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January 23, 2012

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed for filing is the original of the Reply Brief of Richards Energy Group, Inc. in the above captioned proceeding which was e-filed with the Commission this date. A copy of this Reply Brief has been served upon the presiding Administrative Law Judge and those parties set forth in the accompanying Certificate of Service.

If you have any questions, please feel free to contact me. Thank you for you cooperation.

Very truly yours,

Craig A. Doll

Enclosure
cc: Per Certificate of Service
F. Richards

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Reply Brief of Richards Energy Group, Inc. upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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Dated: January 23, 2012

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation	:	
for Approval to Implement a Reconciliation	:	P-2011-2256365
Rider for Default Service	:	

REPLY BRIEF
OF
RICHARDS ENERGY GROUP, INC.

Respectfully submitted,

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Dated: January 23, 2012

Subsequent Procedural History

In accordance with Your Honor's Scheduling Order, all parties to this proceeding submitted Main Briefs on January 9, 2012. As further provided in that Order, Reply Briefs are due on or before January 23, 2012. Richards Energy Group, Inc. ("REG") files this Reply Brief in compliance with that Order.

Overview

A review of the Main Briefs filed by the various parties to this proceeding as well as the testimony submitted by those parties reveals that the Office of Consumer Advocate ("OCA") generally supports the imposition of the Competitive Transition Rider ("CTR") as proposed by PPL Electric Utilities Corporation ("PPL") which would deal with historic over or under collections occurring up to May 31, 2012, but opposes the imposition of the Reconciliation Rider ("RR") which would reflect over and under collections subsequent to June 1, 2012. In contrast, the Office of Small Business Advocate ("OSBA") opposed the imposition of the CTR, but offers support for the RR. The Commission's Bureau of Investigation and Enforcement ("I&E"), the Retail Energy Supply Association ("RESA"), Dominion Retail, Inc. ("Dominion"); PPL Industrial Customer Alliance ("PPLICA") and Wal-Mart Stores East, L.P. ("Wal-Mart") opposed all or major portions of both proposed riders.

For reasons set forth in its Main Brief, REG is also opposed to the implementation of both the CTR and the RR, arguing that the current Commission approved method of reconciling default service costs is adequate and should not be modified. REG M.B. 6-10. REG will not reiterate the arguments raised in its Main Brief nor render support for the arguments with which it agrees, but will respond to the various arguments raised by PPL in its Main Brief.

Throughout its Main Brief, PPL argues that: (1) it is legally entitled to recover its default service costs. (PPL M.B. 9, 28); (2) that failure to adopt PPL's proposed riders violates the regulatory principles of class ratemaking and assignment of costs to the cost causer (M.B. 39, 42, 48); and (3) that no alternative proposals have been offered by any of the parties to this proceeding. (7, 29, 38). This Reply Brief will address those issues.

PPL's Right to Recover Costs

As set forth in its Main Brief, REG does not contest the legal authority of PPL or any default service provider, to recover, under 66 Pa. C.S. §2807(e)(3.9), its reasonable costs for providing default service – service that is provided to non-shopping (default service) customers. What REG does contest is the right of a default service provider to recover those costs from customers who made the affirmative decision to take advantage of the ability to shop for generation supply. Particularly egregious is the collection of default service costs accumulated over a two year period when those now shopping customers did not receive default service from PPL at all or for only a *de minimus* period of time. REG M. B. 7.

As is the case with many Commission proceedings, the real issues have evolved into questions of what is "reasonable" and from whom those costs are to be recovered. REG has not raised any question in the context of this proceeding, whether what PPL is proposing to recover is reasonable. REG views this proceeding as merely a request to alter the method of recovery of default service costs from that currently approved by the Commission to one of a series of riders. REG submits that whether the category of costs sought to be recovered are reasonable and appropriate is properly considered in the context of a reconciliation proceeding where the

reasonableness of all costs can be examined. As stated in its Main Brief, REG does not contest PPL's right to recover these reasonable costs, only from whom those costs should be recovered.

Ratemaking Principles

The major criticism of PPL's proposal raised by REG in this proceeding and in its Main Brief is not whether PPL is entitled to recover its reasonable costs, but from whom those costs may be recovered. To support the imposition of the RR, PPL argues that its proposal imposes costs on the customers who caused those costs. However, PPL appears to abandon this argument with respect to the CTR. In contrast to the RR, with respect to the CTR, PPL generally argues in its Main Brief that the default service costs should be recovered from all customers regardless of whether they are shopping for generation supply or remain default service customers. PPL argues that rates must be designed on a customer class basis. Having designed a rate by customer class, PPL then claims that: "[a]lthough 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." PPL M.B 47. For this reason, PPL argues that all customers in a class, no matter when they left default service and exercised their right to received generation service from a competitive supplier should be required to pay the CTR.

Initially, it must be observed that this concept – charging a customer for the costs associated with service which they never received or for costs they never caused flies directly in the face of the regulatory concept that this statement is meant to support. For example, if PPL wants to only charge those customers who caused the costs to be incurred then why charge the customers who were shopping at the time the costs were incurred. If PPL is intent on charging all

customers, then why argue that it is attempting to assign costs to the causers of those costs. In short these statements are entirely inconsistent.

In an apparent attempt to justify these inconsistent statements, PPL claims that rates cannot be designed for individual customers and must be developed and analyzed on a customer class basis. PPL M.B. 39. REG does not generally disagree with this statement, but the actual "rate" to be charged customers is not in issue in this proceeding. Nor can it be since the total costs of the CTR cannot be determined until the period for which those costs are incurred has passed. In this proceeding that date is some time after May 31, 2012. Since those costs cannot be determined until some time in the future there can be no final costs to be allocated to an entire class of customers. Again the issue becomes not the rate to be paid but who should be forced to pay for those costs. As REG has argued in its Main Brief, pages 12-13, the shopping customer should not be forced to subsidize the default service customer. As further set forth in its Main Brief pages 6 – 10, the applicable statute and this Commission's regulations clearly contemplate that the costs of default service should be borne by the current default service customers and not shopping customers.

Additionally, the concept of imposing a charge upon an entire "class" of customer is dependent upon the definition of customer class. There are two primary classes of customer affected by this proceeding – shopping and default.[1] But PPL's RR proposal appears to create four major sub-classes for its RR proposal. As proposed, PPL would create a sub classification of customers into those default service customers who remained on the system and would be required to pay the rate imposed by the RR; default service customers who chose to shop who would continue to be charged the RR rate for a period of time equal to the time they were on

[1] Obviously the shopping and non-shopping class has no relation to the grouping of PPL's rate classifications for distribution services (GS-1, GS-3, etc) into the generic classification of Small C&I customers for other purposes.

default service up to twelve months; shopping customers who would be exempt for a period of time equal to the number of consecutive months that the customer was shopping; and new customers.

While it is true that PPL would charge each of these customers the established "rate" set forth in the RR, PPL's creation of separate classifications has not stopped. For each individual customer who leaves default service as long as the RR is in place, PPL will be required to determine how many months that customer had been on default service by reviewing the customer's history. Of necessity, by determining that a group of now shopping customers had been on default service for X months, PPL has created an additional customer class based upon the number of months that customer received default service. The same is true for a customer returning from default service. Differing customer classifications will have to be established based upon the number of months the customer was shopping before he returned to default service. Thus despite the class to which the customer belongs, either default, or GS-1, GS-3, etc. having caused the costs, the duration that the customer has to pay for those costs is limited. As such, PPL would claim that it is charging that individual customer only for the costs he theoretically caused. This is not the case with the CTR. Despite having never been a default customer or a default service customer for a *de minimus* period of time after January 1, 2010 when the alleged default service costs arose[2], that customer would be responsible for paying default service costs accumulated over an entire two year period.

REG submits that PPL has utilized contradictory ratemaking theories to support its two proposals.

[2] REG Stmt. 1, p.1

Alternative Proposals

PPL argues that its proposals should be adopted because no other party has presented any alternative solution. PPL M.B. 29. Initially, it must be noted that there exists no statute, regulation, or decision which would mandate such a result. Similarly, there is no statute, regulation, or decision that would require a party in opposition to a proponent of an order to propose an alternative to the relief sought by the proponent of that order. To so find would turn the entire legal concept of burden of proof on its head. While it is true that once a proponent of an order has presented substantial competent evidence in support of the relief which it seeks, it is incumbent upon those in opposition to present evidence as to why that relief should not be granted[3], there is no affirmative duty to present an alternative proposal.

PPL is also mistaken that alternatives to its proposal have not been presented. As REG has set forth in its Main Brief at pages 3, 12, REG has suggested that the testimony or record supports retention of the status quo, which PPL's witness admitted is working as designed. PPL Stmt. 1-R, p. 13. Additionally, several parties to this proceeding have offered modifications to various component parts of PPL's proposals, some of which PPL has accepted. For example, OSBA Witness Knecht suggested that customers who never were default customers should not be subject to the RR for the first twelve months after returning to default service. OSBA Stmt. 1, p.9. PPL has agreed to this modification. NT 125: 4-18. Similarly, PPL has agreed to a modification of the reconciliation of the RR on a rolling annual basis,[4] and asymmetrical interest rates. PPL Stmt. 1-R, p.18. Clearly alternatives to all or part of PPL's proposals were put forth by parties to this proceeding.

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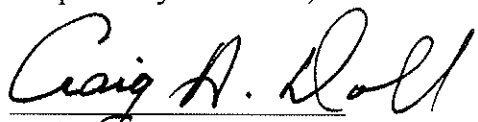
[3] *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

[4] OSBA Stmt. 1, p.7; OSBA Stmt. 3 at 1-3; NT 31-32

Conclusion

For the reasons set forth in its testimony, Main Brief and this Reply Brief, Richards Energy Group, Inc. respectfully requests that Your Honor deny PPL's Petition.

Respectfully submitted,



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