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January 23, 2012

VIA E-MAIL AND FIRST CLASS MAIL

Rosemary Chiavetta, Secretary
Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

RE: P-2011-22562365; Petition of PPL Electric Utilities Corporation for Approval to Implement a Reconciliation Rider for Default Service Supply

Dear Secretary Chiavetta:

Enclosed please find the Reply Brief of Wal-Mart Stores East, LP and Sam's East, Inc. for filing in the above-referenced matter. Copies have been served in accordance with the attached Certificate of Service.

Please do not hesitate to contact me if you have any questions regarding this filing.

Very truly yours,

Holly Rachel Smith

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY BRIEF ON BEHALF OF
WAL-MART STORES EAST, LP AND SAM'S EAST, INC.**

Dated: January 23, 2012

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**BEFORE THE
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**REPLY BRIEF ON BEHALF OF
WAL-MART STORES EAST, LP AND SAM'S EAST, INC.**

As ordered in the Scheduling Order of October 5, 2011 at paragraph 3, Wal-Mart Stores East, LP and Sam's East, Inc. (collectively, "Walmart") submitted its Main Brief on January 9, 2012. In sum, Walmart urged the Commission to reject PPL's proposed Competitive Transition Rider ("CTR"). As proposed, the mechanism would unfairly impose the costs of PPL's default service on customers that did not take PPL's default service during the proposed CTR reconciliation period, in violation of ratemaking and cost causation principles. The CTR also violates the letter and spirit of Pennsylvania law which requires that a local distribution company recover default service costs from default service customers and prohibits such companies from punishing its distribution customers from shopping for competitive supply.

Walmart hereby submits its Reply Brief in response to arguments raised in PPL's Main Brief.

I. SUMMARY OF REPLY ARGUMENT

The Commission should reject the CTR. PPL has not met its burden in this case to prove that the CTR is needed, or just and reasonable. By cataloguing and demonstrating the fundamental flaws of PPL's CTR, the burden of proof does not shift to Walmart or other intervenors, as PPL seems to suggest. There is ample evidence in the record that the proposed CTR mechanism is flawed, and this evidence is not limited to individual customer cost and usage patterns but instead involve gross inequities that sweep across customer classes.

II. REPLY ARGUMENT

A. BURDEN OF PROOF

After setting forth that it bears the burden of proof on its application,¹ PPL attempts to allege that the very legitimate concerns of a multitude of intervenors related to its Amended Petition should be ignored because the opposing intervenors did not offer an alternative proposal. Clearly, there is an apparent failure on the part of PPL to understand it bears the burden to prove that its proposals included in the Amended Petition, including the CTR, are necessary, just, reasonable and in the public interest. PPL erroneously accuses the intervenors who criticize its proposals of “fail[ing] 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.”² It is true that Walmart, and other intervenors, through witness testimony, exposed fundamental flaws in PPL's CTR proposal -- namely that the proposed CTR violates cost causation and ratemaking principles and would be unfair to shopping customers that did not contribute at all to the over and under collections. However, this in no way shifts the burden of proof from PPL to the intervenors to present and support an alternative mechanism.

¹ PPL Main Brief at p. 4.

² *Id.*

PPL attempts to support its position with case law pertaining to instances where parties proposed alternatives to what the utility plead.³ In Walmart’s case, it proposed no alternative to the CTR, but instead exerted its right to demonstrate that the CTR is fundamentally flawed. PPL both bears and has failed to meet its burden to prove by a greater weight of the evidence that its CTR proposal is necessary just, reasonable, and in the public interest. PPL should not be permitted to attempt an end run around this obligation by proposing that its proposals be adopted unless the intervenors successfully plead alternative proposals.

B. THE INEQUITIES ASSOCIATED WITH IMPLEMENTATION OF THE PROPOSED CTR ARE NOT LIMITED TO INDIVIDUAL CUSTOMER CIRCUMSTANCES BUT INSTEAD WOULD UNFAIRLY IMPACT MANY OF PPL’S DISTRIBUTION CUSTOMERS

PPL in its Main Brief unsuccessfully attempts to minimize credible intervenor arguments against the CTR by inferring that any unfairness inherent in the CTR is limited to “individual customer circumstances” and that “utility rates are not, never have been, and cannot be designed to reflect individual customer cost and usage patterns.”⁴

Walmart Statement 1 consists of the Direct Testimony and Exhibit of Steve W. Chriss, Walmart’s Senior Manager, Energy Regulatory Analysis. Witness Chriss testified that the Commission should reject the CTR.⁵ The Commission should determine that from a general public policy perspective, it is not appropriate to implement mechanisms that charge shopping customers for generation supply and transmission service costs incurred by the utility only to

³ See *id* at p. 5 (discussing *Pa. P.U.C. v. Metropolitan Edison Company, et al*, Docket Nos. R-00061366, *et al.*, *et al.*, Docket Nos. R-00061366, *et al.*, *Opinion and Order* (rel. Jan. 11, 2007).

⁴ See PPL Main Brief at p. 8. See also PPL Main Brief at p. 48 (PPL incorrectly states that Walmart’s position in testimony is based on individual customer analysis.) Moreover, PPL ignores that 52 Pa. Code § 54.187 provides that the costs incurred for providing default service **shall** be recovered through a **default** service rate schedule. (*emphasis added*).

⁵ See Walmart Statement No. 1 at p. 3, lines 12-14.

serve non-shopping customers.⁶ The CTR would unfairly apply to even those customers who had been receiving electric supply from a competitive supplier even before December 31, 2009.⁷ These customers would not have contributed at all to any under collection being recovered through the CTR. Witness Chriss is concerned that the CTR as proposed would make shopping customers, who take generation supply and transmission service from competitive electric generation suppliers, pay, or receive a refund from, PPL for some part of PPL's generation supply costs. This misaligns cost causation and cost responsibility and results in inequitable rates.⁸ For these reasons, Witness Chriss recommends rejection of the CTR on grounds of equity and the failure of the mechanism to adhere to cost causation principles. Nowhere in his testimony did Witness Chriss present individual customer circumstances as evidence in support of his arguments. Nor did Witness Chris find fault with the CTR for failing to flexibly accommodate or reflect individual customers costs and usage patterns, as PPL seems to allege.⁹

In fact, as Walmart clarified in its main brief, it is not just a few but potentially many customers that may be assessed a CTR without having contributed at all to the over and under collections that occurred during the CTR period. Given there is an annual active reconciliation mechanism in place now for generation and transmission cost reconciliation, a portion of the CTR period's accumulated balance has been and will continue to be reconciled before an order issues in this case. As this has happened, there are more and more shopping customers who have

⁶ See Walmart Statement No. 1 at p. 3, lines 8-11.

⁷ *Id* at p. 6, lines 5-7.

⁸ *Id* at p. 5, lines 11-15.

⁹ In fact, Witness Chriss, while not supporting the Reconciliation Rider ("RR") in his testimony, noted that the proposed RR is flexible in that it would not apply to shopping customers for the first 12 months after they switch to PPL generation supply and transmission service. See Walmart Statement No. 1 at p. 6 lines 17-22 (*citing* Direct Testimony of Joseph M. Kleha, page 20, line 14 to line 17, admitted into the record as PPL Statement No. 1.) By including this as part of its proposal, PPL has incorporated in its proposed RR the same "individual customers costs and usage patterns" that it is saying are "not, never have been" included in utility rate designs. See PPL Main Brief at p. 8.

not contributed at all to creating any remaining CTR balance (e.g., have not been billed for any default service that caused any remaining imbalance that may exist as of May 31, 2012). In fact, OSBA Witness Knecht testified: “Any under-collections that built up in 2010 before the large shopping migration occurred are no longer on the Company’s books and therefore will not be on the books at May 31, 2012,”¹⁰ For this reason, the CTR is just as or more likely to unfairly charge many shopping customers and intervenors, such as Walmart, who highlighted the CTR’s flaws were not analyzing the proposal in a vacuum of “individual customer circumstances.”

* * * *

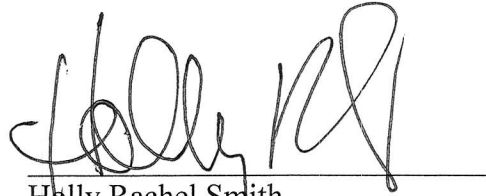
III. CONCLUSION

The Commission should reject the CTR. As proposed, the mechanism would unfairly impose the costs of PPL’s default service on customers that do not take PPL’s default service, in violation of ratemaking and cost causation principles. The CTR also violates the letter and spirit of Pennsylvania law which requires that a local distribution company recover default service costs from default service customers and prohibits such companies from punishing its distribution customers from shopping for competitive supply. PPL has not met its burden in this case to prove that the CTR is needed, or just and reasonable. By merely cataloguing and demonstrating fundamental flaws of the CTR, the burden of proof does not shift to Walmart or other intervenors, as PPL seems to suggest. There is ample evidence in the record that the proposed CTR mechanism is flawed, and this evidence is not limited to individual customer cost and usage patterns but instead involves inequities that sweep across customer classes.

¹⁰ See OSBA Statement No. 3 at p. 6, lines 13-17.

DATED: January 23, 2012

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Holly Rachel Smith", written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy via electronic mail (when available) and by first-class postage prepaid mail (*except as otherwise noted), to all parties on this 23rd day of January, 2012.

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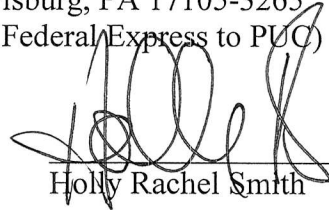
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