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January 9, 2012

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

**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:

I am delivering for filing today the original plus nine copies of the Main Brief, on behalf of the Office of Small Business Advocate, in the above-captioned proceeding.

Two copies have been served today on all known parties in this proceeding. A Certificate of Service to that effect is enclosed.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Elizabeth Rose Triscari
Assistant Small Business Advocate
Attorney ID No. 306921

Enclosures

cc: Parties of Record
Robert D. Knecht

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PPL ELECTRIC :
UTILITIES CORPORATION FOR :
APPROVAL TO IMPELEMENT A : Docket No. P-2011-2256365
RECONCILIATION RIDER FOR :
DEFAULT SUPPLY SERVICE :**

**MAIN BRIEF
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

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Dated: January 9, 2012

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I. PROCEDURAL AND FACTUAL BACKGROUND

On August 3, 2011, PPL Electric Utilities, Inc. (“PPL” or the “Company”) filed a petition seeking authorization to implement a Reconciliation Rider (“RR”) related to the transmission service and generation supply service that the Company provides to its default service customers. Pursuant to the RR, the Company would refund over-collections to, and recover under-collections from, customers who were default service customers when the over-collection or under-collection occurred.¹

The Office of Small Business Advocate (“OSBA”) filed an Answer to that petition on August 18, 2011. Answers were also filed by Dominion Retail, Inc. d/b/a Dominion Energy Solutions (“Dominion”); the Retail Energy Supply Association (“RESA”); and the PP&L Industrial Customer Alliance (“PPLICA”). The Office of Consumer Advocate (“OCA”) filed a Notice of Intervention on August 23, 2011. The Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance on August 24, 2011. Richards Energy Group, Inc. (“REG”) filed a Petition to Intervene on August 29, 2011.

PPL subsequently filed the Amended Petition on August 25, 2011, which superseded and replaced the petition filed on August 3. The Amended Petition added a proposed Competitive Transition Rider (“CTR”) to the originally proposed RR. According to PPL’S Amended Petition, the proposed CTR would be a temporary, non-bypassable reconcilable rider that would refund, or recover, the balance of historic over-collections or under-collections in existence on the effective date of the RR to all distribution customers, shopping and non-shopping.

¹ PPL Amended Petition at 2.

Under the provisions of its default service plan, PPL is permitted (and required) to reconcile variances between revenues earned and costs incurred in providing default service.² PPL's current tariffs achieve this reconciliation within three tariff charge provisions: a transmission service charge ("TSC") and two generation supply charges. Generation Supply Charge-1 ("GSC-1") applies to residential and small commercial and industrial ("Small C&I") default service customers and Generation Supply Charge-2 ("GSC-2") applies to large commercial and industrial ("Large C&I") default service customers. The TSC and GSC-2 are currently reconciled annually on a PJM Planning Year basis, whereas the GSC-1 is reconciled quarterly.³

The Amended Petition seeks to revise the reconciliation provisions of the GSC-1, GSC-2, and TSC, as well as the Merchant Function Charge Rider ("MFC"), so that default service reconciliation is instead consolidated in the RR.⁴ In addition, the RR would include a "migration rider," which would require customers who switched from default service to alternative supply to continue to be subject to the RR for up to twelve months, and which would similarly exempt customers who return to default service from the RR for up to twelve months.⁵

Administrative Law Judge ("ALJ") Susan J. Colwell has been assigned to this proceeding. The Commission issued ALJ Colwell's Prehearing Order on August 31, 2011. The Prehearing Order stated that the deadline for filing petitions for intervention and protests was September 14, 2011, and that prehearing memoranda were to be filed by

² PPL Amended Petition at 6-7.

³ *Id.* at 7-8.

⁴ *Id.* at 13.

⁵ *Id.* at 14.

September 30, 2011. The OSBA and Dominion timely filed answers to the Amended Petition on September 14, 2011. RESA filed a Petition to Intervene on September 14, 2011. PPLICCA filed an answer to the Amended Petition on September 19, 2011. On September 23, 2011, Wal-Mart Stores East, L.P. and Sam's East, Inc. ("Walmart") filed a Motion for Leave to Intervene Out-of-Time and Petition to Intervene.

A prehearing conference was held on October 5, 2011, at which the parties agreed to a procedural schedule and modified discovery terms. ALJ Colwell issued a Scheduling Order on October 5, 2011, reflecting the agreed-upon procedural schedule and modified discovery terms, and granting the unopposed petitions to intervene of RESA, PPLICCA, Dominion and Walmart.

The OSBA submitted OSBA Statement No. 1 (the Direct Testimony and Exhibits of Robert D. Knecht) on November 2, 2011; OSBA Statement No. 2 (the Rebuttal Testimony and Exhibits of Robert D. Knecht) on November 16, 2011; and OSBA Statement No. 3 (the Surrebuttal Testimony of Robert D. Knecht) on November 30, 2011.

PPL and Dominion submitted Direct Testimony, Rebuttal Testimony, and Surrebuttal Testimony. RESA, OCA, and I&E submitted Direct Testimony and Surrebuttal Testimony. Walmart and REG submitted Direct Testimony.

An evidentiary hearing was held on December 5, 2011, at which time OSBA Statement No. 1, OSBA Statement No. 2, and OSBA Statement No. 3 were entered into the record, along with OSBA Hearing Exhibit No. 1. The aforementioned testimony submitted by the other parties was also offered and admitted into the record, with the exception of the Direct Testimony of REG witnesses Jeffrey Good and Terry Lee.

The OSBA submits this Main Brief in accordance with the procedural schedule.

II. SUMMARY OF ARGUMENT

A. Reconciliation Rider

The OSBA generally supports the Company's proposal to implement the RR with its migration rider provisions, but with certain modifications proposed by OSBA witness, Mr. Knecht. Specifically, Mr. Knecht recommended that: (1) the RR should be reconciled on a rolling annual basis, as opposed to the fixed annual basis initially proposed by the Company; (2) new customers should not be subject to the RR for 12 months; and (3) interest charges on under-collections and credits on over-collections should be set at or near the Company's short-term borrowing and earnings rates. PPL appears to have agreed with the first and second of Mr. Knecht's recommendations, but not the third.

The OSBA supports the implementation of the migration rider aspect of the RR for reasons of cost causation and equity. PPL's current reconciliation mechanisms allow customers to avoid reconciliation charges for undercollections that occurred while they were default service customers by choosing to shop. Similarly, the current reconciliation mechanisms allow customers to take advantage of reconciliation refunds for over-collections that occurred while they were shopping customers by returning to default service. The RR, in contrast, more closely assigns charges and refunds to customers who took service when the over/under-collection occurred. Thus, the RR better aligns the recovery/refund of any variance with the customers who caused it.

PPL's current reconciliation mechanisms also distort retail competition because they include in the Price To Compare ("PTC") reconciliation charges/refunds that are

unrelated to current costs to provide default service, but rather are charges/refunds for historical variances in default service costs and revenues.

The OSBA further supports the RR as a way to address the instability of PPL's default service rates. PPL has experienced substantial problems with reconciliation resulting in unstable rates.⁶ The RR should reduce volatility by spreading variances over a longer time period.

B. Competitive Transition Rider

The OSBA opposes the Company's proposal to implement the CTR because it is unnecessary and inequitable. The Company has presented no evidence that there will be a substantial variance at the end of May 2012, or that any such variance cannot be timely recovered through the RR. Nor has the Company presented any evidence that *all* shopping customers will have contributed to the over- or under-collection that exists on May 31, 2012. Imposing the CTR on all shopping customers without any clear showing that they contributed to the over- or under-collection is inconsistent with the regulatory principle of cost causation and is inequitable. Moreover, by not rolling the existing reconciliation balances into the RR, the CTR will exacerbate rate instability, by again creating a first-month mismatch between billed revenues and incurred costs which substantially contributed to the very problems which precipitated the Company's petition in this proceeding.

Because the CTR is unnecessary, inequitable and problematic, the OSBA proposes that any variance as of May 31, 2012, be rolled into the RR variance account as

⁶ The OSBA and PPL disagree on the underlying causes for the dollar value of the reported difference between PPL's default service revenues and default service costs for the Small C&I GSC/GSC-1 rate class groups. This issue is the subject of the proceeding at Docket Nos. C-2011-2245906 and M-2011-2243137. The outcome of that proceeding does not affect the OSBA's rationale for supporting implementation of the RR.

the opening balance on June 1, 2012. It can then be collected over the following 12 months through the RR.

III. ARGUMENT

A. OSBA Modifications to Proposed Reconciliation Rider

The OSBA supports the implementation of PPL's proposed RR with the following modifications proposed in Mr. Knecht's Direct Testimony:

1. New Customers Should Not Be Subject to RR for 12 Months

New customers, *i.e.*, customers who have never been default service customers, should not be subject to the RR charge/credit for their first twelve months.⁷ New customers did not contribute to the prior period variances and therefore should not be charged or credited for that variance.⁸ This approach also treats new customers in the same manner as shopping customers who return to default service.⁹ At the hearing, counsel for PPL indicated that the Company had adopted Mr. Knecht's position.¹⁰

2. Rolling Annual Reconciliation

Mr. Knecht proposed in his Direct Testimony, and clarified in his Surrebuttal Testimony, that the RR should be reconciled on a rolling annual basis.¹¹ The Company's initial proposal was reconciliation on a fixed annual basis. Fixed annual reconciliation would mean that the RR balance would be amortized over a fixed 12-month period, and

⁷ OSBA Statement No. 1 at 7.

⁸ *Id.*

⁹ *Id.*

¹⁰ Hearing Transcript at 125, lines 4-18.

¹¹ OSBA Statement No. 1 at 7; OSBA Statement No. 3 at 1-3.

the RR charge/credit would be updated only once every 12 months.¹² Mr. Knecht, in contrast, proposed that the RR balance should be recovered over 12-month rolling periods, with the RR charge/credit updated quarterly.¹³ Mr. Knecht's proposal would retain the rate stability advantages of the Company's proposal by retaining a 12-month amortization period, but would have the additional advantage of more quickly incorporating variances into rates.¹⁴ In rejoinder testimony, PPL witness Mr. Kleha acknowledged that Mr. Knecht's proposal for rolling annual reconciliation was acceptable to PPL, stating, "His proposal provides benefits of annual reconciliation with more frequent quarterly updates to the annual process."¹⁵

3. Reduced Interest Rates

Mr. Knecht further recommended that the interest rates on over- and under-collections be reduced from the 6% proposed by PPL.¹⁶ Because 6% exceeds both the earnings rate that PPL can achieve on short-term investments and the Company's short-term cost of capital, the concern is that this interest rate could create an economic incentive to under-collect rather than to over-collect costs.¹⁷ This could create a competitive disadvantage for electricity generation suppliers ("EGSs") because PPL could set default service prices on the lower end of the expected range of costs, with the

¹² OSBA Statement No. 1 at 7.

¹³ OSBA Statement No. 3 at 3.

¹⁴ *Id.*

¹⁵ Hearing Transcript at 31-32.

¹⁶ OSBA Statement No. 1 at 8-9.

¹⁷ *Id.*

confidence that it would be able to recover those costs in the future in the RR without any fear of customers shopping and avoiding reconciliation charges.¹⁸

To avoid creating such an incentive, Mr. Knecht recommended that PPL set the interest credit it earns on its under-collections to an amount that approximates the Company's earnings on short-term deposits, and set the interest rate that it pays on over-collections at something approximating the short-term cost of capital.¹⁹ Mr. Knecht further noted that it would be useful to index the interest rate to capital market conditions, rather than establishing a fixed rate.²⁰ Specifically, he suggested that the interest rate paid on over-collections be based on a published bank prime lending rate, and the interest earned by PPL on under-collections be set at 200 basis points below the prime bank lending rate.²¹

In his rebuttal testimony, PPL witness Mr. Kleha expressed a willingness to adopt asymmetrical interest rates, as proposed by Mr. Knecht.²² However, Mr. Kleha proposed an interest rate of 6% on undercollections and 8% on over-collections.²³ This proposal is consistent with Section 54.187(f) of the Commission's regulations,²⁴ but rather than alleviate the problems identified by Mr. Knecht, it exacerbates them. With a punitive rate of 8% for over-collections, PPL would have an even greater incentive to under-forecast

¹⁸ *Id.*

¹⁹ OSBA Statement No. 1 at 9.

²⁰ *Id.*

²¹ *Id.*

²² PPL Statement No. 1-R at 18.

²³ *Id.*

²⁴ 52 Pa.Code §54.187(f) ("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%.")

costs.²⁵ The OSBA therefore requests that the interest rate requirements of Section 54.187(f) be waived and interest rates be adopted in accordance with Mr. Knecht's recommendations.

B. Reconciliation Rider Is Equitable

PPL's current tariff reconciles over-collections and under-collections within three separate charge mechanisms, the TSC, GSC-1, and GSC-2.²⁶ Only customers who take default service at the time the reconciliation charges/credits are imposed are subject to PPL's existing reconciliation mechanisms.²⁷ In effect, the Company's existing PTC includes charges or credits related to prior periods, and therefore does not accurately reflect the cost of providing service in the period to which the PTC applies.²⁸ PPL has proposed to include a migration rider in the RR, similar to that used by natural gas distribution companies ("NGDCs") in Pennsylvania, which would allow the Company to also recover/refund variances from shopping customers who were default service customers when the variance occurred.²⁹

The proposed RR is reasonable in terms of cost causation and equity.³⁰ It better aligns reconciliation charges/refunds with the customers who were default service customers when the over/under-collection was created.³¹ Under the current reconciliation

²⁵ OSBA Statement No. 3 at 5.

²⁶ OSBA Statement No. 1 at 2.

²⁷ *Id.*

²⁸ *Id.* at 4.

²⁹ *Id.* at 2, 4.

³⁰ *Id.* at 3.

³¹ *Id.* at 3-4; OSBA Statement No. 2 at 3.

mechanism, ratepayers who choose to shop can avoid paying reconciliation charges for a shortfall that occurred while they were still default service customers. This leaves an unfair and large burden on the remaining default service customers, who were not able to (or chose not to) shop.³² This example has, in fact, already occurred. When faced with large reconciliation charges in 2011, PPL's non-residential customers continued their exodus from default service, which contributed to an extraordinarily large reconciliation charge on the remaining Small C&I default service customers in the summer of 2011.³³

Similarly, shopping customers can unfairly benefit from a default service over-collection by returning to default service and receiving a refund even though they did not contribute to the over-collection. The RR would mitigate the ability of ratepayers to take unfair advantage of the Company's reconciliation mechanisms.

Both of these scenarios show how PPL's current reconciliation mechanisms distort the PTC and the competitive marketplace.³⁴ The proposed RR will remove reconciliation charges and/or refunds from the PTC, allowing it to accurately reflect the current costs of providing default service without the interference of historic reconciliation charges or refunds.

C. Reconciliation Rider Will Reduce Rate Instability

PPL has experienced substantial problems with reconciliation of the TSC, GSC-1 and GSC-2, which has resulted in unstable rates and distortion of the PTC.³⁵ Although the OSBA and PPL disagree on the underlying causes for the dollar value of the reported

³² OSBA Statement No. 2 at 3.

³³ *Id.*

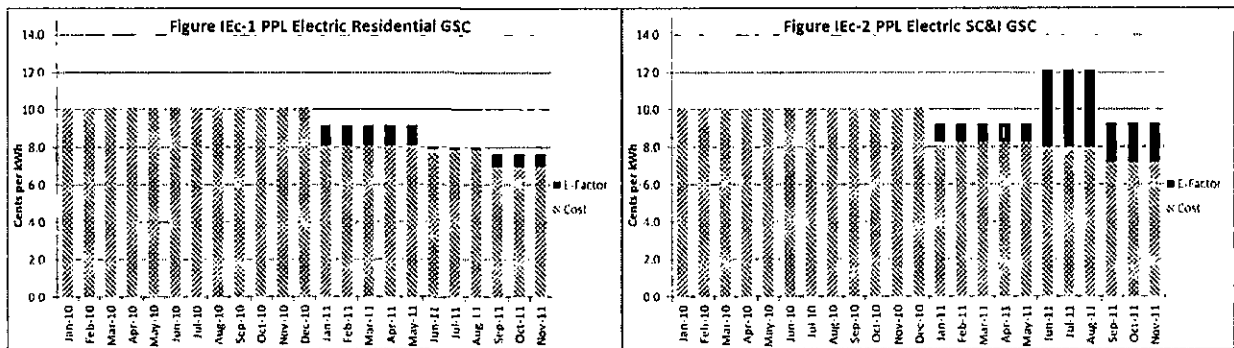
³⁴ *Id.*

³⁵ OSBA Statement No. 1 at 4.

under-collections and over-collections which have caused the rate instability, the OSBA agrees that the RR will smooth out the effects of such rate instability.³⁶ While the RR will not fix the underlying problems, it will at least mitigate their effects.

PPL's GSC-1 is currently reconciled quarterly, meaning that any variances are recovered or recouped over only three months. The RR will reduce volatility by spreading variances over 12 months.³⁷

The figures below, from Mr. Knecht's Direct Testimony, illustrate the magnitude of the reconciliation component for the "fixed rate" Residential and Small C&I Fixed GSC/GSC-1 charges in 2010 and 2011.



In the summer of 2011, the reconciliation charge for Small C&I customers was nearly 4.2 cents per kWh, representing more than 50 percent of the cost basis for that charge.³⁸

OSBA Hearing Exhibit No. 1 further shows the volatility of Small C&I GSC-1 rates from a high of 12.171 cents/kWh in the summer of 2011 to a low of 5.900 cents/kWh for December 2011 though February 2012. These "wild swings," as

³⁶ *Id.* at 5-6.

³⁷ *Id.* at 5.

³⁸ *Id.* at 4.

characterized by PPL witness Mr. Kleha,³⁹ occurred despite the actual cost of generation consistently decreasing during 2011.

PPL has attributed its large under-collection balances to “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.”⁴⁰

In response, OCA witness Dr. Pereira, Dominion witness Mr. Butler, and RESA witness Mr. Hudson, all argued in their respective testimony that the RR is unnecessary because future reconciliation amounts should be minor.⁴¹ The basis for their testimony is that the accounting mismatch between billed revenues and incurred costs was a one-time event in January 2010 that will not be repeated, and therefore large reconciliation charges are not likely to recur. However, this argument is simply incorrect. The effect of the accounting mismatch is largest in the first month of reconciliation, but each subsequent reconciliation calculation is also affected. As Mr. Knecht explained:

In its reconciliation for January 2010, PPL reported all of the costs it incurred for the kWh energy delivered in January of 2010. However, on the revenue side, the Company reported only revenues for kWh that were both billed in January of 2010 and consumed in January of 2010. The revenues associated with kWh consumed in December 2009 are ‘pro-rated’ to 2009, and not recorded as revenues for 2010. In effect, as PPL Electric indicates, its reconciliation accounting for January 2010 showed costs associated with a full month’s kWh energy consumption, but revenues for only about one-half month’s kWh energy billings.

However, if we move forward in time one month, PPL again recorded costs for all of the kWh energy consumed in February 2010. The Company also recorded revenues for kWh energy billed in February, of which roughly half was for kWh consumed in January and half was for kWh consumed in February. The net revenue shortfall created by the accounting mismatch at the end of February was

³⁹ Hearing transcript at 67, lines 5-6.

⁴⁰ PPL Statement No. 1 at 13.

⁴¹ OSBA Statement No. 2 at 2. OCA Statement No. 1 at 10-11, Dominion Statement No. 1 at 5 and 11, RESA Statement No. 1 at 14.

therefore no longer the unbilled January revenues but rather the unbilled February revenues.

If we were to pretend that default service consumption and default service costs did not change from month to month, the 'under-recovery' related to the accounting mismatch would indeed remain the same at the end of February as it was at the end of January. However, when default service load changed between January and February, due to economic conditions, weather, or customer shopping rates, the variance related to the accounting mismatch also necessarily changed.

Therefore, the variance between revenues and costs related to the accounting mismatch in any one reconciliation period is the difference between the unbilled revenues at the end of the prior period and the unbilled revenues at the end of the current period.

As I indicated in my direct testimony, I would expect that the effects of the accounting mismatch between incurred costs and billed revenues will gradually diminish, particularly if shopping rates stabilize. Nevertheless, this accounting convention means that normal seasonal load variations will continue to result in material variances from month to month and season to season.⁴²

Certain witnesses also argued that future generation cost variances should be minor because PPL purchases generation supplies, for the most part, on a flat per-kWh basis.⁴³ Mr. Knecht agreed that in theory, this is a plausible argument. However, in practice, the facts have shown otherwise.⁴⁴ As described above, PPL's accounting mismatch has contributed to the imposition of huge reconciliation charges. Substantial variances have also occurred that are unrelated to the accounting problem, which may continue to occur in the future.⁴⁵

⁴² OSBA Statement No. 2 at 6-7.

⁴³ OSBA Statement No. 2 at 8, RESA Statement No. 1 at 14, Dominion Statement No. 1 at 5, OCA Statement No. 1 at 11.

⁴⁴ OSBA Statement No. 2 at 8.

⁴⁵ *Id.*

First, a portion of PPL's default service supplies are purchased on the spot market and therefore are difficult to forecast accurately. This will cause default service purchase costs to vary modestly from forecasts.⁴⁶

Second, PPL's actual experience demonstrates that it is not able to promptly account for revenues and costs in a stable manner. Based on his review of the Company's 2010 reconciliation calculations, Mr. Knecht observed that PPL's reported per-kWh purchase costs vary substantially from month to month, despite the fact that supplies were purchased primarily or totally under fixed per-kWh full requirements contracts.⁴⁷ Similarly, Mr. Knecht observed a history of reported per-kWh revenues that varied materially from month to month, despite the fact that a flat per-kWh GSC rate was in place.⁴⁸

Unless the underlying causes for these variations are addressed, there is a substantial likelihood that PPL will continue to experience material differences between reported revenues and costs.⁴⁹ No party to this proceeding has offered any concrete proposals for addressing these concerns. In fact, no party has expressed concern at the "massive failure" of PPL's current reconciliation mechanisms to maintain reasonably stable default service rates.⁵⁰

⁴⁶ OSBA Statement No. 2 at 8.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.* at 9.

Because of the substantial likelihood of significant cost/revenue variances in the future, the OSBA supports implementation of the RR to smooth out the effects of such variances.

D. Reconciliation Rider is Competitively Neutral

1. Right to Reconciliation is Established Law

Act 129 provides that an electric distribution company (“EDC”) as default service provider (“DSP”) is entitled to recover any revenue shortfalls associated with providing default service. Specifically, the statute states: “The default service provider shall have the right to recover on a full and current basis, pursuant to a reconcilable automatic adjustment clause under section 1307...all reasonable costs incurred under this section and a commission-approved competitive procurement plan.”⁵¹ A DSP is similarly required to refund any over-collections to ratepayers.⁵²

Dominion witness Mr. Butler argued in his testimony that because DSPs are allowed to fully recover their costs through reconciliation mechanisms, they have an unfair competitive advantage over EGSs.⁵³ Because DSPs are entitled to recover and required to refund revenue-cost variances as a matter of law, this argument is not relevant to this proceeding. The relevant issue is how reconciliation should be imposed.

In addition, as Mr. Knecht observed in his Rebuttal Testimony, although the DSP has the advantage that it faces little risk that it will be unable to recover its costs, the DSP also has no opportunity to earn a profit on its default service supplies.⁵⁴ In contrast, an

⁵¹ 66 Pa.C.S. §2807(e)(3.9).

⁵² 66 Pa.C.S. §1307(e)(3).

⁵³ Dominion Statement No. 1 at 6-7.

⁵⁴ OSBA Statement No. 2 at 4.

EGS can mitigate its risk in its own pricing strategies and can also retain profits on the sale of electricity for the benefit of its shareholders.⁵⁵ Moreover, EGSs can refuse to serve customers with unattractive load profiles or load profiles that are costly to serve, whereas a DSP cannot refuse to provide service to specific customers.⁵⁶

2. No Strong Evidence to Support Hypothesis That Migration Riders Incentivize Under-collections

Dominion witness Mr. Butler asserted that NGDCs have abused the use of migration riders by consistently setting the “C Factor” of purchased gas cost (“PGC”) rates below actual costs.⁵⁷ Mr. Butler argued that the NGDCs did so because they could recover those under-collections through a migration rider at an interest rate higher than their working capital costs.⁵⁸

Mr. Butler’s conclusions are based on a history of PGC rates for Equitable Gas and Peoples Natural Gas.⁵⁹ Although Mr. Butler’s exhibit suggests that the C-Factor at those NGDCs has been consistently set below actual cost, Mr. Knecht is not aware of any systematic bias regarding setting PGC rates in the Pennsylvania PGC proceedings in which he participated.⁶⁰ To test Mr. Butler’s hypothesis, Mr. Knecht reviewed the current E-factors for NGDCs in which he represented the OSBA in their respective Section 1307(f) PGC proceedings in the past few years, namely: Columbia Gas, National

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Dominion Statement No. 1 at 14.

⁵⁸ *Id.*

⁵⁹ PPL-Dominion-I-7, attached to OSBA Statement No.2.

⁶⁰ OSBA Statement No. 2 at 5.

Fuel Gas, Philadelphia Gas Works, UGI Utilities (Gas Division), UGI Penn Natural Gas, UGI Central Penn Gas and T.W. Phillips Gas & Oil Company.⁶¹ Of these seven NGDCs, five currently have an E-Factor *credit*, meaning that the NGDC had *over-priced* its C-Factor, providing a competitive opportunity for competitive natural gas suppliers.⁶² Thus, based on current conditions, there is no strong evidence to support Mr. Butler's hypothesis.

Moreover, even if there were strong evidence of systematic under-forecasting of default supply by NGDCs, the solution to that problem would not be to eliminate the migration rider.⁶³ Eliminating the migration rider would still leave the remaining default service customers with large, lagging reconciliation charges and a distorted PTC. The solution would be to correct the underlying problem, by eliminating incentives for the utility to under-forecast its costs, and to implement mechanisms to adjust the forecasts for systemic bias.⁶⁴ One example of eliminating incentives to under-collect is Mr. Knecht's proposed modification to interest rates on over- and under-collections. No other party has offered any reasonable suggestions for addressing this issue.

3. RR Could Be a Charge or a Credit

REG witness Mr. Richards argued in his testimony that excluding the RR charge from the PTC may eliminate the competitive advantage of EGSs over default service.⁶⁵ However, the RR could be either a charge or a credit. It could actually improve the

⁶¹ OSBA Statement No. 2 at 5.

⁶² *Id.*

⁶³ *Id.* at 6.

⁶⁴ *Id.*

⁶⁵ REG Statement No. 1 at 2-3.

competitive position of EGSs. For example, if the RR is a credit for a prior period under-collection, excluding the RR from the PTC will actually increase the PTC.⁶⁶ And, in fact, as shown in OSBA Hearing Exhibit No. 1, the E-factor reconciliation rate for Small C&I customers effective December 1, 2011, was a substantial credit. Including this credit in the PTC actually encourages customers to return to default service, rather than encouraging customers to shop as Mr. Richards asserted.⁶⁷

4. Annual Reconciliation Will Not Distort Competition

RESA witness Mr. Hudson argued that annual reconciliation will further divorce default service rates and costs and therefore will distort competition.⁶⁸ Mr. Knecht testified in response that if the Company is accurately and fairly forecasting its costs for service in a particular period, the PTC will reasonably reflect the Company's costs.⁶⁹ Rather, it is including prior period over- and under-collections that distorts the PTC away from the actual cost of providing service in that period.

Although annual reconciliation amortizes the RR variances over 12 months, which moves the price signal farther away from the period to which it applies, it is important to recognize that the amortization period proposed by the Company would match the period during which shopping customers would be subject to the RR

⁶⁶ OSBA Statement No. 2 at 9.

⁶⁷ Under cross-examination, Mr. Richards readily admitted that he would encourage new clients to take advantage of this credit and delay shopping if they could reduce their costs by doing so. Mr. Richards also saw no problem with advising customers to shop and avoid paying reconciliation charges for under-collections that occurred while they were on default service. It is exactly this type of customer gamesmanship that the migration rider aspect of the RR is designed to avoid.

⁶⁸ RESA Statement No. 1 at 5.

⁶⁹ OSBA Statement No. 2 at 10.

charge/credit.⁷⁰ Because PPL's accounting for default service costs and revenues has been erratic, a 12 month approach will provide a better match between cost causation and rates.⁷¹ Moreover, use of the rolling 12-month amortization period proposed by Mr. Knecht and accepted by PPL will reduce the delay in reflecting variances in the RR that was inherent in the Company's original proposal.

5. Equity Considerations Outweigh Complexity Concerns

Opponents of the RR argued that the RR is complex and confusing to customers and thereby deleterious to competition.⁷² Mr. Knecht agreed that the RR is more complicated than the existing reconciliation mechanisms.⁷³ However, the PPL electric bill will still display a clear PTC which shows the price charged to default service customers for that period.⁷⁴ The PTC should also accurately reflect the cost to provide default service for that period without being distorted by reconciliation charges or credits.

Mr. Knecht noted that the tradeoff is between equity and simplicity. Given that the current reconciliation mechanism is unfair and that substantial variances are likely to continue, the equity considerations outweigh the increased complexity of the RR.⁷⁵

Moreover, there is no evidence that the increased complexity of the RR will be harmful to the EGSs. Customer confusion regarding default service rates could just as easily be beneficial to EGSs who could market the simplicity of their product.

⁷⁰ OSBA Statement No. 2 at 10.

⁷¹ *Id.* at 10-11.

⁷² OCA Statement No. 1 at 10, RESA Statement No. 1 at 11.

⁷³ OSBA Statement No. 2 at 3, 11.

⁷⁴ *Id.* at 11.

⁷⁵ *Id.* at 4.

E. Competitive Transition Rider is Unnecessary and Inequitable

Although the OSBA supports implementation of the RR, it is opposed to implementation of the CTR. The Company's proposed CTR would recover the reconciliation default service balances as of May 31, 2012 from all distribution customers, shopping and non-shopping.⁷⁶ The Company's rationale for implementing the CTR is that it fears the RR will not be able to recover revenue-cost variances on a timely basis.⁷⁷ This fear is due to the substantial increase in customer shopping, which has decreased the number of default service customers from whom the prior period variance would be recovered.⁷⁸ However, the Company has presented no evidence that there will be a substantial variance at the end of May 2012, or that any such variance cannot be timely recovered through the RR.

As Mr. Knecht indicated in his Direct Testimony, the then-current reconciliation balances (in November 2011) showed only a relatively small net under-collection for the Small C&I rate class group and net over-collections for the Residential and Large C&I rate class groups.⁷⁹ By the time of the hearing, the Small C&I rate class group showed an over-collection.⁸⁰ Thus, the available evidence does not support PPL's concerns about being unable to recover these balances through the RR. The CTR is simply not necessary.

⁷⁶ OSBA Statement No. 1 at 9.

⁷⁷ PPL Statement No. 1 at 24-25, OSBA Statement No. 1 at 10.

⁷⁸ *Id.*

⁷⁹ OSBA Statement No. 1 at 11.

⁸⁰ OSBA Hearing Exhibit No. 1.

Moreover, the reconciliation variances reported by PPL are the subject of other currently pending proceedings and are therefore subject to change. For example, if the Commission directs PPL to change its reconciliation accounting to eliminate the accounting mismatch between incurred costs and billed revenues, the variances will decrease substantially.⁸¹

If the Commission allows PPL to continue to use its reconciliation accounting method, the CTR will cause additional problems by re-starting the billed revenue/incurred cost mismatch problem all over again. As Mr. Knecht explains:

Because the RR will be a new reconciliation mechanism effective June 1, 2012, PPL Electric will presumably pro-rate its June 2012 billed revenues into May 2012 and June 2012, just as it did at the outset of the GSC and the TSC. The billed revenues for the GSC-1, the GSC-2, and the TSC that are prorated from June back to May 2012 will presumably act as a credit to the CTR. Because the Company proposes to assign the CTR to all customers, the revenues from default service customers billed in June 2012 for May 2012 deliveries will be credited to both shopping and non-shopping customers.

Moreover, with the start of the RR, PPL Electric will incur a full month of default service costs in June 2012, but only approximately one-half month of billed revenues after pro-rating. PPL Electric may or may not choose to address that accounting mismatch by setting its per-kWh default service charges (GSC-1, GSC-2, and TSC) above expected cost, in order to avoid repeating the problems of the past. However, in either event, the reconciliation mechanism will create problems. If PPL Electric addresses the problem by setting the default service charges above cost, it will be distorting competition. If it sets the default service charges at cost, it will be building up a RR variance due to the accounting mismatch.⁸²

In addition to being unnecessary, the CTR is also unfair to customers who long ago chose to shop.⁸³ PPL has argued that customers who have chosen to shop are

⁸¹ OSBA Statement No. 1 at 11.

⁸² OSBA Statement No. 1 at 12 (footnotes omitted).

⁸³ *Id.* at 10.

responsible for prior period variances. Therefore, all distribution customers, shopping and non-shopping, should pay for those variances.⁸⁴ However, the Company has not presented any evidence that *all* shopping customers will have contributed to the over- or under-collection that exists on May 31, 2012. Imposing the CTR on all shopping customers without any clear showing that they contributed to the over- or under-collection is inequitable and distorts competition.⁸⁵

The Company asserted that the historic over- and under-collection balances that the CTR is designed to address primarily arose when PPL transitioned to a competitive market after expiration of rate caps in January 2010.⁸⁶ Consequently, PPL alleged that many of the current shopping customers contributed in part to the net historic over- and under-collections.⁸⁷ However, the 2010 variances have already been collected from default service customers. Therefore, it is impossible for customers who chose to shop in early 2010 to be responsible for variances as of May 31, 2012.⁸⁸

Because the CTR is both unnecessary and inequitable, the OSBA proposes that any variance as of May 31, 2012, be rolled into the RR variance account as the opening balance on June 1, 2012. It can then be collected over the following 12 months through the RR.

⁸⁴ PPL Statement No. 1-R at 5.

⁸⁵ OSBA Statement No. 1 at 10.

⁸⁶ PPL Statement No. 1-R at 25.

⁸⁷ *Id.*

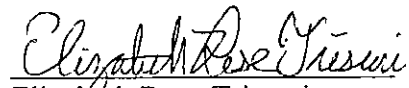
⁸⁸ OSBA Statement No. 3 at 6.

IV. CONCLUSION

For the reasons outlined above, the OSBA respectfully requests that the ALJ and the Commission:

- (1) Approve PPL's request to implement the Reconciliation Rider, as modified by the OSBA; and
- (2) Reject PPL's request to implement the Competitive Transition Rider.

Respectfully submitted,



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Dated: January 9, 2012

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

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

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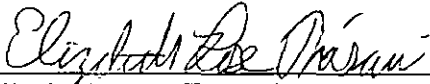
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