 24.

Prior to the expiration of generation rate caps, shopping was almost non-existent on PPL Electric's system. Although the customers may now be shopping customers, many of these customers were still default service customers when these historic costs arose. PPL St. 1-R, p. 24. For example, of the approximately 1,400 customer accounts represented by REG, only about 43 customer accounts began receiving competitive supply by December 31, 2009. Tr. 156-57.

Although some customers may not have contributed to the net historic over and under collection balances, their respective customer classes, as a whole, contributed to these over and under collections. Moreover, at any point in time, any customer is eligible to switch between default service and shopping. There may be customers that were on default service at one point in time, and contributed to the over or under collection during that period, and then became a shopping customer. These over or under collections will be netted with the over and under collection balances that will be recovered or refunded through the CTR. These customers should

¹⁶ When the generation rate caps expired, the generation prices PPL Electric had to pay suppliers in January 2010 were substantially higher than those paid in December 2009 under capped rates. Because many default service customer bills issued in January 2010 were prorated for usage which occurred in December 2009, or prior to implementation of the 2010 GSC, billed revenue under the 2010 GSC for January 2010 reflected only about half of the revenue that typically would be derived from a full, non-prorated billing month. However, generation supply-related costs incurred for January 2010 reflected a full month of customer electricity usage. This difference between prorated billed revenue and actual incurred costs created a significant under collection for the month of January 2010. The effect of this under collection was exacerbated due to the significant number of customers that subsequently elected to take competitive supply from EGSs in 2010. PPL St. 1, pp. 14.

be entitled to receive a credit if there is a net historic over collection as of the effective date of the CTR, or should be required to pay a charge if there is a net historic under collection as of the effective date of the CTR. Tr. 57-58.

The examples cited by OSBA, REG, and Walmart to support their anti-competitive arguments are premised on individual customer analyses, which is contrary to class ratemaking principles. Utility rates are not, never have been, and cannot be designed to reflect individual customers costs and usage patterns. Indeed, although Section 1304 of the Public Utility Code prohibits unreasonably prejudicial and disadvantageous rates, there is nothing in, Section 1304 that requires rates to be designed based on individual customers costs and circumstances. 66 Pa.C.S. § 1304; *see also Philadelphia Suburban Trans. Co. v. Pa. P.U.C.*, 281 A.2d 179 (Pa. Cmwlth. 1971) (rate structure must be based on economic facts and on an understanding of all facts and circumstances that affect rates and services; rates must be designed to furnish the most efficient and satisfactory service at lowest reasonable price for the greatest number of customers); *see, e.g., U.S. Steel Corp. v. Pa. P.U.C.*, 390 A.2d 849 (Pa. Cmwlth. 1978) (denying separate rate classification for largest individual customer of a gas utility even though its volume far exceeded any other customer and even though it received its gas service through a direct connection with the transmission line).

For these reasons, PPL Electric believes that the non-bypassable CTR is just and reasonable, and will help to minimize the uncertainty and effect on default service rates caused by reconciling the historic over and under collection balances. PPL St. 1-R, p. 24.

b. Remaining Balances

OSBA and Dominion assert that the Commission should deny the CTR because the remaining net historic over or under collection balances related to transmission service and

generation supply charges are likely to be small. OSBA St. 1, p. 11; Dominion St. 1, pp. 5, 7, 9, 10. PPL Electric believes that this is not a reasonable basis to deny the CTR.

PPL Electric explained that, although the remaining balances at May 31, 2012 may be small, it is impossible to predict with certainty what the over and under collection balances will be as of May 31, 2012. Tr. 54. Further, even assuming that the remaining net historic over or under collection balances will be small, recovering such balances through the non-bypassable CTR will result in a de minimus charge or credit to customers. In addition, it is impossible to predict with certainty when future changes in generation supply market prices, which are affected by global energy prices and events, will occur or what will be the effect of setting an administratively determined target level of shopping that will affect the default service customer base. PPL St. 1-R, p. 25. For these reasons, PPL Electric believes the CTR, as proposed, is prudent and should be approved by the Commission, regardless of the amount of the net historic over or under collection balances as of May 31, 2012.

c. Reconciliation

REG opposes the CTR because it will be reconciled at the end of the twelve-month period, which REG contends will become never ending. REG St. 1, p. 5. Although OCA generally supports the CTR, and agrees with PPL Electric's reasons for its adoption, it recommends that if the CTR is adopted by the Commission, it should be modified so that any balances remaining at the end of the initial twelve-month application period are recovered through the existing reconciliation mechanisms. OCA St. 1, p. 12.

With respect to REG's concerns that the CTR, if reconciled, will become never ending, the CTR will have finite application periods and will end following the full collection or refund of net under and over collection balances that exist as of May 31, 2012. The CTR will be designed to recover or refund any balances that exist as of May 31, 2012, through the initial

twelve-month application period. The CTR then will continue for the minimum number of months necessary to true-up any remaining balance of the over or under collections existing as of May 31, 2012, that were not refunded or recouped during the initial twelve-month period. Once the balance of any remaining over or under collections has been fully reconciled, the CTR will be discontinued. PPL St. 1-R, p. 26.

With respect to OCA's recommendation that the CTR be reconciled through the existing mechanisms or the RR, this recommendation is not acceptable for several reasons. First, if the Commission approves PPL Electric's proposal to implement the RR, the existing reconciliation mechanisms will be terminated. Second, any balances remaining in the CTR should not be transferred to the RR (or any other reconciliation mechanism) because the customers responsible for the CTR balances may not be the same customers that are responsible for the RR (or any other reconciliation mechanism). There simply is no reason to complicate implementation of the CTR by transferring any remaining balances. The better approach, and one that has been used with all other expiring automatic adjustment clauses, is to address those balances in a final reconciliation of that specific clause. PPL St. 1-R, p. 27.

6. TOU Program

a. Recovery of TOU Program Over and Under Collections through the Reconciliation Rider and Competitive Transition Rider

I&E argues that the TOU Program is not a default service and, therefore, it cannot be recovered through the RR and CTR. I&E St. 1-SR, pp. 6-7. Dominion contends that the RR and CTR should not recover the over and under collection balances associated with PPL Electric TOU program because PPL Electric purposely or negligently under collected its residential TOU costs by miscalculating its TOU rate below market prices. Dominion St. 1, pp. 7-8. I&E also questions PPL Electric's motive for proposing the RR and CTR, and suggests that the true intent

of these riders is to recover losses with what it calls an “unsuccessful” TOU program. I&E St. 1, p. 9. These contentions are without merit and contrary to the record.

PPL Electric, as a default service provider, is required to offer a TOU program under Act No. 129. 66 Pa. C.S. § 2807(f)(5). As recently confirmed by the Commission, a TOU program is an element of default service rather than a transmission or distribution rate option. In *Petition of PECO Energy Company for Approval of its Initial Dynamic Pricing and Customer Acceptance Plan*, Docket No. M-2009-2123944, 2011 Pa. PUC LEXIS 5 (April 15, 2011), the Commission approved PECO’s TOU Program, the Dynamic Pricing Plan, and cited with approval the following portion of the ALJ’s Recommended Decision:

The ALJ stated, while there will be some movement of customers who may change their supply sources, so that they may be default service or shopping customers at any point in time, the fact remains that the Dynamic Pricing Plan was developed for the purpose of offering dynamic pricing options to default service customers only. The ALJ cited 66 Pa. C.S. § 2807(f)(5) which states in part, “. . . a default service provider shall submit to the commission one or more proposed time-of-use rates and real-time price plans. . . . The default service provider shall offer the time-of-use rates and real-time price plan to all customers that have been provided with smart meter technology . . .” The ALJ concluded that “[c]learly, the legislature intended - and the Commission recognized - that the dynamic pricing options were to be an element of default service and not a rate option offered as part of transmission or distribution service.” R.D. at 19-20.

Id. at *29-30. The Commission agreed and concluded that PECO’s TOU program was being offered as an element of default service under 66 Pa. C.S. § 2807(f)(5) as a default service provider, not as a transmission or distribution rate option as an electric distribution company. *Id.* at *32-33.

Based on the foregoing, PPL Electric’s TOU program is a reconcilable Section 1307(e) default service option. Tr. 32, 41. As a default service option, the Company clearly is entitled to recover all of its TOU costs, including the over and under collections associated with the TOU

program. *See* 66 Pa. C.S. § 2807(e)(3.9). In this proceeding, PPL Electric has proposed new reconciliation mechanisms, the RR and CTR, to recover over and under collections associated with transmission service and generation supply charges. Accordingly, if approved, the RR and CTR should include the over and under collection balances associated with the default service TOU program.

With respect to Dominion's unsubstantiated allegation that PPL Electric purposefully or negligently underestimated its residential default service TOU costs by miscalculating its TOU rate below market prices, Dominion fails to recognize that PPL Electric set its default service TOU rates based upon very specific methodology set forth in the TOU plan approved by the Commission. Dominion also fails to acknowledge other global economic considerations that affected the default service TOU rates.

On September 23, 2010, PPL Electric filed its current default service TOU plan with the Commission at Docket No. R-2010-2201138. Therein, PPL Electric proposed to set default service TOU rates based upon market quotes on forward contracts for on-peak and off-peak wholesale energy within the PPL Zone for the relevant period. PPL Electric also proposed to use the historical variation in Locational Marginal Prices to develop hourly prices and then develop on-peak and off-peak TOU rates based upon these hourly prices. No party objected to this methodology and the Commission approved this methodology in its Order entered on December 2, 2010. *See Pa. P.U.C. v. PPL Electric Utilities Corporation*, Docket No. R-2009-2122718 (March 9, 2010). PPL St. 1-R, p. 30-31.

PPL Electric followed all of the requirements of its Commission-approved tariff when it submitted the proposed 2011 default service TOU rates for the Residential and Small C&I customer classes to the Commission for review on December 1, 2010, and again on December

14, 2010. In a Secretarial Letter dated December 16, 2010, the Commission approved PPL Electric's proposed rates and directed it to file, by December 17, 2010, the appropriate tariff supplement to become effective for service rendered on and after January 1, 2011. PPL St. 1-R, p. 30-31.

PPL Electric has little discretion to set, or under estimate, the default service TOU rates. PPL Electric's default service TOU rates were established pursuant to the TOU proceeding and the terms and conditions of the Commission-approved TOU tariff provisions. Pursuant thereto, the default service TOU rates were determined by applying the publicly available NYMEX prices to the load profiles that were approved by the Commission in PPL Electric's TOU plan. Tr. 62.

PPL Electric was required to submit the proposed 2011 default service TOU rates for the Residential and Small C&I customer classes to the Commission for review on December 1, 2010, and again on December 14, 2010. PPL Electric therefore waited until late November 2010 to obtain the most current NYMEX prices to be submitted with its proposed 2011 TOU rates. The Commission approved the proposed default service TOU rates and they became effective on January 1, 2011. However, due to unrest in Libya and global market conditions, oil prices spiked in February 2011 to their highest levels in over two years. This created a significant differential between the actual market prices paid by PPL Electric and the pricing information included in the Commission-approved default service TOU rates. Tr. 63.

Clearly, PPL Electric has experienced significant under collections related to its Residential and Small C&I TOU programs. These under collections were not the result of PPL Electric intentionally or negligently estimating its default service TOU rates as Dominion alleges

but, rather, due to timing of PPL Electric's TOU program and global market changes that were beyond PPL Electric's control and which could not be predicted.

b. Recovery from Non-Default Service Customers

RESA states that it is inappropriate to recover under collected costs associated with the default service TOU program from shopping customers because only default service customers were able to participate in PPL Electric's TOU program. RESA St. 1, p. 14. PPL Electric's TOU program is an optional program that is available to all Residential and Small C&I default service customers. Approximately 23,000 Residential and Small C&I customers took service under the program during the period January 1, 2011 through May 31, 2011. This program resulted in a current under collection of approximately \$2 million, which PPL Electric is entitled to recover on a full and current basis. PPL St. 1-R, p. 29-30.

As explained above, PPL Electric's TOU program is a default service option and, therefore, the Company is entitled to recover these under collections. However, such recovery has been hampered by the fact that very few customers continue to take service under the TOU program. It is likely that many of the former default service TOU customers now are taking service from a competitive supplier. PPL St. 1-R, p. 31.

For these reasons, PPL Electric has proposed to refund or recover any net Residential and Small C&I TOU Program over and under collections through the RR and CTR rates applicable to the respective Residential and Small C&I customer classes. PPL St. 1, p. 19; PPL St. 1-R, p. 30.

7. Annual Reconciliation of GSC-1

Dominion and RESA recommend that the Commission deny PPL Electric's request to modify its GSC-1 reconciliation process from its current quarterly process to an annual process. Dominion St. 1, p. 15; RESA St. 1, p. 5-6. For the reasons that follow, Dominion's and RESA's

recommendation should be rejected and the Commission should approve the annual reconciliation of the GSC-1.

Dominion opposes the annual reconciliation of the GSC-1, arguing that it would provide greater over or under collections to accumulate over a longer period of time. Dominion St. 1-R, p. 3. RESA contends that the annual reconciliation of the GSC-1 will distort the default service rates from the actual costs. RESA St. 1, p. 5. However, as explained above, quarterly reconciliation adjustments can be substantially larger than annual reconciliation adjustments and can cause a much greater distortion in default service rates. *See* Section V.B.5, *supra*. Further, the quarterly reconciliation of the GSC-1, together with the decreasing default service customer base, has caused continued rate instability for the GSC-1 rates. PPL St. 1-R, p. 33; PPL St. 1-SR, p. 7. For example, PPL Electric's most recent GSC-1 reconciliation filed on November 14, 2011 at Docket No. M-2011-2258733, included significant over collections for the Residential-Fixed Price customer class of approximately \$11.3 million and the Small C&I-Fixed Price customer class of approximately \$5.9 million. PPL St. 1-SR, p. 9. The significant volatility created by the quarterly reconciliation of the GSC-1 also is demonstrated by OSBA Hearing Exhibit No. 1.

In this proceeding, PPL Electric proposes to modify the provisions of the GSC-1 to permit reconciliation on an annual PJM Planning Year basis (June 1 through May 31), rather than on a quarterly basis. The Company would continue to revise GSC-1 rates on a quarterly basis to reflect changes in the cost of purchasing default service supplies. PPL St. 1-R, p. 32; PPL St. 1-SR, p. 7. This change should reduce the volatility of the RR, reduce the number of calculations required, and reduce customer confusion regarding this issue. PPL St. 1, p. 8.

As explained above, the Commission recently issued an Order wherein the Commission recognized that longer reconciliation periods may help smooth out over/under collections and also indicated that it would consider annual reconciliation periods in future proceedings. *Retail Investigation Order*, p. 54.

D. PPL ELECTRIC HAS MET ITS BURDEN TO DEMONSTRATE THAT ITS PROPOSALS ARE IN PUBLIC INTEREST

It is undisputed that PPL Electric experiences net over and under collections associated with the cost incurred under its Commission-approved DSP Plan to provide transmission service and generation supply to its default service customers. PPL Electric is statutorily entitled to refund or recover the over and under collections associated with the cost to provide transmission service and generation supply to its default service customers, including the costs incurred under its default service TOU program.

PPL Electric's current reconciliation of its default service cost recovery mechanisms, together with the small number of remaining non-shopping customers, have made it increasingly difficult for PPL Electric to recover its over and under collections related to transmission service and generation supply service on a full and timely basis. Further, it is undisputed that PPL Electric's current default service cost recovery mechanisms, together with the small number of remaining non-shopping customers, have created significant volatility and uncertainty in PPL Electric's default service rates and the Price to Compare.

In order to fully recover and refund its under and over collection balances, reduce rate volatility, and better assign costs to customers, PPL Electric seeks to implement a RR and CTR, change the GSC-1 to an annual reconciliation basis, and net the GSC and TSC over and under collection balances. As described above, the RR and CTR are new Section 1307(e) cost recovery mechanisms that will help alleviate the volatility and uncertainty associated with the

over and under collection balances related to transmission service and generation supply costs, while at the same time ensure that PPL Electric fully recovers these costs. Changing the GSC-1 to an annual reconciliation basis and netting the GSC and TSC over and under collection balances will help to reduce the volatility of the RR, reduce the number of calculations required, and reduce customer confusion regarding this issue. For these reasons, PL Electric's proposals should be approved.

The purpose of the proposed RR, as described above, is to provide a prospective mechanism to refund or recover the future net over or under collection balances related to transmission service and generation supply charges. PPL St. 1, p. 28. The RR attempts to more closely assign over/under collections to those customer that took default service during the period in which the over/under collection occurred. OSBA St. 1, pp. 3-4. The proposed RR will help to assure that switching customers bear their fair share of under collected transmission service and generation supply charges or receive their fair share of any refund of over collected of transmission service and generation supply charges created while the switching customers took default service from PPL Electric. PPL St. 1, p. 28. The proposed RR is consistent with the cost-causation principles established in *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 (2006), *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007).

Through the RR, PPL Electric will be assured of recovery of under collections related to transmission service and generation supply service on a full and current basis, consistent with the statutory requirement of Act No. 129 and the Commonwealth Court's decision in *Pa. Power Co. v. Pa. PUC*. Further, the RR will help stabilize PPL Electric's default service rates and Price to Compare. The resulting reduction of the volatility in PPL Electric's over/under collections and

rates should assist customers in making supply decisions and promote competition. PPL St. 1, pp. 28-29. For these reasons, the RR is just, reasonable, and in the public interest.

The purpose of the CTR, as described above, is to refund or recoup the net historic over or under collection balances related to transmission service and generation supply charges that were incurred prior to the effective date of the RR. The proposed CTR is a temporary, non-bypassable Section 1307(e) cost recovery mechanism that will refund or recoup the net historic over or under collection balances related to transmission service and generation supply charges that were incurred prior to the effective date of the RR. These historic net over and under collections primarily arose when PPL Electric's generation rate caps expired in December 31, 2009. PPL St. 1-R, p. 24.

At any point in time, any customer is eligible to switch between default service and shopping. There may be customers that were on default service at one point in time, and contributed to the historic over or under collections during that period, and then became a shopping customer. These customers should be entitled to receive a credit if there is a net historic over collection as of the effective date of the CTR, or should be required to pay a charge if there is a net historic under collection as of the effective date of the CTR. Tr. 57-58. For these reasons, PPL Electric believes that the non-bypassable CTR is just and reasonable will help to minimize the uncertainty and effect on default service rates caused by reconciling the historic over and under collection balances. PPL St. 1-R, p. 24.

Quarterly reconciliation adjustments can be substantially larger than annual reconciliation adjustments and can cause a much greater distortion. The quarterly reconciliation of the GSC-1, together with the decreasing default service customer base, has caused continued rate instability for the GSC-1 rates. PPL St. 1-R, p. 33; PPL St. 1-SR, p. 7; OSBA Hearing Exhibit No. 1. PPL

Electric proposes to modify the reconciliation provisions under GSC-1 to permit reconciliation on an annual PJM Planning Year basis (June 1 through May 31), rather than on a quarterly basis. This change should reduce the volatility of the RR, reduce the number of calculations required, and reduce customer confusion regarding this issue. PPL St. 1, p. 8.

PPL Electric currently does not net the over and under collections of the respective GSC-1 and GSC-2 with the TSC reconciliations for each customer class. Combining the respective over or under collections related to the transmission service and generation supply charges will help reduce the overall impact of reconciling the over and under collections. This in turn should help to reduce the volatility in both the default service rate and transmission supply charges. No party has opposed this proposal.

Based on the foregoing, PPL Electric has met its burden to demonstrate that its proposals to implement the RR and CTR, include default service TOU over and under collections in the RR and CTR, change the reconciliation of the GSC-1 to an annual basis, and net the GSC and TSC over and under collection balances are just, reasonable, and in the public interest. These proposals will help alleviate the significant volatility and uncertainty in PPL Electric's default service rates and the Price to Compare, while at the same time ensure PPL Electric fully recovers its reasonable costs related to providing default service.

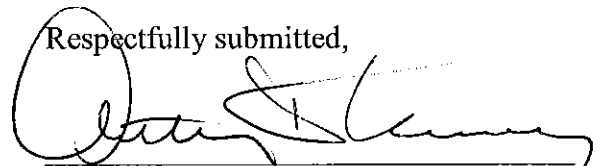
VI. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that Administrative Law Judge Susan D. Colwell and the Pennsylvania Public Utility Commission approve the Company's proposal to submit a revised tariff supplement to Tariff Electric-Pa. P.U.C. No. 201 to: (1) implement the RR; (2) implement the CTR; (3) include the Residential and Small C&I TOU program over and under collections in the RR and CTR rates applicable to the respective Residential and Small C&I customer classes; (4) net the over and under collections of the respective GSC-1 and GSC-2 with the TSC reconciliations for each customer class; and (5) modify the provisions of the GSC-1 to permit reconciliation on an annual PJM Planning Year basis.

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Dated: January 9, 2012

Attorneys for PPL Electric Utilities Corporation

**Petition of PPL Electric Utilities Corporation for
Approval to Implement a Reconciliation Rider for Default Supply Service,
Docket No. P-2011-2256365**

**Appendix A
Proposed Findings of Fact**

1. PPL Electric Utility Company (“PPL Electric”) is a “public utility” and an “electric distribution company” as those terms are defined under the Public Utility Code, 66 Pa.C.S. §§ 102 and 2803, subject to the regulatory jurisdiction of the Commission. PPL Electric Ex. No. 1.

2. PPL Electric furnishes electric distribution, transmission, and default or provider of last resort (“POLR”) electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania. PPL Electric Ex. No. 1.

3. Under its currently effective tariff, PPL Electric recovers any applicable over or under collections related to the Transmission Service Charge (“TSC”), Generation Supply Charge-1 (“GSC-1”), and Generation Supply Charge-2 (“GSC-2”) through the E-factor applied to the transmission and generation rates paid by customers that take default service from PPL Electric in the next application period. PPL St. 1, pp. 5-6.

4. PPL Electric has experienced significant under collection balances related to the TSC, GSC-1 and GSC-2. These under collection balances arose primarily as a result of the proration of customer bills between the revenue related to electric service provided in December 2009 and the revenue related to electric service provided in January 2010. PPL St. 1, p. 13.

5. PPL Electric has experienced significant over collection balances related to the TSC, GSC-1 and GSC-2. These over collections arose primarily as a result of the quarterly reconciliation of the GSC-1 and weather-related increased usage during the applicable reconciliation periods. PPL St. 1-SR, pp. 7, 9-10.

6. Under PPL Electric's current tariff, the reconciliation of over and under collection balances for the TSC, GSC-1 and GSC-2 currently is only charged or credited to those customers who take default service during the applicable reconciliation period regardless of whether or not they were default service customers during the application period in which the over or under collection was created. PPL St. 1, pp. 11-12.

7. PPL Electric's current tariff does not contain a mechanism to recover or credit such over and under collection balances from customers who were default service customers when an over/under collection was created, but are shopping customers when the over/under collection is refunded or recouped. PPL St. 1, pp. 11-12.

8. Customers can shop or leave default service at any time. PPL St. 1-R, pp. 5-6.

9. PPL Electric has experienced a significant number of customers that have switched from default service to competitive supply. At the time PPL Electric submitted its direct testimony, approximately 86% of PPL Electric's Large C&I customers, who represent 97% of Large C&I class' load, took competitive supply from electric generation supplies ("EGSs"). Approximately 486,787 Residential customers (or 40% of the total number of residential customers and 45% of the class' load) and 90,614 Small C&I customers (or 51% of the total number of Small C&I customers and 93% of the class' load) in PPL Electric's service territory were either taking service from an EGS or signed up to begin competitive supply pending the issuance of their next bill. PPL St. 1, pp. 12-13.

10. Recovering under collection balances related to transmission service and generation supply charges from a small number of remaining non-shopping default service customers can inflate the Price to Compare, which has significant impact on customers who are unable or unwilling to shop for whatever reason or who are returned to default service. PPL St. 1, pp. 15-16.

11. The refund of over collection balances related to transmission service and generation supply charges from a small number of remaining non-shopping default service customers can deflate the applicable Price to Compare, which could potentially encourage shopping customers to return to default service. PPL St. 1, pp. 16-17.

12. The volatility of the over and under collection balances experienced by PPL Electric continues to have a significant impact on the rates paid by the remaining default service customers. Tr. 50; OSBA Hearing Exhibit No. 1.

13. PPL Electric seeks to implement the RR, to become effective on June 1, 2012. The RR is a refinement of PPL Electric's current default service recovery mechanisms. The RR will refund or recoup over or under collection balances associated with default service provided on and after its effective date. PPL St. 1, p. 18.

14. The RR will be calculated and reconciled on a rolling twelve-month annual basis if approved by the Commission. Tr. 31-32.

15. The RR will be either an additional charge or a credit on the customer's monthly bill under the applicable rate schedule depending on whether PPL Electric is reconciling an under or over collection of transmission service and generation supply charges. PPL St. 1, p. 19.

16. The RR will be shown as a separate line item on customers' bills and will not be a part of PPL Electric's Price to Compare. PPL St. 1, p. 18.

17. The RR will reflect different rates for the following three customer classes: Residential, Small C&I, and Large C&I. PPL St. 1, p. 19; PPL St. 1-R. p. 30.

18. Any Residential and Small C&I TOU Program over and under collections incurred after the effective date of the RR will be included with the RR rate applicable to the respective Residential and Small C&I customer classes. PPL St. 1, p. 19; PPL St. 1-R. p. 30.

19. Application of the RR will be determined each time a customer's status changes from default service to shopping or from shopping to default service. The application of the RR will be based on the customer's status during the period immediately preceding the customer's status change. PPL St. 1, p. 20.

20. If a customer switches from default service to shopping, the customer will be subject to the RR for a period equal to the number of consecutive months, not to exceed twelve months, that the customer took default service immediately prior to becoming a shopping customer. If a customer switches from shopping to default service, the customer will be exempt from the RR for a period equal to the number of consecutive months, not to exceed twelve months, that the customer was a shopping customer immediately prior to switching to default service. The applicability of the RR then is re-determined anytime a customer's status changes between default service and shopping. PPL St. 1, p. 20.

21. New PPL Electric customers will be exempt from the RR for the first twelve months. Thereafter, application of the RR would be determined if and when the customer's status changed. OSBA St. 1, p. 7.

22. If a customer moves within PPL Electric's service territory, he or she will be treated as a new customer as described above. PPL St. 1, p. 23. Similarly, when a tenant's service is terminated and placed in the landlord's name/account, the landlord will be treated as a

new customer subject to the RR as explained above, unless and until a status changes or a new tenant initiates service. The new tenant would be treated as a new customer as described above. PPL St. 1, p. 23.

23. The OSBA generally supports the RR, with two minor modifications that, as discussed above, are both acceptable to PPL Electric. See OSBA St. 1, *passim*.

24. The purpose and design of the RR is not to “lure” or otherwise entice shopping customers to return to default service. The proposed RR attempts to align transmission service and generation supply costs with the customers that caused such costs to be incurred. PPL St. 1-R, pp. 7-8.

25. Although shopping and default service customer levels have stabilized, *i.e.*, the total number of shopping customers as compared to the total number of default service customers, individual customers will continue to switch from default service to competitive supply and vice versa. Tr. 57-58.

26. The RR should make the Price to Compare easier for customers to understand because it will remove from the Price to Compare all balances arising from reconciliation of PPL Electric’s default service rates and will more accurately reflect the actual costs to acquire default service. PPL St. 1-R, pp. 21-22, 23-24.

27. PPL Electric will provide customers with detailed education about the RR before it is implemented. PPL St. 1-R, p. 22.

28. The CTR is a one-time mechanism that will provide a fresh start by eliminating net historic over and under collection balances related to transmission service and generation supply charges. The CTR will be a temporary, reconcilable, non-bypassable Section 1307(e) cost recovery mechanism to refund or recoup any remaining net historic over or under collection

balances that were incurred prior to the effective date of the RR, or as of May 31, 2012. PPL St. 1, p. 24.

29. Given the magnitude of the over and under collection balances and the small number of non-shopping customers, it may not be likely or reasonable to refund or recover all the large historic over and under collection balances from such a very small number of customers in a timely manner. PPL St. 1, pp. 25-26.

30. The temporary CTR will be applicable to all customers, both default service and shopping customers, and will reflect different rates for different customer classes. The CTR will be either an additional charge or a credit on the customer's monthly bill under the applicable rate schedule depending on whether PPL Electric is reconciling a net historic under or over collection of transmission service and generation supply charges. PPL St. 1, p. 26.

31. The CTR will be shown as a separate line item on customers' bills. PPL St. 1, p. 24.

32. The CTR will not be included in the Price to Compare. PPL St. 1, p. 30.

33. The CTR will become effective June 1, 2012, and will remain in effect for a twelve-month period. At the end of the initial 12-month application period, the CTR will be reconciled. PPL St. 1, p. 26-27.

34. The OCA generally supports the CTR. *See OCA St. 1, passim.*

35. Although some customers may not have contributed to the net historic over and under collection balances, their respective customer classes, as a whole, contributed to these over and under collections. Moreover, at any point in time, any customer is eligible to switch between default service and shopping. Tr. 57-58.

36. There may be customers that were on default service at one point in time, and contributed to the over or under collection during that period, and then became a shopping customer. These over or under collections will be netted with the over and under collection balances that will be recovered or refunded through the CTR. These customers should be entitled to receive a credit if there is a net historic over collection as of the effective date of the CTR, or should be required to pay a charge if there is a net historic under collection as of the effective date of the CTR. Tr. 57-58.

37. Although the remaining balances at May 31, 2012 may be small, it is impossible to predict with certainty what the over and under collection balances will be as of May 31, 2012. Further, even assuming that the remaining net historic over or under collection balances will be small, recovering such balances through the non-bypassable CTR will result in a de minimus charge or credit to customers. PPL St. 1-R, p. 25; Tr. 54.

38. PPL Electric currently does not net the GSC-1 and GSC-2 balances with the TSC balances for each customer class for reconciliation purposes. PPL Electric is proposing to net the over and under collections of the respective GSC-1 and GSC-2 with the TSC reconciliations for each customer class. PPL St. 1-R, p. 26; PPL Ex. 1, App. A and F.

39. PPL Electric's current GSC-1 is an automatic Section 1307(e) cost recovery mechanism that presently provides for quarterly re-calculation of the GSC-1 rates and quarterly reconciliation of any over or under collection of the Company's actual costs incurred to acquire generation supply on behalf of the Residential and Small C&I Customer Classes. PPL St. 1, p. 10.

40. The quarterly reconciliation of the GSC-1, together with the decreasing default service customer base, has caused continued rate instability for the GSC-1 rates. PPL St. 1-R, p. 33; PPL St. 1-SR, p. 7; OSBA Hearing Exhibit No. 1.

41. Changing the GSC-1 to an annual reconciliation basis will help to reduce the volatility of the RR, reduce the number of calculations required, and reduce customer confusion. The Company will continue to revise GSC-1 rates on a quarterly basis to reflect changes in the cost of purchasing default service supplies. PPL St. 1-R, p. 32; PPL St. 1-SR, p. 7.

42. Under its current reconciliation of its default service cost recovery mechanisms, PPL Electric has little if any discretion when it estimates its default service rates. PPL Electric estimates its default service price pursuant to the TSC, GSC-1 and GSC-2 rate riders in the Company's Commission-approved tariff, all of which include very specific formulae for calculating transmission service charges and generation supply charges applicable to default service. PPL St. 1-R, p. 9; Tr. 34, 60-61.

43. The historical variances in the Price to Compare are attributable to the over and under collection balances, rather than significant changes in the pricing of power. Tr. 163-64.

44. Including the E-factor in the Price to Compare does not accurately reflect the actual costs to acquire default service. As a result, customers shift between default service and competitive supply for reasons entirely unrelated to actual competitive market conditions. PPL St. 1-R, pp. 10-11; Tr. 163-64.

45. By excluding the RR and CTR, the Price to Compare will more accurately reflect the actual costs to acquire default service supply. It will help eliminate the reconciliation distortions from the Price to Compare and align it more closely with competitive market prices. PPL St. 1-R, pp. 10-11, 21-24.

46. Although PPL Electric's existing recovery mechanisms presently are working as they were designed, there are events beyond the control of PPL Electric that can quickly have a significant adverse effect on over and under collection balances associated with the Company's Commission-approved GSC-1, GSC-2, and TSC rate riders. PPL St. 1-R, p. 13.

47. PPL Electric has little discretion to set, or under estimate, the TOU rates. PPL Electric's TOU rates were established pursuant to the TOU proceeding and the terms and conditions of the Commission-approved TOU tariff provisions. PPL St. 1-R, p. 30-31; Tr. 62.

48. Very few customers continue to take service under the TOU program. PPL St. 1-R, p. 31; Tr. 168.

49. The Parties opposing PPL Electric's proposals offered a number of criticisms, failed to offer any alternative plan that properly balances the need to promote competition with the need to alleviate the volatility and uncertainty associated with the over and under collection balances related to transmission service and generation supply costs, while at the same time ensure that PPL Electric recovers these costs on a full and timely basis, as required by law.

50. The Parties opposing PPL Electric's proposals failed to provide any comparative analysis so support their anti-competitive arguments and, instead, focused solely on individual customers. Such an approach fails to properly balances all the interest that must be considered and is contrary to class ratemaking principles.

**Petition of PPL Electric Utilities Corporation for
Approval to Implement a Reconciliation Rider for Default Supply Service,
Docket No. P-2011-2256365**

**Appendix B
Proposed Conclusions of Law**

51. PPL Electric Utility Company (“PPL Electric”) is a “public utility” and an “electric distribution company” as those terms are defined under the Public Utility Code, 66 Pa.C.S. §§ 102 and 2803, subject to the regulatory jurisdiction of the Commission. PPL Electric Ex. No. 1.

52. In order to fully refund or recover its over or under collection balances, reduce rate volatility, promote retail competition, and better assign costs to customers, PPL Electric seeks Commission approval to: (1) implement the RR; (2) implement the CTR; (3) include the Residential and Small C&I TOU program over and under collections in the RR and CTR rates applicable to the respective Residential and Small C&I customer classes; (4) net the over and under collections of the respective GSC-1 and GSC-2 with the TSC reconciliations for each customer class; and (5) modify the provisions of the GSC-1 to permit reconciliation on an annual PJM Planning Year basis.

53. As the party seeking Commission approval of the proposed RR and CTR, PPL Electric bears the burden of proving that the proposed riders are just, reasonable, and in the public interest. 66 Pa.C.S. § 315.

54. Although PPL Electric, as the applicant, bears the burden of proving that the proposed RR and CTR are in the public interest, a party that proposes an issue that is not included in a public utility’s proposal bears the burden of proof. For example, in *Pa. P.U.C. v. Metropolitan Edison Company*, et al., Docket Nos. R-00061366, et al., 2007 Pa. PUC LEXIS 5

(January 11, 2007); *Joint Default Service Plan for Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company for the Period of June 1, 2010 through May 31, 2013*, Docket Nos. P-2009-2110798, et al., 2010 WL 1259684 at *2, 19-20 (February 25, 2010).

55. Default service providers are statutorily required to be ready, willing, and able to provide default service to any requesting customer within the provider's service territory *i.e.*, any existing or new default service customers and customers returning to default service. 66 Pa.C.S. § 2807(e).

56. Under Act No. 129, PPL Electric is statutorily entitled to recover, on a full and current basis, all reasonable costs incurred in providing default service through a reconcilable surcharge. 66 Pa.C.S. § 2807(e)(3.9); *Pa. Power Co. v. Pa. PUC*, 932 A.2d 300, 307 (Pa. Cmwlth. 2007).

57. The contention of I&E's witness, Mr. Granger, that PPL Electric is legally obligated to recover over or under collection balances in the default service rate, rather than through the separate RR and CTR, is contrary to fundamental legal principles, Act No. 129, and the Commission's default service regulations.

58. The Commission previously has found reconciliation mechanisms similar to PPL Electric's proposed RR as reasonable and appropriate means to recover under collection from or refund over collections to customers who switch from default to competitive supply. *Enron Capital & Trade Resources Corporation v. The Peoples Natural Gas Company, et al.*, Docket No. R-00973928C0001, 1998 Pa. PUC LEXIS 199 at *20-22 (August 24, 1998); *Pennsylvania Public Utility Commission, et al. v. The Equitable Gas Company*, Docket No. R-00963858, 1997 Pa. PUC LEXIS 92 (December 4, 1997); *Petition of PECO Energy Company for Approval of Its Default Service Program and Rate Mitigation Plan*, Docket P-2008-2062739 (June 2, 2009).

59. The Commission's recent Final Order in its *Investigation of Pennsylvania's Retail*

Electricity Market stated as follows:

The Commission also finds merit in the comments that the method of calculation of reconciled amounts may also have contributed to the volatility of reconciliation adjustment amounts to the generation and transmission bills.

Investigation of Pennsylvania's Retail Electricity Market: Recommendations Regarding Upcoming Default Service Plans, Docket No. I-2011-2237952, Slip Op. p. 54 (December 16, 2011). In addition, the Commission specifically agreed that longer reconciliation periods may help to smooth out over/under collections. Slip Op. p. 54.

60. There is nothing in the Commission's regulations that specifically defines "risk management" costs to include the refund or recovery of over or under collection balances related to its transmission service and generation supply charges.

61. Section 69.1808(a)(3) is a Commission Policy Statement and Guideline. Unlike formally adopted regulations, statements of policy and guidelines do not establish binding norms or obligations. *See Dep't of Evntl. Res. v. Rushton Mining Co.*, 591 A.2d 1168,1173 (Pa. Cmwlth. 1991); *Mid-Atlantic Power Supply Association v. Pa. P.U.C.*, 746 A.2d 1196, 1201 (Pa. Cmwlth. 2000); 45 P.S. § 1102; 1 Pa. Code § 1.4.

62. Consistent with Act No. 129, the Commission's regulations provide that default service providers shall have the right to recover on a full and current basis all reasonable costs incurred in providing default service. 52 Pa. Code § 54.187(a).

63. The Commission's regulations contemplate a reconcilable automatic Section 1307(e) cost recovery surcharge that is not required to be included in the Price to Compare. 52 Pa. Code §§ 54.187(b) and (f).

64. PPL Electric's procurements of default service supply are conducted pursuant to a DSP Plan that the Commission previously concluded was just, reasonable, within the public interest, in accord with the rules and regulations of the Commission, and consistent with the provisions of the Pennsylvania Public Utility Code, including Act 129, applicable law, and the prevailing industry standards. *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 Through May 31, 2013*, Docket No. P-2008-2060309, Slip Op. at pp. 35-36 (June 30, 2009).

65. The Commission's default service regulations provide for the appropriate interest rate on over and under collection balances associated with generation supply charges. 52 Pa. Code § 54.187(f).

66. Section 1304 of the Public Utility Code prohibits unreasonably prejudicial and disadvantageous rates, it clearly permits class ratemaking. Section 1304 contains no requirement that rates must be designed based on individual customers costs and circumstances. 66 Pa.C.S. § 1304. *See also Philadelphia Suburban Trans. Co. v. Pa. P.U.C.*, 281 A.2d 179 (Pa. Cmwlth. 1971); *U.S. Steel Corp. v. Pa. P.U.C.*, 390 A.2d 849 (Pa. Cmwlth. 1978).

67. PPL Electric, as a default service provider, is required to offer a TOU program under Act No. 129. 66 Pa. C.S. § 2807(f)(5).

68. A TOU program is an element of default service rather than a transmission or distribution rate option. In *Petition of PECO Energy Company for Approval of its Initial Dynamic Pricing and Customer Acceptance Plan*, Docket No. M-2009-2123944, 2011 Pa. PUC LEXIS 5 (April 15, 2011).

69. PPL Electric's TOU program is a reconcilable Section 1307(e) default service option. As a default service option, the Company is entitled to recover all of its TOU costs,

including the over and under collections associated with the TOU program. *See* 66 Pa. C.S. § 2807(e)(3.9).

70. The Commission approved this PPL Electric’s TOU program in its Order entered on December 2, 2010. *See Pa. P.U.C. v. PPL Electric Utilities Corporation*, Docket No. R-2009-2122718 (March 9, 2010).

71. PPL Electric’s TOU rates were established pursuant to the TOU proceeding and the terms and conditions of the Commission-approved TOU tariff provisions.

72. PPL Electric has met its burden to demonstrate that the RR is a just and reasonable Section 1307(e) cost recovery mechanism to refund or recover over and under collection balances incurred for transmission service and generation supply service charges incurred after the effective date of the RR.

73. PPL Electric has met its burden to demonstrate that the CTR is a just and reasonable temporary, non-bypassable, reconcilable Section 1307(e) cost recovery mechanism to refund or recover any remaining net historic over and under collection balances incurred for transmission service and generation supply service prior to the effective date of the RR.

74. PPL Electric has met its burden to demonstrate that it is just and reasonable to include the Residential and Small C&I TOU program over and under collections in the RR and CTR rates applicable to the respective Residential and Small C&I customer classes.

75. PPL Electric has met its burden to demonstrate that it is just and reasonable to net the over and under collections of the respective GSC-1 and GSC-2, with the TSC reconciliations for each customer class for recovery purposes.

76. PPL Electric has met its burden to demonstrate that the proposal to modify the reconciliation of the GSC-1 to an annual basis is just and reasonable.

**Petition of PPL Electric Utilities Corporation for
Approval to Implement a Reconciliation Rider for Default Supply Service,
Docket No. P-2011-2256365**

**Appendix C
Proposed Ordering Paragraphs**

1. That the Amended Petition of PPL Electric Utilities Corporation for Approval to Implement a Reconciliation Rider for Default Supply Service, at Docket No. P-2011-2256365 is hereby approved.

2. That PPL Electric Utilities Corporation is authorized to file a revised supplement to PPL Electric's Tariff – Electric Pa. P.U.C. No. 201 designed to implement the Reconciliation Rider.

3. That PPL Electric Utilities Corporation is authorized to file a revised supplement to PPL Electric's Tariff – Electric Pa. P.U.C. No. 201 designed to implement the Competitive Transition Rider.

4. That PPL Electric Utilities Corporation is authorized to file a revised supplement to PPL Electric's Tariff – Electric Pa. P.U.C. No. 201 designed to include the Residential and Small Commercial & Industrial Time of Use program over and under collections in the Reconciliation Rider and Competitive Transition Rider rates applicable to the respective Residential and Small Commercial & Industrial customer classes.

5. That PPL Electric Utilities Corporation is authorized to file a revised supplement to PPL Electric's Tariff – Electric Pa. P.U.C. No. 201 designed to net the over and under collections of the respective Generation Supply Charge-1 and Generation Supply Charge-2 with the Transition Service Charge reconciliations for each customer class.

6. That PPL Electric Utilities Corporation is authorized to file a revised supplement to PPL Electric's Tariff – Electric Pa. P.U.C. No. 201 designed to modify the provisions of the Generation Supply Charge-1 to permit reconciliation on an annual PJM Planning Year basis.

7. That any protest or petition to intervene filed in this proceeding is hereby denied.

8. That the record at Docket No. P-2011-2256365 is hereby marked closed.