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January 23, 2012

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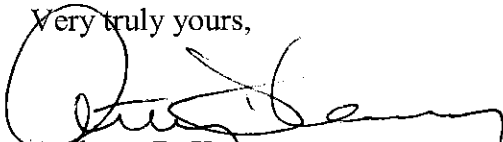
**RE: Petition of PPL Electric Utilities Corporation for Approval to Implement a  
Reconciliation Rider for Default Supply Service  
Docket No. P-2011-2256365**

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Dear Secretary Chiavetta:

Enclosed please find the Reply 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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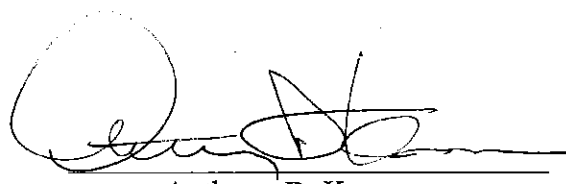
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**REPLY BRIEF OF  
PPL ELECTRIC UTILITIES CORPORATION**

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## **I. INTRODUCTION**

On January 9, 2012, PPL Electric Utilities Corporation (“PPL Electric”) filed its Main Brief pursuant to the schedule established by Administrative Law Judge Susan D. Colwell. Therein, PPL Electric explained its positions on the various issues pending before the Pennsylvania Public Utility Commission (“Commission”) in this proceeding. In so doing, PPL Electric anticipated and, as a practical matter, responded to many of the arguments raised in the Main Briefs filed by the Bureau of Investigation and Enforcement (“I&E”), 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”), Wal-Mart Stores East, L.P. and Sam’ East, Inc. (“Walmart”), and PP&L Industrial Customer Alliance (“PPLICA”). Nevertheless, it is appropriate for PPL Electric to respond to certain contentions advanced by these parties in their Main Briefs.

In this proceeding, 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. PPL Electric further seeks to recover Residential and Small Commercial & Industrial (“Small C&I”) Time of Use (“TOU”) program over and under collections through the RR and CTR. In addition, PPL Electric seeks 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 customer

class.<sup>1</sup> These proposed changes, taken together are designed to promote competition, alleviate the volatility and uncertainty associated with the over and under collection balances related to transmission service and generation supply costs, and to ensure that PPL Electric fully recovers these costs as required by law.

I&E generally supports the RR, but contends that the Residential and Small C&I TOU program over and under collections should not be recovered through the RR because, according to I&E, the TOU program is not a default service rate. Similarly, I&E opposes the CTR on the basis that it is only intended to recover Residential and Small C&I TOU program over and under collections, which I&E contends are not related to default service. Finally, I&E contends that the TOU over and under collection balances are not reasonable costs because the TOU program was not designed to adequately recover the costs.

The OCA supports the CTR and the annual reconciliation of the GSC-1. The OCA opposes the RR, concluding that it is unnecessary and confusing to customers.

The OSBA generally supports the RR with a few modifications, some of which are acceptable to PPL Electric as explained in its Main Brief. The OSBA opposes the CTR, contending that there is no evidence that large over or under collections will continue to exist at the time the CTR becomes effective. Both OSBA and Walmart oppose the CTR, arguing that the shopping customers did not contribute to the net historic over and under collection balances to be refunded or recovered through the CTR.

Dominion, RESA, and REG all generally oppose each of PPL Electric's proposals. They contend that the transmission service and generation supply over and under collections must be recovered through the Price to Compare ("PTC"), rather than through reconcilable Section

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<sup>1</sup> See, generally, PPL Electric Ex. No. 1.

1307(e) cost recovery mechanisms, such as the RR and CTR. These parties contend that the RR and CTR are anti-competitive and violate cost causation principles. They also contend that the proposed RR and CTR will force shopping customers to subsidize default service customers. These parties further contend that the RR is discriminatory because it fails to treat new default customers the same as shopping customers that return to default service. They also contend that there is no evidence that transmission service and generation supply over and under collections cannot be recovered through the current default service reconciliation mechanisms. Dominion and RESA both oppose the proposal to recover Residential and Small C&I TOU program over and under collections through the RR and CTR. Dominion and RESA also oppose the proposal to reconcile the GSC-1 on an annual basis, arguing that annual reconciliation is not a current and timely basis.

PPLICA opposes the RR, arguing that it will have no impact on the transmission service and generation supply over and under collections experienced by PPL Electric. If the RR is approved, PPLICA proposes that the RR reflect separate rates for Large Commercial & Industrial (“Large C&I”)-Primary and Large C&I-Transmission customer classes. PPLICA supports the CTR for purposes of the refund for the TSC over collection, but opposes the CTR for purposes of the charge for the GSC-2 under collection. In essence, PPLICA opposes PPL Electric’s proposal to net the historic transmission service and generation supply over and under collection balances and recover them through the CTR, arguing that its member customers did not contribute to the historic generation supply over and under collection balances. Finally, PPLICA recommends that the Commission resolve the several complaint proceedings pending before the Commission that relate to PPL Electric’s calculation of its over and under collection balances.

For the reasons that follow, as well as those more fully explained in PPL Electric's Main Brief, the ALJ and Commission should reject the parties' opposition to PPL Electric's proposals, and 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 annual reconciliation.

## **II. SUMMARY OF ARGUMENT**

As explained in PPL Electric's Main Brief, the record evidence in this proceeding 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. The record evidence further demonstrates 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 PTC, and that this volatility is unrelated to the market price of electricity. The parties opposing PPL Electric's proposals have presented no evidence to the contrary and, instead, simply have disregarded this unrefuted evidence.

To help remedy and prevent similar issues from occurring in the future, PPL Electric proposes 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. As explained in PPL Electric's Main Brief, these proposals will help alleviate the significant volatility and uncertainty in PPL Electric's default service rates and the PTC, while at the same

time promoting retail competition and ensuring PPL Electric fully recovers its reasonable costs related to providing default service. Notably, the parties opposing PPL Electric's proposals have failed 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.

The parties in this proceeding argue that PPL Electric's RR and CTR cost recovery mechanisms will harm competition. To the contrary, the Company's RR proposal will eliminate the anti-competitive effects of prior period over/under collections on the PTC. The CTR will not impact competition because it will be applied to all customers and not be included in the PTC. The parties also argue that the RR and CTR are unlawfully discriminatory under Section 1304 of the Code, 66 Pa.C.S. § 1304, because shopping customers will be required to pay default service costs.

These parties ignore the fact that under PPL Electric's current reconciliation mechanism, shopping customers can avoid paying for default service under collections that they caused or fail to receive a refund associated with an over collection they contributed to by switching to competitive supply. The RR remedies this situation by assigning default service costs to the customers that caused the costs to be incurred and by refunding over collections of default service costs to the customers that contributed to the over collection. The CTR also is not unlawfully discriminatory because shopping customers contributed to the over/under collections that are being refunded/recouped and the CTR will be applied on a customer class basis. These customers are eligible for default service at any time. PPL Electric as a default service provider is statutorily required to be ready, willing, and able to provide default service. It is not unfair for these customers to pay for a portion of these default service costs.

Certain parties also argue that the RR will be confusing. These parties fail to consider that all gas customers in Pennsylvania currently are subject to a migration rider. PPL Electric has proposed educational measures to address any customer confusion issues.

The parties opposing PPL Electric's proposals disregard the unrefuted record evidence that clearly demonstrates 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 PTC. Through this proceeding, PPL Electric has taken a proactive step to help cure and prevent similar issues from occurring in the future. PPL Electric's proposals clearly reflect very substantial improvements over existing procedures and certainly will 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.

### **III. ARGUMENT**

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. In its Main Brief, PPL Electric anticipated and responded to the various contentions and arguments asserted by the parties. For the reasons set forth below, as well as those more fully explained in PPL Electric's Main Brief, the parties' opposition to PPL Electric's proposals should be rejected.<sup>2</sup>

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<sup>2</sup> In an effort to avoid repetition, PPL Electric will provide cross references to its Main Brief where matters and issues have been more fully explained.

## A. DEFAULT SERVICE COSTS

### 1. Recovery of Default Service Costs

Dominion, REG, and Walmart contend that the RR and CTR will not be competitively neutral because those riders will not be included in the PTC. These parties contend that Act No. 129 and the Commission's regulations require that default service costs must be included in the PTC and, therefore, any over or under collections associated with transmission service or generation supply costs also must be included in and recovered through the PTC. These parties further argue that removing the RR and CTR from the PTC will not accurately reflect the actual costs to acquire default service, will cause confusion regarding the PTC, and will complicate customer's shopping decisions.<sup>3</sup> For the reasons that follow, these parties' contentions should be rejected.

The parties do not dispute that PPL Electric is entitled to recover on a full and current basis all reasonable costs incurred in providing default service through a reconcilable surcharge. *See* 66 Pa.C.S. § 2807(e)(3.9); *Pa. Power Co. v. Pa. PUC*, 932 A.2d 300, 307 (Pa. Cmwlth. 2007). Rather, the issue raised by Dominion, REG, and Walmart is whether the proposed RR and CTR Section 1307(e) cost recovery mechanisms must be included in the PTC. However, as explained in PPL Electric's Main Brief, the plain language of the Commission's default service regulations clearly contemplates a reconcilable automatic Section 1307(e) cost recovery surcharge that is *not* required to be included in the PTC.<sup>4</sup> *See* 52 Pa. Code §§ 54.187(a), (b), (f).

Dominion and REG contend that the RR and CTR will not be competitively neutral because those riders will not be included in the PTC. These parties argue that removing the RR and CTR from the PTC will not accurately reflect the actual costs to acquire default service, will

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<sup>3</sup> *See* Dominion Main Brief, pp. 9-12; REG Main Brief, pp. 9-10, and Walmart Main Brief, p. 7.

<sup>4</sup> *See* PPL Electric Main Brief, pp. 31-32.

cause confusion regarding the PTC, and will complicate customer's shopping decisions. PPL Electric disagrees.

The Commission's regulations define the PTC as follows:

A line item that appears on a retail customer's monthly bill for default service. The PTC is equal to the sum of all unbundled generation and transmission related charges to a default service customer *for that month of service.*

52 Pa. Code § 54.182 (emphasis added). Clearly the PTC is designed to reflect the actual and current costs to provide default service to a default service customer during the current application period that service is provided, *i.e.*, the C-Factor.<sup>5</sup> However, Section 1307(e) cost recovery mechanisms, such as the RR and CTR, are designed to recover the transmission service and generation supply over and under collection balances from the prior application period, *i.e.*, E-Factor. Including the E-Factor in the PTC does not accurately reflect the actual costs to acquire default service *for that month of service.* PPL St. 1-R, pp. 10-11; Tr. 163-64.

These parties also cite to 52 Pa. Code § 54.187(a) to support their argument that the RR should be included in the PTC.<sup>6</sup> The parties argue that this regulation requires all default service costs to be included in the PTC. PPL Electric disagrees with these conclusions. These parties fail to recognize two important factors. First, Section 52.187(a) provides that:

The rate schedule shall be designed to recover fully all reasonable costs incurred by the DSP *during the period default service is provided to customers....*

52 Pa. Code § 54.187(a) (emphasis added). The parties fail to consider the phrase "during the period default service is provided to customers." The E-factor recovers costs for prior

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<sup>5</sup> Notably, Dominion concedes that "the PTC is to be designed to recover those costs during the period service is provided" to default service customers. Dominion Main Brief, p. 8.

<sup>6</sup> Dominion Main Brief, pp. 9-10; RESA Main Brief, p. 10; REG Main Brief, p. 9.

application periods, not the current period. Therefore, excluding the E-factor from the PTC is consistent with Section 54.187(a).

Second, the RR is a default service rate schedule, even if it is not included in the PTC. The RR clearly is not a distribution rate schedule and does not recover distribution-related costs.

Moreover, the record in this proceeding clearly demonstrates that including the RR and CTR in the PTC will complicate shopping decisions for customers and promote shifting between default service and competitive supply for reasons unrelated to actual competitive market conditions.<sup>7</sup> Excluding the RR and CTR from the PTC will help eliminate the reconciliation distortions from the PTC and align it more closely with competitive market prices. Consistent with the definition set forth in the Commission's default service regulation and Section 54.187(a), the PTC then will more accurately reflect the actual costs to acquire default service supply during the current application period. This approach will make the PTC easier for customers to understand, because it will remove from the PTC 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.

## **2. Forecasting Default Service Costs**

Dominion and RESA assert that the proposed RR and CTR should be denied because the volatility in the PTC has been the result of large over or under collections due to bad forecasting. Dominion and RESA contend that PPL Electric must do a better job of forecasting its default service costs and translating those forecasts into rates that do not over or under collect to a

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<sup>7</sup> See PPL Electric Main Brief, Section V.C.3.

significant degree.<sup>8</sup> For the reasons explained below, Dominion and RESA misunderstand how PPL Electric's default service rates are determined.

PPL Electric has little if any discretion when it estimates its default service rates. PPL Electric procures default service supply pursuant to the DSP Plan approved by the Commission. 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.<sup>9</sup> Also, default service is acquired through a transparent auction run by an independent third party and the results are approved by the Commission as consistent with current market conditions and prices. Further, it is undisputed that PPL Electric has experienced and continues to experience significant over and under collection balances related to the TSC, GSC-1, and GSC-2.<sup>10</sup>

As correctly pointed out by the OSBA, there are many factors that can cause significant over and under collections. OSBA St. 2, p. 8. Indeed, it is impossible to predict with certainty when future changes in generation supply market prices will occur, which are affected by global energy prices and events, or what will be the effect of setting an administratively determined target level of shopping, which will affect the default service customer base. PPL St. 1-R, p. 25. Clearly, there are many factors that can contribute to over and under collections, including the precise number of shopping customers, which simply cannot be predicted or foreseen when PPL Electric prospectively estimates its default service rates for the next application period based on

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<sup>8</sup> See Dominion Main Brief, pp. 15-16; RESA Main Brief, p. 18.

<sup>9</sup> See PPL Electric Main Brief, Section V.C.2.

<sup>10</sup> See PPL Electric Main Brief, Section V.B.1.

the results of the procurement solicitations and the formulae set forth in the TSC, GSC-1, and GSC-2 rate riders.<sup>11</sup>

It must be remembered that 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). Default service providers are statutorily entitled to recover on a full and current basis all reasonable costs incurred in providing default service. However, unlike competitive suppliers, default service providers do not procure and provide customers with default service supply for a profit. Thus, despite Dominion's characterization to the contrary, there is little, if any, motive to lure, entice, or bait customers to take default service because the reasonable costs to procure default service are passed through to the customers through the C-Factor.

The RR and CTR are new Section 1307(e) cost recovery mechanisms that are designed to promote competition, alleviate the volatility and uncertainty associated with the over and under collection balances related to transmission service and generation supply costs, and to ensure that PPL Electric fully recovers these costs as required by law. If the RR and CTR are approved, PPL Electric will continue to have little, if any, discretion to set the default service pricing. Therefore, Dominion's and RESA's contention that the RR and CTR will remove incentives for PPL Electric to accurately estimate its price for default service must be rejected.

## **B. TIME OF USE PROGRAM**

In this proceeding, PPL Electric proposes to include the Residential and Small C&I TOU program over and under collections in the RR and CTR rates applicable to the respective

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<sup>11</sup> See PPL Electric Main Brief, Section V.C.2.

Residential and Small C&I customer classes. PPL Electric Ex. No. 1, Appendix F; PPL Electric St. No. 1-R, pp. 29-31. I&E contends that the TOU program is not a default service rate and, therefore, the over and under collections cannot be recovered through the proposed RR and CTR.<sup>12</sup> I&E also contends that the TOU over and under collection balances are not reasonable costs because the TOU program was not designed to adequately recover the costs.<sup>13</sup> Similarly, Dominion asserts that PPL Electric should not be permitted to recover the TOU over and under collection balances because, according to Dominion, PPL Electric knew or should have known that the TOU rates were incorrect.<sup>14</sup> RESA contends that the TOU over and under collection balances cannot be recovered through the RR and CTR because only default service customers were eligible to participate in the program.<sup>15</sup> These arguments are without merit and should be rejected for the reasons that follow.

#### **1. The TOU Program is a Default Service Option**

I&E asserts that the Residential and Small C&I TOU program is not default service because the TOU program is optional and default service customers must elect to participate in the program. I&E analogizes the Residential and Small C&I TOU program with electing to take competitive supply from an EGS.<sup>16</sup> I&E therefore concludes that the TOU program is not a default service program. I&E's conclusion violates the plain language of Act 129, Commission orders, and common sense.

PPL Electric, as a default service provider, is required to offer a TOU program under Act No. 129, which provides, in pertinent part, as follows:

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<sup>12</sup> See I&E Main Brief, p. 9.

<sup>13</sup> See *id.*

<sup>14</sup> See Dominion Main Brief, P. 15.

<sup>15</sup> See RESA Main Brief, pp. 15-16.

<sup>16</sup> See I&E Main Brief, p. 9.

By January 1, 2010, or at the end of the applicable generation rate cap period, whichever is later, 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. . . . Residential or commercial customers may elect to participate in time-of-use rates or real-time pricing. The *default service provider* shall submit an annual report to the price programs and the efficacy of the programs in affecting energy demand and consumption and the effect on wholesale market prices.

66 Pa. C.S. § 2807(f)(5) (emphasis added). Clearly, the TOU program is a default service option that is provided by a default service provider. Indeed, the Commission recently confirmed that a TOU program is an element of default service under 66 Pa.C.S. § 2807(f)(5) provided by a default service provider, not a transmission or distribution rate option provided by an electric distribution company.<sup>17</sup>

I&E contends that TOU service is not default service but offers no evidence as what TOU service is. Default service is the provision of generation supply to customers that do not shop. That is exactly what TOU service is. It is one of two options for default service offered by PPL Electric. TOU service simply is priced differently than regular default service. In other words, there are two pricing options available to customers for default service. This is similar to passenger airline service and many other services. Customers have the option of purchasing economy or first class tickets for airline service. Although they have different pricing options and terms of service, they are still both tickets for airline service. The same is equally true for default service. I&E's argument simply makes no sense.

Based on the foregoing, PPL Electric's TOU program is a reconcilable Section 1307(e) default service option. Tr. 32, 41. As such, the Company clearly is entitled to recover all of its

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<sup>17</sup> See PPL Electric Main Brief, Section V.C.6.a (citing *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 at \*32-33 (April 15, 2011)).

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

## **2. PPL Electric's TOU Costs Are Reasonable**

I&E asserts that the default service TOU program over and under collection balances are not reasonable costs and, therefore, cannot be recovered by PPL Electric.<sup>18</sup> Dominion asserts that the default service TOU program over and under collection balances cannot be recovered by PPL Electric because the Company knew or should have known that the TOU rates that became effective January 1, 2011, were incorrect.<sup>19</sup> However, these parties fail 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. Further, these parties fail to acknowledge other global economic considerations that affected the default service TOU rates and resulted in the over and under collection balances for the Residential and Small C&I TOU programs.<sup>20</sup>

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. 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

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<sup>18</sup> *See* I&E Main Brief, p. 9.

<sup>19</sup> *See* Dominion Main Brief, p. 15.

<sup>20</sup> *See* PPL Electric Main Brief, Section V.C.6.a.

programs. These under collections were not the result of PPL Electric intentionally or negligently estimating its default service TOU rates but, rather, due to the timing of PPL Electric's TOU program and global market changes that were beyond PPL Electric's control and which could not be predicted.<sup>21</sup>

Dominion asserts that it informed PPL Electric that its estimated TOU rates were below market.<sup>22</sup> A review of the testimony cited by Dominion fails to reveal exactly when Dominion provided this so-called notice to PPL Electric. However, the testimony clearly indicates that the alleged notice came after the Commission approved the default service TOU rates and after PPL Electric announced its 2011 TOU rate structures. *See* Dominion St. No. 1, p. 8. Undoubtedly, the Commission would not have approved the 2011 TOU rates had they not been consistent with the market at the time of approval. The fact that the alleged notice came after the Commission's approval of the TOU rates clearly supports the fact that there were other unpredictable factors that 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.

Finally, it must be remembered that the Commission approved PPL Electric's TOU rates. *See Pa. P.U.C. v. PPL Electric Utilities Corporation*, Docket No. R-2009-2122718 (March 9, 2010). Therefore, the TOU rates approved by the Commission are *prima facie* reasonable. 66 Pa.C.S. § 316; *see also Lynch v. Pa. Public Utility Comm'n*, 594 A.2d 816 (Pa. Cmwlth. 1991), *appeal denied*, 529 Pa. 670, 605 A.2d 335 (1992).

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<sup>21</sup> *See* PPL Electric Main Brief, Section V.C.6.a.

<sup>22</sup> *See* Dominion Main Brief, p. 15.

**3. No Party Has Presented Any Evidence That PPL Electric's TOU Costs Are Unreasonable**

In its Main Brief, I&E argues that PPL Electric should not be permitted to recover its TOU undercollection because the TOU costs were not reasonable.<sup>23</sup> However, at no place in its Brief and at no place in the record has I&E provided *any* factual evidence supporting its conclusion.

The basis for I&E's conclusion appears to be that the TOU revenue shortfall is due to design flaws in the TOU program.<sup>24</sup> However, I&E fails to acknowledge the undisputed record evidence that PPL Electric implemented its TOU program as it was approved by the Commission. In testimony, Mr. Kleha stated as follows:

Q. On pages 7 though 8, Mr. Butler alleges that PPL Electric purposely or negligently under collected its residential TOU costs by miscalculating its TOU rate below market prices. Do you have a response to this allegation?

A. Yes, I do. Mr. Butler fails to recognize that PPL Electric set its TOU rates based upon very specific methodology set forth in the Company's Commission-approved TOU plan. On September 23, 2010, PPL Electric filed its current TOU plan with the Commission at Docket No. R-2010-2201138. Therein, PPL Electric proposed to set 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 LMP 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. Moreover, PPL Electric followed all of the requirements of its Commission-approved tariff when it submitted the proposed 2011 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

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<sup>23</sup> See I&E Main Brief, p. 9.

<sup>24</sup> See I&E Main Brief, p. 10.

December 17, 2010, the appropriate tariff supplement to become effective (for service rendered on and after) January 1, 2011. Therefore, I disagree with Mr. Butler that PPL Electric purposely or negligently under collected its TOU costs by setting TOU rates below market prices. Mr. Butler's allegation is wholly without merit.

PPL Electric St. No. 1-R, pp: 30-31.

No party in this proceeding disputed the fact that PPL Electric followed its Commission-approved process for setting default service TOU rates. In addition, no party presented any factual evidence, whatsoever, that PPL Electric unreasonably set its default service rates.

As explained by Mr. Kleha, the Company sets TOU rates based upon public NYMEX prices. Tr. 62. This methodology was approved by the Commission, and PPL Electric did not have discretion to deviate from this methodology. Tr. 63. In addition, PPL Electric acquires generation supplies for TOU customers through the PJM spot market. *PPL Electric Utilities Corporation Supplement No. 94 To Tariff Electric – Pa. P.U.C. No. 201 – Time-of-Use Rates*, Docket No. R-2010-2201138 (December 2, 2010). The PJM spot market reflects the competitive market price for supplies. Therefore, PPL Electric's TOU costs are clearly reasonable, and PPL Electric should be permitted to fully recover its costs.

It also is important to note that in its last TOU proceeding, the Commission approved PPL Electric's request to fully recover its TOU costs through a reconcilable Section 1307(e) cost recovery mechanism. *See id.* Therefore, the Commission already has determined that PPL Electric should be permitted to recover its TOU costs. Because of the amount of the undercollection and the low level of residential TOU customers, PPL Electric will not be able to recover its TOU costs through the existing mechanism. The fact that PPL Electric will not be able to recover its TOU costs through its existing mechanism does not make the costs imprudent.

PPL Electric simply needs to recover them through a different mechanism and has proposed to do that through the CTR and RR.

#### **4. 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 through the CTR because only default service customers were able to participate in the TOU program.<sup>25</sup> RESA attempts to separate default service and shopping customers into two separate and distinct categories. However, this distinction is not consistent with how default service, including TOU default service, works.

Customers can freely switch between default service and competitive supply at any time.<sup>26</sup> A customer may shop one month and take default service the next month. Shopping customers clearly can elect to take TOU default service. TOU default service customers can elect to shop with an EGS. In addition, it is likely that many former TOU default service customers are now taking service from an EGS. PPL St. 1-R, p. 31. PPL Electric as a default service provider is statutorily required to be ready, willing, and able to provide default service. It is not unfair for these customers to pay for a portion of these default service costs. For these reasons, RESA's and other parties' arguments that it is improper to recover default service costs from customers that are now shopping because shopping customers did not cause the under collection is not correct.

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. For these reasons, PPL Electric has proposed to refund or recover any net Residential

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<sup>25</sup> See RESA Main Brief, pp. 15-16.

<sup>26</sup> Subject of course to any contract restrictions.

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.

### **C. RECONCILIATION RIDER**

PPL Electric seeks to implement a RR to 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. As more fully explained in PPL Electric's Main Brief, 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. The RR will be shown as a separate line item on customers' bills and will not be a part of PPL Electric's PTC. The RR will reflect different rates for the Residential, Small C&I, and Large C&I customer classes. 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. 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.<sup>27</sup>

The OSBA generally supports the RR, as well as PPL Electric's reasons for adopting the RR. The OCA, Dominion, RESA, REG, and PPLICA generally oppose the RR. In its Main Brief, PPL Electric has largely responded to these parties opposition to the RR. However, PPL Electric herein briefly responds to certain issues raised by these parties in their Main Brief. For the reasons that follow, as well as those more fully explained in its Main Brief, PPL Electric respectfully requests that the ALJ and Commission approve the Company's proposal to implement the RR.

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<sup>27</sup> See PPL Electric Main Brief, Section V.B.2.

## 1. Non-Discriminatory

Dominion argues that the RR is discriminatory and violates Section 1304 of the Public Utility Code because it requires shopping customers to pay for default service costs.<sup>28</sup> Dominion argues that the RR requires customers to pay the RR after they shop and also excuses default service customers from paying the RR when they return from shopping.<sup>29</sup> In making this argument, Dominion fails to acknowledge that the RR will be assigning cost responsibility to the customers that caused the costs to be incurred. When a customer shops, he/she will be responsible for paying the RR, or receiving the RR credit in the case of an over collection, because the RR is recovering an under collection or refunding an over collection that the customer contributed to while on default service. The RR is clearly a better cost assignment methodology, and more consistent with Section 1304, than the Company's current methodology which: (1) allows default service customers to avoid undercollections by shopping, or (2) does not provide shopping customers with the benefit of any refund due to over collections that occurred while the shopping customer was taking default service.

Dominion and RESA also argue that the RR violates Section 2807(e)(4) because it will treat new default service customers and customers returning to default service differently.<sup>30</sup> Dominion and RESA disregard that PPL Electric has agreed to treat new and returning default customers in the same manner.

Under the RR, 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

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<sup>28</sup> See Dominion Main Brief, p. 13.

<sup>29</sup> See Dominion Main Brief, p. 12.

<sup>30</sup> See Dominion Main Brief, p. 12; RESA Main Brief, pp. 16-18.

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.

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. However, the OSBA recommended that the RR should not be applicable to new PPL Electric customers. 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.<sup>31</sup>

## **2. Competitively Neutral**

Dominion and REG oppose the RR and contend that it is not competitively neutral. Dominion contends that the purpose of the RR is to harm competition and drive shopping customers to return to default service. Specifically, Dominion asserts that the RR creates an incentive for shopping customers to return to default service by providing a discount to returning customers as compared to existing default service customers. Dominion further contends that the RR discourages default service customers from shopping by increasing the costs these customers would pay if they shopped.<sup>32</sup> Dominion and REG both assert that the RR is anti-competitive because it forces shopping customers to subsidize default service customers.<sup>33</sup> These marketers misconstrue 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.

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<sup>31</sup> See PPL Electric Main Brief, Section V.B.2.

<sup>32</sup> See Dominion Main Brief, pp. 13-14.

<sup>33</sup> See REG Main Brief, pp. 10, 12.

In this case, it is undisputed that PPL Electric has experienced substantial difficulty in recovering or refunding its over and under collections associated with its transmission service and generation supply costs on a full and timely basis under its current default service cost recovery mechanisms.<sup>34</sup> Default service providers are statutorily entitled to recover on a full and current basis all reasonable costs incurred in providing default service. However, unlike competitive suppliers, default service providers do not procure and provide customers with default service supply for a profit. 66 Pa.C.S. § 2807(e)(3.9) (default service providers are only permitted to recover the reasonable costs incurred under a Commission-approved default service plan). Thus, despite Dominion's and REG's characterizations to the contrary, there is little, if any, motive to drive shopping customers to switch to default service or to trap default service customers because the reasonable costs to procure default service are passed through to the customers through the C-Factor.

The purpose of the RR is not to encourage shopping customers to return to default service or to discourage default service customers from shopping. Rather, the purpose of the RR is to more closely align over and under collection balances with the customers that created such balances to be incurred, remove volatility from the PTC, and help ensure that PPL Electric recovers its costs to provide default service in a full and timely manner. The RR will help 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.<sup>35</sup>

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<sup>34</sup> See PPL Electric Main Brief, Section V.B.1

<sup>35</sup> See PPL Electric Main Brief, Section V.C.4.a.

Dominion and REG contend that the RR will force shopping customers to subsidize default service customers. Dominion further asserts that the RR discriminates against shopping customers in violation of Section 1304. These arguments disregard that, as explained above, the RR attempts to more closely align over and under collection balances with the customers that created such balances to be incurred. Under the RR, shopping customers are not subsidizing default service customers, nor are they being discriminated against. Rather, the RR attempts to hold shopping customers accountable only for the reconciliation impacts created during the period the customer actually took default service.

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. Clearly, the goal of the RR is to attempt to align costs with those customers that caused such costs to be incurred.<sup>36</sup>

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<sup>36</sup> In fact, Dominion and REG's Section 1304 argument, if correct, would apply equally or even more so to the current situation where non-shopping customers pay shopping customers share of POLR costs in E-Factor

In their Briefs, RESA and Dominion argue that the RR will inhibit competition because marketers will be forced to compete against prices that do not accurately reflect market prices.<sup>37</sup> Contrary to their assertions, PPL Electric's RR reconciliation mechanism will result in a PTC that is much more reflective of market prices than PPL Electric's current reconciliation approach. Currently, PPL Electric's prior period over and under collections are included in the PTC for the then current application period. These over or under collections can have a significant impact on the PTC either increasing or decreasing it by a significant percentage.<sup>38</sup> When this happens, the PTC does *not* reflect market prices for the application period. Under PPL Electric's proposal, the RR will not be included in the PTC so the PTC will better reflect current market prices, which is consistent with the Commission's regulations.

On page 12 of its Main Brief, RESA states that:

Default service rates need to reflect costs on a current basis to ensure that a functioning competitive retail market can develop.

In fact, PPL Electric's RR proposal furthers this goal because it eliminates the effect of prior period over/under collections on the PTC so that the PTC better reflects costs on a current basis.

In support of its anti-competitive argument, Dominion asserts that the migration riders implemented by the natural gas distribution companies ("NGDCs") demonstrates that the RR is not competitively neutral.<sup>39</sup> However, Dominion fails to acknowledge 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). Further, as explained by OSBA, five out of the seven

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<sup>37</sup> See RESA Main Brief, p. 12; Dominion Main Brief, pp. 12-14.

<sup>38</sup> See PPL Electric Main Brief, Section V.B.1.

<sup>39</sup> See Dominion Main Brief, p. 14.

NGDC migration riders examined by Dominion currently have an E-Factor credit, which provides a competitive opportunity for competitive suppliers.<sup>40</sup>

As explained in PPL Electric's Main Brief, the parties' anti-competitive criticisms of PPL Electric's proposals fail to provide any comparative analysis or constructive alternatives. These parties focus on competition to the exclusion of the many other factors that must be considered. PPL Electric's proposals clearly reflect very substantial improvements over existing procedures. The parties generally ignore these improvements and, more importantly, present no reasonable and lawful alternatives. The parties' anti-competitive arguments simply are not enough to reject PPL Electric's carefully balanced plan.<sup>41</sup>

### **3. The Commission Has The Authority To Approve An RR For Electric Companies**

In their Main Briefs, several parties argue that natural gas distribution companies are required by statute to implement migration riders.<sup>42</sup> These parties argue that there is no comparable statutory provision requiring migration orders for EDCs and, therefore, the Commission cannot adopt a migration rider for EDCs. This argument is not correct.

As explained by Mr. Kleha in his rebuttal testimony, the Commission allowed certain NGDCs to have migration riders before the statutory provision cited by the parties was enacted. PPL Electric St. No. 1-R, p. 20. Therefore, the fact that the natural gas statute now requires migration riders is irrelevant. Moreover, no provision of the Public Utility Code prohibits the Commission from adopting a migration rider type mechanism for EDCs. Finally, it must be noted that the Commission has in fact approved a migration type rider for an EDC. *Petition of PECO Energy Company for Approval of Its Default Service Program and Rate Mitigation Plan,*

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<sup>40</sup> See OSBA Main Brief, pp. 16-17.

<sup>41</sup> See PPL Electric Main Brief, Section V.C.4.a.

<sup>42</sup> See Dominion Main Brief, p. 10; REG Main Brief, pp. 8-9

Docket P-2008-2062739 (June 2, 2009). The RR assigns costs to the customers that caused the costs. The Commission clearly has the requisite authority to approve PPL electric's RR.

#### 4. 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.<sup>43</sup> Similarly, PPLICA contends that the RR is not needed because the over and under collection balances experienced by PPL Electric were attributable to the Company's prorated billing methodology in January 2010 when the generation rate caps expired, which PPLICA contends is unlikely to reoccur.<sup>44</sup> These parties, together with REG, all recommend that the Commission deny the RR because the current Section 1307(e) cost recovery mechanisms are working reasonably well.

These parties seem to assume that the current level of shopping will not increase for residential customers. This is contrary to Commission policy and a number of initiatives currently proposed by Commission to increase shopping. *See 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).<sup>45</sup> As explained by Chairman Powelson, the Commission seeks to continue to promote competition in the retail market and increase the number of customers taking competitive supply:

By all reasonable benchmarks, Pennsylvania has made a successful transition to a competitive electricity market. Without a doubt, electric customers are benefiting from this transition. Moreover,

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<sup>43</sup> See OCA Main Brief, pp. 10-11; Dominion Main Brief, p. 16.

<sup>44</sup> See PPLICA Main Brief, pp. 7-8.

<sup>45</sup> Topics proposed in the Retail Markets Investigation to increase shopping included: (proposing the following to increase shopping: (1) the expansion of consumer education; (2) the acceleration of the switching timeframe when a customer shops for an alternative supplier; (3) the initiation of a customer referral program; (4) the initiation of a retail opt-in auction program; (5) the inclusion of the default service PTC on customer bills; and (6) the increase in coordination between EDCs and EGSs.

across the nation, Pennsylvania has come to be viewed as an example of the positive effects of electric restructuring. Despite these successes, Pennsylvania should not be content with the status quo. The PUC is constantly working to ensure the success of electric competition in the Commonwealth, and through these efforts, the PUC has witnessed firsthand that there is room for improvement.

*See* Prepared Comments of Chairman Robert F. Powelson, before the Pennsylvania House of Representatives Consumer Affairs Committee August 2, 2011.

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 caused such balances to be incurred, remove volatility from the PTC, and help ensure that PPL Electric recovers its costs to provide default service in a full and timely manner.<sup>46</sup> Here, consistent with Act No. 129 and the holding of *Pa. Power Co. v. Pa. PUC*, 932 A.2d 300, 307 (Pa. Cmwlth. 2007), 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 demonstrated by the various complaints currently pending before the Commission,<sup>47</sup> the current reconciliation default service cost recovery mechanisms have resulted in significant over and under collections. OSBA St. 1, pp. 5-6. Further, 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

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<sup>46</sup> *See* PPL Electric Main Brief, Section V.C.4.b.

<sup>47</sup> *See, e.g.*, Docket Nos. C-2011-2245906, M-2011-2243137, C-2011-2279176, M-2011-2274191.

riders. 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.<sup>48</sup>

## 5. Customer Confusion

OCA, Dominion, and RESA oppose the RR, arguing that the potentially frequent changes in the applicability of the RR will be confusing to customers.<sup>49</sup> The OCA also asserts that the RR will make auditing more difficult.<sup>50</sup> PPL Electric acknowledges that customers may be subject to the RR for some months and not others. However, as explained in PPL Electric's Main Brief, PPL Electric believes that the RR will simplify the PTC and should be easy for customers to understand.

The RR should make the PTC easier for customers to understand because it will remove from the PTC 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. 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. In addition, PPL Electric will provide detailed customer education prior to the implementation of the RR.<sup>51</sup>

OCA, Dominion, and RESA also disregard 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. *Enron Capital & Trade Resources Corporation v. The*

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<sup>48</sup> See PPL Electric Main Brief, Section V.C.4.c.

<sup>49</sup> See OCA Main Brief, pp. 9-10; Dominion Main Brief, p. 12; RESA Main Brief, pp. 19-20.

<sup>50</sup> See OCA Main Brief, p. 9.

<sup>51</sup> See PPL Electric Main Brief, Section V.C.5.d.

*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 OCA). *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.”). Indeed, the Commission has approved a migration rider for an electric distribution company. *See Petition of PECO Energy Company for Approval of Its Default Service Program and Rate Mitigation Plan*, Docket P-2008-2062739 (June 2, 2009).

Notably, most of the above-mentioned migration riders have been in place for many years. Clearly, if customer confusion was caused by the frequent changes in the applicability of these migration riders, it likely already would have been raised and addressed by the Commission. PPL Electric is unaware of any claim or complaint that the frequent changes in applicability of these migration riders has caused customer confusion as alleged by the parties. The parties’ concerns regarding customer confusion are unwarranted and not supported by the record.

Similarly, OCA’s concerns regarding auditing difficulties are not supported by the record and should be rejected. As explained above, migration riders have been in place for many years. PPL Electric is unaware of any claim that these migration riders have caused auditing difficulties. The Commission’s Bureau of Audits has the proper training and expertise to audit Section 1307(e) cost recovery mechanisms, and has been doing so for more than 30 years.

## 6. Interest Rate

Although OSBA generally supports the RR, the OSBA recommends adjustments to the interest rate applied under the RR to over and under collection balances.<sup>52</sup> As explained in its Main Brief, 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%.<sup>53</sup> See 52 Pa. Code § 54.187(f).

OSBA acknowledges that the RR interest rates proposed by PPL Electric are consistent with the Commission's regulations. Nonetheless, OSBA requests, for the very first time in its Main Brief, a waiver from 52 Pa. Code § 54.187(f). PPL Electric submits that OSBA's last-minute request for a waiver is inappropriate and must be rejected.

Notwithstanding, 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 are binding on all default service providers and their customers.<sup>54</sup> In essence, OSBA seeks to single out and penalize PPL Electric with less favorably interest rates through this petition proceeding, while allowing other default service providers to continue to use the interest rates set forth in the Commission's default service regulations.

Other than OSBA's unsubstantiated concerns, there is absolutely no evidence of record to suggest that the interest rates set forth in the Commission's default service regulations have provided or will provide PPL Electric with the alleged incentive to under collect rather than over collect its default service costs. Stated otherwise, there simply is no basis to support OSBA's

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<sup>52</sup> See OSBA Main Brief, pp. 7-9.

<sup>53</sup> See PPL Electric Main Brief, Section V.C.4.e.

<sup>54</sup> The Commission's regulations are binding as long as they conform to the Commission's grant of delegated power, are issued in accordance with the proper procedures, and are reasonable. *Popowsky v. Pennsylvania Public Utility Commission*, 853 A.2d 1097 (Pa. Cmwlth. 2004).

proposed disparate treatment of PPL Electric. To the extent that OSBA believes that the Commission's default service regulations should be revised, these important questions of law and policy are matters that, if they should be pursued, should be decided by the Commission on a uniform basis through an appropriate generic proceeding or rulemaking.

## 7. Other Proceedings

PPLICA opposes the RR, arguing that it will have no impact on the underlying cause of the over and under collection of default service costs experienced by PPL Electric. PPLICA contends that the over and under collections experienced by PPL Electric are the result of an "accounting mismatch problem." PPLICA notes that PPL Electric's billing methodologies are already under review in several other Commission proceedings, and asserts that the resolution of these matters potentially could reduce the future over and under collections experienced by PPL Electric. PPLICA, therefore, concludes that the proposed RR is not necessary to recover default service costs.<sup>55</sup> PPLICA's contentions are without merit and should be rejected.

PPL Electric's proration procedures employed to calculate and reconcile its transmission service and generation services costs currently are under review by the Commission.<sup>56</sup> Although the outcome of these proceedings is unknown at this time, PPL Electric acknowledges that Commission's disposition thereof could potentially affect the total amount of transmission service and generation services costs that are to be reconciled in a reconciliation period. 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 caused such balances to be incurred, remove volatility from the PTC, and help ensure that PPL Electric recovers its costs to provide default service in a full and timely

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<sup>55</sup> See PPLICA Main Brief, pp. 6-9.

<sup>56</sup> See, e.g., Docket Nos. C-2011-2245906, M-2011-2243137, C-2011-2279176, M-2011-2274191.

manner.<sup>57</sup> 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 regardless of how large or small they may be and how they may be calculated.

## **8. Retail Markets Investigation**

RESA contends that the RR should be rejected and because reconciliation issues are being addressed in the *Investigation of Pennsylvania's Retail Electricity Market: Recommendations Regarding Upcoming Default Service Plans* at Docket No. I-2011-2237952.<sup>58</sup> Although the Retail Markets Investigation may have some impact on the reconciliation of over and under collection balances, namely longer reconciliation periods to help smooth out over/under collections, the outcome of this proceedings is unknown at this time. Further, the outcome of this proceeding is unlikely to have a significant impact on the reconciliation design or methodologies employed by EDCs.

The outcome of the Retail Markets Investigation 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 created significant volatility and uncertainty in PPL Electric's default service rates and the PTC. To prevent similar issues from occurring in the future, PPL Electric proposes to implement the RR. The RR will more closely align over and under collection balances with the customers that caused such balances to be incurred, remove volatility from the PTC, and help ensure that PPL Electric recovers its costs to provide default service in a full and timely manner.<sup>59</sup>

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<sup>57</sup> See PPL Electric Main Brief, Section V.C.4.b.

<sup>58</sup> See RESA Main Brief, p. 9.

<sup>59</sup> See PPL Electric Main Brief, Section V.C.4.b.

#### **D. COMPETITIVE TRANSITION RIDER**

PPL Electric seeks to implement a one-time 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. As more fully explained in PPL Electric's Main Brief, the CTR will be applicable to all customers, will reflect different rates for different customer classes, and 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. The CTR will be shown as a separate line item on customers' bills and will not be included in the PTC. The CTR will be reconciled at the end of the initial 12-month application period and will continue for the minimum number of months necessary to true-up the balance and then discontinued once the balance has been fully collected or refunded.<sup>60</sup>

The OCA supports the CTR. PPLICA supports the CTR for purposes of receiving a refund of a TSC over collection, but opposes the CTR for purposes of the charge for the GSC under collection. The OSBA, Dominion, RESA, REG, and Walmart generally oppose the CTR. In its Main Brief, PPL Electric has largely responded to these parties opposition to the CTR. However, PPL Electric herein briefly responds to certain issues raised by these parties in their Main Brief. For the reasons that follow, as well as those more fully explained in its Main Brief, PPL Electric respectfully requests that the ALJ and Commission approve the Company's proposal to implement the CTR.

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<sup>60</sup> See PPL Electric Main Brief, Section V.B.3.

## 1. Competitively Neutral

The OSBA, Dominion, 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. These parties argue that the over and under collection balances from the expiration of the generation rate caps on December 31, 2009, already have been recovered, and that there is no evidence that the existing shopping customers contributed to the remaining net historic over and under collection balances that will exist as of May 31, 2012.<sup>61</sup> 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.<sup>62</sup> PPLICA does not oppose the CTR for purposes of the TSC for the Large C&I customer class, which presently is over collected and will result in a credit to these customers.<sup>63</sup> However, PPLICA opposes the CTR for purposes of the generations supply costs, which presently under collected and will result in a charge to these customers, arguing that the Large C&I customers switched to competitive supply upon the expiration of the generation rate caps on December 31, 2009, and did not contribute to the historic generation supply cost over and under collection balances.<sup>64</sup>

As explained above and in PPL Electric's Main Brief, 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. If promoting retail competition were the only goal, then the General Assembly would not have provided for the full and timely

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<sup>61</sup> See OSBA Main Brief, p. 22; Dominion Main Brief, p. 11; REG Main Brief, p. 10; Walmart Main Brief, pp. 4-7.

<sup>62</sup> See REG Main Brief, pp. 12-13.

<sup>63</sup> PPL Electric will further address this issue in the discussion below regarding PPL Electric proposal to net the over and under collections of the respective GSC-1 and GSC-2 with the TSC reconciliations for each customer class.

<sup>64</sup> See PPLICA Main Brief, pp.13-14.

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 proposal to implement the CTR carefully and appropriately balances the need to promote competition, alleviate 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.

PPL Electric explained that 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. Other than their unsupported statements that shopping customers left prior to the expiration of the generation rate caps, the parties to this proceeding provided no evidence to the contrary. Indeed, REG acknowledged that of the approximately 1,400 customer accounts it represents, only about 43 customer accounts began receiving competitive supply by December 31, 2009. Tr. 156-57.

Importantly, PPL Electric as a default service provider is statutorily required to be ready, willing, and able to provide default service. At any point in time, any customer is eligible to switch between default service and shopping. Similar to ready to serve charges, it is not unfair for these customers to pay for a portion of these default service costs. Indeed, the Commission has explained that:

By allowing ready to serve charges, the Commission provides the utility with the ability to provide adequate and continuous service. The utility is able to offer service as soon as it is needed and the property owner enjoys an increased value in his property because utility service is available.

*Stephen Sutter, et al. v. Clean Treatment Sewage Company*, Docket Nos. C-20078197, et al., 2009 Pa. PUC LEXIS 7 (May 15, 2009).

Further, it cannot reasonably be argued that all existing shopping customers have never taken default service at any time since the generation rate caps expired on December 31, 2009. Indeed, there may be customers that were on default service at one point in time, contributed to the over or under collection during that period, and then became a shopping customer. The over or under collections created during that period 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.

It is well established that utility rates are not, never have been, and cannot be designed to reflect individual customer's costs and usage patterns.<sup>65</sup> Although there may be individual customers that did not contribute to any of the net historic over and under collection balances, many of the existing shopping customers took default service at one point in time and contributed to the net over or under collection balances as explained above. Further, as acknowledged by RESA, there are customers in each customer class that continue to take default service.<sup>66</sup> Clearly, customers from each class contributed to the respective class net over and under collection balances at some point in time, otherwise there would be no net over and under

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<sup>65</sup> See PPL Electric Main Brief, Section V.C.5.a.

<sup>66</sup> See RESA Main Brief, p. 7 (citing to Switching Statistics as of October 22, 2011); see also PPL Electric St. 1, pp. 12-13.

collection balances. Based on class ratemaking principles, PPL Electric believes that the non-bypassable CTR is just and reasonable and fully consistent with Section 1304 of the Public Utility Code. *See* 66 Pa.C.S. § 1304.

It is unrefuted that PPL Electric has incurred substantial over and under collection balances under its current transmission service and generation supply charges reconciliation mechanisms. In addition, all parties agree that 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. However, as explained above, the existing default service customers were not the sole contributors to the historic over and under collection balances. If the CTR is not approved, the existing default customers will be responsible for the entire net historic over and under collection balances, including those over and under collection balances that were incurred when existing shopping customers took default service at one point in time.

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. Indeed, PPL Electric currently has a TOU undercollection of approximately \$1.9 million with only 3,400 customer taking TOU service. If PPL Electric attempted to recover this undercollection from so few customers, this would very likely increase TOU rates so high that the few remaining TOU customers would drop TOU service. In addition,

PPL Electric currently has a significant TSC overcollection for large C&I customers with very few large C&I customers taking default service. If PPL Electric refunded this overcollection to customers through its existing reconciliation mechanism, this would cause a significant decrease in the PTC and likely cause a significant number of large C&I customers to return to default service, which in turn could cause PPL Electric to refund too much.

As a result, it is necessary and appropriate to establish a temporary, reconcilable, non-bypassable cost recovery mechanism to refund/recoup the Company's prudently historic over/under collections from customers.<sup>67</sup>

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. Consistent with class ratemaking principles, 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.

## **2. Remaining Balance**

OSBA, Dominion, and RESA 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. Based thereon, OSBA asserts that the remaining net historic over or under collection balances should be recovered through the RR, while Dominion and RESA contend that the remaining net historic over or under collection balances should be recovered through the current default service mechanism.<sup>68</sup>

As explained in PPL Electric's Main Brief, 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

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<sup>67</sup> See PPL Electric Main Brief, Section V.B.3.

<sup>68</sup> See OSBA Main Brief, p. 20; Dominion Main Brief, pp. 16-17; RESA Main Brief, pp. 6-8.

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.<sup>69</sup>

Moreover, as described above, the parties are looking at class over/under collections in total when making this argument. It is not appropriate to do this because PPL Electric does not currently recover TOU costs from all default service customers nor does it combine transmission and generation costs for each class.

For these reasons, as more fully explained in PPL Electric's Main Brief, 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.

### **3. Other Proceedings**

The OSBA and PPLICA both note that PPL Electric's billing methodologies are under review in several other Commission dockets,<sup>70</sup> and assert that the resolution of these matters potentially could reduce the net historic over and under collection balances proposed to be recovered through the CTR.<sup>71</sup> PPLICA concludes that the Commission must resolve these pending matters to ensure that the costs proposed to be recovered through the CTR are accurate.<sup>72</sup> The OSBA argues that until the pending matters are resolved, the CTR will "re-start"

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<sup>69</sup> See PPL Electric Main Brief, Section V.5.b.

<sup>70</sup> See, e.g., Docket Nos. C-2011-2245906, M-2011-2243137, C-2011-2279176, M-2011-2274191.

<sup>71</sup> See OSBA Main Brief, p. 21; PPLICA Main Brief, pp. 21-22.

<sup>72</sup> See PPLICA Main Brief, pp. 21-22. PPLICA does not oppose the CTR for purposes of the TSC for the Large C&I customer class, which presently is over collected and will result in a credit to these customers. However,

the accounting method “mismatch” that purportedly caused the reconciliation issues currently experienced by the Company.<sup>73</sup> These contentions are without merit and should be rejected.

As explained above, although the outcome of these proceedings is unknown at this time, PPL Electric acknowledges that the Commission’s disposition could potentially affect the total amount of net historic transmission service and generation services costs that are to be reconciled through the CTR. However, the outcome of these proceedings will not change the fact that PPL Electric has experienced substantial difficulty in recovering or refunding its over and under collections associated with its transmission service and generation supply costs on a full and timely basis under its current default service cost recovery mechanisms.

Further, the outcome of these proceedings will have no impact on the design and purpose of the CTR. PPL Electric is proposing the CTR to provide a fresh start by eliminating net historic over and under collection balances related to transmission service and generation supply charges, regardless of how large or small they may be and however they may be calculated. As explained above, PPL Electric believes that the non-bypassable CTR is just and reasonable, consistent with class ratemaking principles, and will help to minimize the uncertainty and effect on default service rates caused by reconciling the historic over and under collection balances.

PPL Electric also disagrees with OSBA’s assertion that the CTR will “re-start” the accounting method “mismatch” that purportedly caused the reconciliation issues currently experienced by the Company. The OSBA’s assertion ignores long-standing practice and precedent regarding the reconciliation mechanics of Section 1307(e) cost recovery mechanisms

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PPLICA opposes the CTR for purposes of the generations supply costs, arguing that the Large C&I customers switched to competitive supply upon the expiration of the generation rate caps on December 31, 2009, and did not contribute to the historic generation supply cost over and under collection balances. For the reasons explained above, the ALJ and Commission should reject this argument and approve the CTR for purposes of recovering the net historic over and under collection balances associated with both the transmission service and generation supply costs.

<sup>73</sup> See OSBA Main Brief, p. 21.

for PPL Electric and other utilities in this jurisdiction, as well as the plain language of Section 1307(e) of the Public Utility Code. PPL Electric explained that its reconciliation of its transmission service and generation supply costs follows generally accepted ratemaking principles, proper regulatory accounting, long-standing Commission practice and precedent, and the requirements of Section 1307(e) of the Public Utility Code. PPL Electric St. 1-SR, *passim*. As such, PPL Electric's application of these accounting and ratemaking principles to the reconciliation of its Section 1307(e) cost recovery mechanisms properly matches actual billed revenue with the actual incurred costs for the application (and reconciliation) period.

#### **E. ANNUAL RECONCILIATION OF GSC-1**

PPL Electric proposes to modify the provisions of the GSC-1 to permit annual reconciliation, rather than on a quarterly basis. Although the GSC-1 would be reconciled annually under PPL Electric's proposal, the Company would continue to revise GSC-1 rates on a quarterly basis to reflect changes in the cost of purchasing default service supplies. Further, the Company has accepted the OSBA's recommendation that the RR be calculated and reconciled on a rolling 12-month annual basis. The annual reconciliation of the GSC-1 should reduce the volatility of the RR, reduce the number of calculations required, and reduce customer confusion.<sup>74</sup>

Both the OCA and OSBA support the annual reconciliation of the GSC-1. Dominion and RESA argue that reconciliation on a yearly basis does not provide for recovery of costs on a current basis as required by the 66 Pa.C.S. § 2807(e)(7) and 52 Pa. Code § 54.187(a). Dominion and RESA contend that annual reconciliation of the GSC-1 will send inaccurate price signals,

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<sup>74</sup> See PPL Electric Main Brief, Section V.B.5.

and that PPL Electric has failed to provide a valid reason to change from quarterly to annual reconciliation.<sup>75</sup> Dominion and RESA's contentions are without merit and should be rejected.

Preliminarily, it must be noted that the Company would continue to revise GSC-1 rates on a quarterly basis to reflect changes in the cost of purchasing default service supplies. Further, PPL Electric has accepted the OSBA's recommendation that the RR be calculated and reconciled on a rolling 12 month annual basis. These changes, together with the annual reconciliation and exclusion of the RR from the PTC, should reduce the volatility of the RR, reduce the number of calculations required, reduce customer confusion, and should alleviate any concerns that the GSC-1 will send inaccurate price signals or confuse customers.<sup>76</sup>

Dominion and RESA argue that annual reconciliation does not provide for recovery of costs on a current basis as required by the 66 Pa.C.S. § 2807(e)(7) and 52 Pa. Code § 54.187(a). These arguments are incorrect. First, Section 2807(e) of the Public Utility Code provides that default service providers shall offer rates that "change no more frequently than on a quarterly basis." Therefore, the statute expressly allows for rate changes that occur less frequently than on a quarterly basis. Quarterly rate changes are the most frequent changes that can occur under Section 2807(e), not the "statutory parameter" for current cost recovery.<sup>77</sup> Moreover, there is no provision of the Public Utility Code or the Commission's regulations that requires a quarterly reconciliation period to insure "current" recovery of costs. RESA's and Dominion's arguments to the contrary have no basis in law.

Moreover, there is nothing in the Public Utility Code or the Commission's regulations that require quarterly reconciliation of transmission service and generation supply costs for any

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<sup>75</sup> See Dominion Main Brief, pp. 11-12; RESA Main Brief, p. 11.

<sup>76</sup> See PPL Electric Main Brief, Section V.C.7.

<sup>77</sup> See RESA Main Brief, p. 11.

other reason. Indeed, PPL Electric's Commission-approved 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. Similarly, PPL Electric's Commission-approved GSC-2 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 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.<sup>78</sup> The fact that the Commission previously approved these annual Section 1307(e) cost recovery mechanism manifests the Commission's conclusion that annual reconciliation provides for full and current cost recovery.<sup>79</sup>

The record clearly establishes that 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.

Changing the GSC-1 to an annual reconciliation basis will help to reduce the volatility of the RR.<sup>80</sup> Indeed, the Commission recently issued an Order wherein it recognized that longer

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<sup>78</sup> See PPL Electric Main Brief, Section V.B.5.

<sup>79</sup> Section 2807(e)(3.9) provides a default service provider with the "right" to recover its costs on a full and current basis under Section 1307(e) of the Public Utility Code. The vast majority of reconciliation mechanisms under Section 1307 reconcile costs on an annual basis.

<sup>80</sup> See *id.*

reconciliation periods may help smooth out over/under collections and also indicated that it would consider annual reconciliation periods in future proceedings. *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).

Finally, Dominion's and RESA's contention that annual reconciliation of the GSC-1 will send inaccurate price signals disregards that the RR will not be included in the PTC under PPL Electric's proposals. As explained above, excluding the RR from the PTC will help eliminate the reconciliation distortions from the PTC and align it more closely with competitive market prices. This approach will make the PTC easier for customers to understand, because it will remove from the PTC all balances arising from reconciliation of PPL Electric's default service rates and will more accurately reflect the actual costs to acquire default service.

#### **F. 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.<sup>81</sup> PPLICA recommends that the CTR, if approved by the Commission, should be applied solely for the purpose of reconciling transmission service expenses.<sup>82</sup> Clearly, PPLICA opposes PPL Electric's proposal to net the GSC-1 and GSC-2 balances with the TSC balances for each customer class for reconciliation purposes. PPLICA's proposal should be rejected.

PPLICA's recommendation is based on its unsupported contention that the Large C&I customers took competitive supply when the generation rate caps expired in December 31, 2009,

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<sup>81</sup> See PPL Electric Main Brief, Section V.B.4.

<sup>82</sup> See PPLICA Main Brief, p. 22.

and did not at all contribute to the net historic over and under collection balances associated with generation supply costs.<sup>83</sup> However, for the reasons explained above, this contention must be rejected.

It must be noted that presently there is an under collection balance associated with the GSC rates and an over collection balance associated with the TSC rates for Large C&I customers. PPLICA clearly 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. However, as more fully explained in PPL Electric's Main Brief, 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.<sup>84</sup>

Finally, approximately 86% of PPL Electric's Large C&I customers, which represents 97% of Large C&I class' load, take competitive supply from EGSs. Consequently, there is no meaningful way to recover the under collection associated with the GSC for this customer class. Further, if PPL Electric refunded only the TSC over collection it would result in a massive windfall to the few remaining Large C&I default service customers.

**G. SEPARATE RECONCILIATION RATES FOR THE LARGE C&I-PRIMARY AND LARGE C&I-TRANSMISSION RATE CLASSES.**

In this proceeding, PPL Electric has proposed that the RR and CTR will reflect different rates for the following three customer classes: Residential, Small C&I, and Large C&I. PPLICA recommends that the Commission require PPL Electric to separately reconcile the transmission-

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<sup>83</sup> See PPLICA Main Brief, p. 16.

<sup>84</sup> See PPL Electric Main Brief, Sections V.B.4 and V.D.

related default service costs for any rider that is approved in this proceeding.<sup>85</sup> PPLICA's proposal should be rejected for several reasons.

PPLICA's proposal was raised for the first time in a list of issues it submitted following the evidentiary hearing. PPLICA should have presented actual factual support for its contention on the record in this proceeding to allow PPL Electric to provide factual evidence rebutting this argument. PPL Electric clearly did not have reasonable notice of PPLICA's proposal and, moreover, has had no meaningful opportunity to present testimony or evidence in response to PPLICA's recommendation.

PPLICA contends that the Commission required PPL Electric to separately reconcile the transmission costs for Large C&I-Primary and Large C&I-Transmission customers to comply with the cost of service principles established in *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 (2006), *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007). However, as explained by PPL Electric, the Commission did not independently make such a finding. Rather, the separation of the Large C&I-Primary and Large C&I-Transmission customer classes was the result of a settlement that was developed by the parties upon the Commonwealth Court's remand of the Company's 2004 base rate case at Docket No. R-20049255. Clearly the settlement was a compromise of competing interests and positions. Although the Commission ultimately approved the settlement, it did not specifically find that the separation of the Large C&I-Primary and Large C&I-Transmission customer classes was required by *Lloyd*. Tr. pp. 76-78.

In addition, PPL Electric is only proposing to combine these groups for reconciliation purposes, not for setting of the initial transmission service rates. Moreover, the Large C&I-Primary and Transmission customers currently pay the same default service generation rates.

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<sup>85</sup> See PPLICA Main Brief, p. 12.

Therefore, PPL Electric's proposal to net the transmission and generation over/under collections for reconciliation purposes is reasonable.

Despite the facts that PPLICA did not raise this issue until after the evidentiary hearing and PPL Electric has not had a meaningful opportunity to respond to PPLICA's recommendation, PPL Electric nonetheless believes that it is reasonable and appropriate for the RR and CTR to reflect a single class for Large C&I customers.

#### IV. CONCLUSION

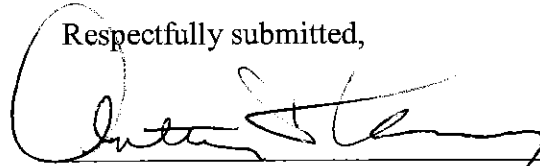
The parties to this proceeding have taken a wide variety of positions on PPL Electric's proposals and many support at least some parts of the Company's proposals. Although there is a lack of consensus among the parties to this proceeding, this does not change the fact that PPL Electric is statutorily 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, including Residential and Small C&I TOU program default service costs. 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 PTC.

The parties opposing PPL Electric's proposals disregard this unrefuted record evidence that clearly demonstrates 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 PTC. To help remedy and prevent similar issues from occurring in the future, PPL Electric proposes 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. These proposals, as explained above and in PPL Electric's Main Brief, will help promote competition and 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. The parties generally ignore these improvements and, more importantly, present no reasonable and lawful alternatives.

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 annual reconciliation.

Respectfully submitted,



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Dated: January 23, 2012

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