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BY E-FILE

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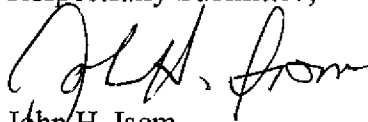
**RE: Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation
Docket No. R-2010-2161694, et al.**

Dear Secretary Chiavetta:

Enclosed please find the original Replies of PPL Electric Utilities Corporation to the Exceptions of The PP&L Industrial Customer Alliance on Remand in the above-referenced proceeding.

Copies have been provided to the persons in the manner indicated by the certificate of service.

Respectfully Submitted,



John H. Isom

JHI/jl

Enclosures

cc: Honorable Susan D. Colwell
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing **Replies of PPL Electric Utilities Corporation to the Exceptions of The PP&L Industrial Customer Alliance on Remand** has been provided to 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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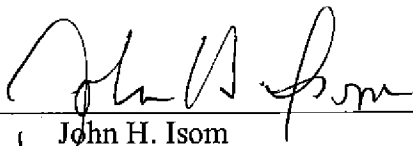
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I. INTRODUCTION

On March 31, 2010, PPL Electric Utilities Corporation (“PPL Electric”) filed a tariff supplement and supporting data proposing an increase in base rates designed to produce an increase in annual intrastate operating revenues of \$114.7 million. Following substantial discovery, exchanges of testimony and hearings, on August 26, 2011, PPL Electric and certain other parties submitted a Joint Settlement Petition which proposed to settle many, but not all, issues related to the proposed increase in rates. The PP&L Industrial Customer Alliance (“PPLICA”) did not join in the settlement. Other issues were reserved for litigation. One of the issues preserved for litigation was PPLICA’s proposal that a special, discounted rate be established for one of its members, Donsco, Inc. (“Donsco”).

Following submission of briefs, Administrative Law Judge Colwell (“ALJ”) issued a Recommended Decision (“RD”), which approved the settlement and made recommendations to the Pennsylvania Public Utility Commission (“Commission”) regarding all of the issues preserved for litigation. Specifically, she found that PPLICA had not demonstrated that a special, discounted rate for Donsco was appropriate. Upon review, in an Order entered on December 21, 2010 (“Rate Case Order”), the Commission affirmed the ALJ’s recommendation and rejected the proposed special rate for Donsco.

On January 5, 2011, PPLICA petitioned for reconsideration of the Commission’s decision regarding Donsco. PPL Electric timely answered the petition. On April 27, 2011, the Commission entered an Order granting reconsideration and remanded the issue to the ALJ for further proceedings and a recommended decision (“Remand Order”).

Following further discovery, exchanges of testimony, hearings and briefing, on January 27, 2012, the ALJ issued her Recommended Decision on Remand (“RDR”). Therein, following a thorough and well-reasoned analysis which focused on the single issue of whether a

special, discounted rate should be established for Donsco, the ALJ, at RDR, pp. 42-43, provided thirteen (13) separate reasons why no such rate should be established:

1. The Company's system of determining rate classifications is based on voltage levels at which customers receive service because it follows the manner in which costs are incurred by the Company and the manner in which the revenue requirement is allocated among the rate classes.
2. Rate Schedule LP-5 customers do not pay distribution costs because they take service directly from the transmission system. Donsco receives service from the distribution system.
3. Establishing a separate rate schedule for each individual customer based only on those specific facilities used to serve that customer directly is not a sound ratemaking principle because rates are based on average costs of customers who take service at the same voltage level.
4. Cost of replacement of those specific facilities used to serve that one customer would fall upon that one customer when replacement becomes necessary.
5. Flexible pricing must still be just and reasonable, and carving out an exception for this customer is not just and reasonable to the other customers in Rate Schedule LP-4.
6. No persuasive reasons were provided for employing the ability to apply flexible rates: no evidence exists that other ratepayers are economically better off if the Donsco load is retained; there is no evidence of a competitive threat from either bypass to an alternative supplier or an alternative fuel.
7. Donsco's circumstances are not unique and may be repeated by many other members of its rate class.
8. Implementation of a special flex rate for Donsco would increase the rates of the other members of LP-4, many of whom could make similar claims to "exceptions."
9. Two other LP-4 customers installed facilities to receive service at 69 kV since the 2009 historic test year, and both paid for the required facilities. Serving Donsco at LP-5 rates while not qualifying for that service is patently unreasonable and unfair to those two customers.
10. Twenty customers would qualify for special treatment under the circumstances outlined by PPLICA.

11. PPLICA failed to provide analysis regarding the financial condition of any other LP-4 customer, nor any examination of any competitive concerns, nor any examination of whether the other customers suffered similar economic distress.

12. “New evidence” regarding whether PennDOT would permit Donsco to place electric transmission facilities in its right-of-way, including on its bridge traversing the Susquehanna River, was not developed by PPLICA, which has the burden of proof.

13. PPL’s alternative proposal has been withdrawn as not consistent with sound ratemaking principles and is vigorously opposed by OSBA, which represents a considerable number of the customers in Rate Schedule LP-4 who would be adversely impacted.

On February, 16, 2012, PPLICA filed Exceptions to the ALJ’s RDR. Therein, PPLICA submitted seven Exceptions which do not directly address all of the ALJ’s reasons for rejecting a special rate for Donsco. In attempting to support its Exceptions, PPLICA, to a great extent, merely rehashes its own evidence and does not address the detailed analysis of its contentions provided by PPL Electric and OSBA, which demonstrated that many of those contentions are incorrect. PPLICA’s Exceptions should be denied for the reasons set forth in the ALJ’s RD and RDR, the Rate Case Order, PPL Electric’s briefs, the OSBA briefs and these Replies. The granting of the relief requested by PPLICA for Donsco would be particularly unfair to the two customers who recently have converted from distribution service under Rate Schedule LP-4 to transmission service under Rate Schedule LP-5 and paid the cost of transmission facilities needed to convert the service. Below, PPL Electric responds to each of PPLICA’s Exceptions in the order in which they were presented by PPLICA.

II. REPLIES TO EXCEPTIONS

A. **REPLY TO PPLICA EXCEPTION 1. THE ALJ PROPERLY CONSIDERED THE QUESTION OF WHETHER DONSCO SHOULD RECEIVE A SPECIAL, DISCOUNTED RATE.**

PPLICA argues that the Commission already determined in its Remand Order that Donsco is entitled to a special rate, and the only purpose of the remand was to determine the amount and form of the rate reduction. PPLICA Ex., pp. 3-7. PPLICA's contention is without merit as demonstrated by the plain language of the Remand Order, the ALJ's determination of the scope of the remand proceeding at the Prehearing Conference, by PPLICA's own evidence on the issue, and by PPLICA's failure to object to evidence adduced by PPL Electric and OSBA which demonstrates that Donsco is not entitled to a special rate. The ALJ specifically rejected PPLICA's conclusion that the issue of whether Donsco should receive rate relief already had been decided. RDR, pp. 19-21.

PPLICA's contention makes no sense on its face. In the Rate Case Order, the Commission determined that PPLICA had not met its burden to demonstrate why Donsco was entitled to a special rate. Now, PPLICA contends that, based upon its petition for reconsideration alone and without any further evidence, the Commission reversed itself and decided that Donsco should receive a special, discounted rate. Such action, however, would not be reconsideration – it would be a reversal. Instead, the Commission granted PPLICA a second opportunity to meet its burden due to the lack of evidence.

PPLICA's argument is based primarily on its observation that the Commission requested the parties to address four specific issues on remand. Remand Order, pp. 12-13. The Commission did ask the parties to address four particular issues. The Remand Order, however, clearly did not limit the scope of the remand proceeding to these four issues. Instead, the Commission described the purpose of the remand quite differently:

“As described above, Donsco is somewhat unique in its circumstances. Given the evidence of Donsco’s market distribution rate increases, we find that PPLICA has demonstrated reasonable arguments for this Commission to **consider** the rate relief requested. Our remand will supply crucial information to make a decision that is well-informed and addresses not only the **potential** relief for Donsco, but also the impact on other PPL customers that must be considered.”

Remand Order, p. 13 (emphasis added). By referring to the “potential” rate relief for Donsco and by “considering” the rate relief requested by Donsco, the Commission clearly indicated that the issue of whether Donsco should receive a special rate was unresolved.

Further, the ALJ made it clear at the Prehearing Conference that the issue of whether Donsco should receive rate relief was still unresolved. The ALJ stated that PPL Electric’s Prehearing Memorandum spells out all of the remand issues “fairly well and can provide a nice guide for the rest of you.” Tr. 510. PPL Electric’s Prehearing Conference Memorandum, p. 5 identified one of the issues on remand as: “Whether a special rate should be created for Donsco?” PPLICA voiced no objection to this statement of issues.

Further, PPL Electric and OSBA presented substantial evidence on remand that Donsco is not “unique” in any way that justifies a special rate for it and that Donsco has no “special needs.” *See, e.g.*, PPL Electric St. No. 8-RM, pp. 1-14; PPL Electric St. No. 8-RSR, pp. 1-8; OSBA St. No. 4, pp. 5-10. PPLICA raised no objection to the admission of such testimony into evidence. Tr. 585, 596. In fact, PPLICA itself presented lengthy evidence on remand addressing the issue of whether Donsco is entitled to a special rate. *See, e.g.*, PPLICA Remand St. No. 2, pp. 8-9, 11-12; PPLICA Remand St. No. 1-R, pp. 1-6; PPLICA Remand St. No. 2-R, pp. 2, 4, 9-10. Donsco cannot have it both ways – it cannot in the same remand proceeding produce evidence on a particular issue and then contend that the issue it addressed in its own evidence is not pending before the ALJ and the Commission.

PPLICA's argument should be seen for what it is — an attempt to avoid facing the fundamental deficiencies of its evidence on the issue of whether Donsco qualifies for a special rate because it is “unique” or has some “special need.” PPLICA's contentions are not credible and should be rejected by the Commission, as they were by the ALJ.

B. REPLY TO PPLICA EXCEPTION 2. THE ALJ GAVE PROPER CONSIDERATION TO SECTION 2806(h).

PPLICA contends that the ALJ essentially ignored Section 2806(h) of the Public Utility Code. PPLICA Exc., pp. 7-10. On the contrary, the ALJ properly interpreted and applied Section 2806(h). RDR, pp. 22-25.

Section 2806(h) of the Public Utility Code provides:

Flexible Pricing.—In addition to the implicit authority of the commission under section 501 (relating to general powers), the commission has the authority to approve flexible pricing and flexible rates, including negotiated, contract-based tariffs designed to meet the specific needs of a utility customer and to address competitive alternatives.

To qualify for a special rate under Section 2806(h), it is necessary to demonstrate “specific needs” or “competitive alternatives.” PPLICA failed to make the required showings.

PPLICA has provided insufficient evidence to identify Donsco's specific needs or to determine what level of rate would be necessary to meet Donsco's specific needs. Instead, it has only shown that it, like many other businesses, was adversely affected by the recession of 2008-2009. Its proposed monthly rate of \$11,000 was arbitrarily selected without appropriate cost basis and without any economic justification that it would enable Donsco to meet competition or its specific needs. It is merely a rate that Donsco is willing to pay. As the OSBA's witness Mr. Knecht explained:

At pages 9-10 of my [Mr. Knecht's] direct testimony [OSBA Statement No. 4], I stated that, “While Donsco has offered qualitative assurances that flex rates will improve its competitive position, it has not provided any detailed financial information or financial analysis with which such a claim could be

evaluated. Virtually every business in the Commonwealth could make similar claims regarding the benefit of reduced electric distribution rates.” It is obvious that reducing costs for any business will improve its competitive position, even if the relative magnitude of that improvement varies from one business to the next.

Moreover, while Mr. Buck’s remand rebuttal testimony indicates that Donsco was not profitable in 2009 and it was only marginally profitable in 2010, Mr. Buck presents no detailed financial information regarding Donsco’s overall performance. Similarly, Mr. Buck does not present sufficient detailed information to evaluate the impact of electric rates on that financial performance. Thus, the parties to this proceeding and the Commission cannot even evaluate the impact of a distribution rate change on Donsco’s own financial performance, much less compare that to the impact on the other PPL Electric customers.

OSBA Statement No. 5, pp. 1-2.

Further, contrary to PPLICA’s position, Section 2806(h) did not repeal Sections 1301 and 1304 of the Public Utility Code, which require rates to be just and reasonable and prohibit unreasonable rate discrimination. Section 2806(h) must be read in *pari materia* with other provisions of the Code, 1 Pa.C.S. § 1932, and it is well established through decades of Commission and appellate court precedent that rates should be set for individual customers or small groups of customers only when good cause for such special ratemaking has been shown. As a general rule, rates should be based on the average cost of serving large numbers of customers that are similarly situated based on the nature of their use or the nature of the service provided or the facilities used to serve them. For example, Rate Schedule LP-4 applies to customers served at 12 kV, while Rate Schedule LP-5 applies to customers served at 69 kV, transmission voltage. PPL Electric Ex. OGK-1, pp., 27-28. Setting rates for individual customers or small groups of customers is not a sound ratemaking practice. PPL Electric Statement No. 7-RM, pp. 4-5.

Section 2806(h) is potentially important because it can be used to address specific concerns. The Section could be beneficial for setting rates in three situations: (1) the customer

presents a legitimate concern that, absent rate relief, it would bypass the electric distribution system; (2) the customer presents a legitimate concern that, absent rate relief, it would generate its own electricity; or (3) the customer presents a legitimate concern that, absent rate relief, it would have to close its operations. In these situations, a special, negotiated rate could benefit the public so long as the discounted rate is not lower than necessary to prevent bypass, self-generation or closure, and produces more than the incremental cost of providing the service, *i.e.*, the discounted rate would make a contribution to the recovery of fixed costs of service. Section 2806(h) could also be used to address a customer's special needs, but such needs should not be the same ones that all customers face.

The Commission has approved flexible or discounted rates in all of these circumstances, although these circumstances arise primarily in the natural gas distribution industry. PPL Electric Statement No. 8-RSR, pp. 13-14. The most reasonable interpretation of Section 2806(h) is that it was intended by the General Assembly to clarify that these basic principles should be applied to the electric distribution industry, as well as the natural gas industry. Section 2806(h) was not intended to permit every business, which had a bad year or two during a general recession, to obtain rate relief through negotiated, discounted rates.¹

Because PPLICA failed to show that a special, discounted rate for Donsco would produce some public benefit, it was proper for the ALJ analyze its claim not only under Section 2806(h), but also under general principles applied to claims of rate discrimination. The ALJ correctly concluded that PPLICA had failed to demonstrate either that it qualified for a special rate under

¹ Donsco's reliance on Section 2806(h) is improper for an additional reason. A related section of the Public Utility Code, Section 2807(e)(5)(i), 66 Pa.C.S. § 2807(e)(5)(i), provides that an electric distribution company can decide whether to enter into such a contract only "in its sole discretion." PPL Electric acknowledges that the Commission rejected this argument in Opinion and Order granting reconsideration in this proceeding at Docket No. R-2010-2161694, pp. 14-15 (March 31, 2011).

Section 2806(h) or that it had been subject to rate discrimination. The ALJ's reasoning and conclusions are correct.

C. REPLY TO PPLICA EXCEPTION 3. PPLICA FAILED TO SHOW THAT DONSCO FACES UNIQUE CIRCUMSTANCES OR HAS SPECIAL NEEDS.

The Commission and the Pennsylvania appellate courts have been reluctant to establish special rates for individual customers or small groups of customers. Indeed, the Commission and the Commonwealth Court have criticized prior claims of large customers that they should be served under a special, discounted rate. In *Southeastern Pennsylvania Transportation Authority v. Pa. P.U.C.*, 470 A.2d 1092, 1094-95 (Pa. Cmwlth. 1984) ("SEPTA"), in affirming the Commission's rejection of a special rate for SEPTA, the Commonwealth Court stated:

In support of its argument for a separate mass transportation rate, SEPTA points to its unique service characteristics. The Commission, in adopting the ALJ's decision, rejected SEPTA's claim for a separate rate. The ALJ noted that SEPTA attempted to show its uniqueness without examining other High Tension (HT) customers. The ALJ further noted that the mere fact that SEPTA may contribute a rate of return greater than they system average does not mean it deserves a special rate. We agree. We rejected a similar argument in *United States Steel Corp. v. Pennsylvania Public Utility Commission*, 390 A.2d 849 (Pa. Cmwlth. 1978). There, U.S. Steel requested a separate rate, presenting two substantial factors demonstrating its uniqueness: (1) its average gas usage was more than eighty-seven times higher and thirty times higher than the average usage of the two rate classes with which it was to be combined, and (2) it received gas service directly from the gas transmission pipeline. What we stated in *U.S. Steel* is equally applicable to the case before us. A large volume of use does not entitle customer to a preferred rate. Questions concerning the reasonableness of rates and the differences between rates are factual questions for the Commission whose findings must be upheld and supported by competent evidence. *U.S. Steel* at 211, 290 A.2d at 859. Moreover, the mere fact that SEPTA may contribute a rate of return greater than the class average does not mean that it deserves a special rate. See, e.g., *Park Towne v. Pennsylvania Public Utility Commission*, 433 A.2d 610, 614 (Pa. Cmwlth. 1981).

There are good reasons to avoid separate rates for individuals or small groups of customers.

As a general matter, establishing a separate Rate Schedule for each individual customer, based only on the cost of those specific electric facilities used to serve that customer directly, is not a sound ratemaking practice for

several reasons. First, electric utility rates properly are based on the average cost of serving large groups of customers who take service at the same voltage level. Second, individual cost-of-service rates would provide a benefit to approximately one-half of the customers in the specific rate group at the expense of the other one-half of the customers in the group. Finally, using each individual customer's cost-of-service would inevitably lead to rate instability over time. For example, the cost of serving an individual customer, like Donsco, would increase significantly when the time arrives for the now substantially depreciated transformer and conductors normally serving this customer to be replaced with a new undepreciated transformer and conductors.

PPL Electric Statement No. 7-RM, pp. 4-5. Further, permitting individual rates based upon individual cost of service would open floodgates to special rate claims, destroy class ratemaking and lead to discriminatory rates. Many customers of PPL Electric could make claims similar to those made by Donsco in this proceeding. Even Donsco has admitted that: "Each business is different, and faces differing costs and product market pressures." PPLICA Remand Statement No. 1-R, p. 8. That is, all customers are in some sense unique or have special needs, and therefore, many customers could make claims that they deserve a special rate treatment.

Because individualized ratemaking is poor public policy, no special rate should be approved for Donsco absent some compelling reason to do so. PPLICA has failed to demonstrate any special need or other unique circumstances justifying a special rate for Donsco.

Donsco's primary argument in support of a special rate is that its circumstances are "unique." During cross-examination, however, PPLICA's expert witness admitted that he had not reviewed any customers' circumstances other than Donsco. Tr. p. 569, line 18 – p. 570, line 18. PPLICA cannot credibly testify that it is unique when it has not reviewed the circumstances confronting other customers under Rate Schedule LP-4. Significantly, in *SEPTA*, which is quoted in pertinent part above, the ALJ, the Commission and the Court all criticized SEPTA for making the same type of flawed claim that PPLICA is making in this proceeding for Donsco.

Moreover, an examination of Donsco's circumstances demonstrates that it is not unique in any meaningful way and no special rate for Donsco has been justified. "Unique" means: "of which there is only one; unequaled; having no like, equal or parallel." Illustrated Oxford Dictionary, p. 907 (Oxford University Press 1998). Donsco, however, is not unique in any material sense. In support of its claim for a discounted rate, Donsco has cited many reasons why it is "unique." None of those reasons, however, withstand scrutiny.

Donsco's first claim of uniqueness was that it experienced a substantial distribution rate increase when the time-of-day billing option expired on January 1, 2010. PPLICA Statement No. 1, pp. 5-6. Donsco is factually correct that its cost of electric distribution service from PPL Electric increased significantly effective January 1, 2010, due to the combined effect of the elimination of the time-of-day billing option and the expiration of the Remand Riders.² Such facts, however, do not make Donsco unique. Contrary to Donsco's contentions, seven other customers experienced greater percentage distribution rate increases as a result of the elimination of the time-of-day pricing option and the expiration of the Remand Riders. In fact, 22 other customers experienced distribution rate increases of 500 percent or more. More than 3,200 customers experienced a significant distribution rate increases as the result of the elimination of the time-of-day pricing option. The expiration of the Remand Riders resulted in electric distribution rate increases for approximately 178,000 customers. PPL Electric Statement No. 8-RM, pp. 2-3. The electric distribution rate increase experienced by Donsco on January 1, 2010 was not unique; many customers experienced similar increases, and some customers experienced greater percentage increases.

² Significantly, Donsco experienced no rate increase as a result of the settlement approved in the Rate Case Order.

Donsco's next claim of uniqueness is based on the financial impact on Donsco of the electric distribution rate increases that became effective on January 1, 2010. PPLICA Statement No. 1, pp. 6-7. Contrary to Donsco's contentions, however, it did not experience any significant financial hardship as a result of the electric distribution rate increases effective January 1, 2010, and has no resulting special needs. In fact, Donsco was able to pass the increase onto its customers through price increases for foundry products in an amount sufficient to produce revenues approximately three times greater than the amount of electric distribution rate increase. Although Donsco claims that it was unable to collect the entire price increase from customers, because some customers refused to pay and because Donsco was forced to renegotiate the price increase with some other customers, it is likely that Donsco has recovered a substantial portion of, and perhaps more than, the amount of the electric distribution rate increase by increasing its price for foundry products. PPL Electric Statement No. 8-RM, pp. 4-5.

Donsco also ignores the fact that the electric distribution rate increase was offset in substantial part by reductions in its cost of generation service. On a total bill basis, Donsco's total cost of electric service, including distribution, transmission and generation services, rose 26 percent in 2010. In fact, this percentage increase was just about average for the Rate Schedule LP-4 rate class as a whole. Tr. 578-80. Again, the elimination of the time-of-day pricing option and the Remand Riders had no special impact on Donsco; it has no resulting special needs.

Donsco also claims that it experienced financial stress because there is more production capacity in its market than demand and, as a consequence, customers have bargaining leverage and because Donsco faces pressure on other operating costs such as labor and benefits. PPLICA Remand Statement No. 1-R, p. 2. In these respects, Donsco is not unique. Many other

businesses operate in markets where customers have bargaining leverage, and all businesses face increases in operating costs such as labor and benefits.

Donsco may have experienced financial stress in recent years. However, financially, Donsco's worst recent calendar year was in 2009, not 2010, when the electric distribution rate increase became effective. In fact, Donsco's lowest recent level of production was in 2009, before the electric distribution rate increase became effective. Production at its Wrightsville Foundry increased in 2010 and was expected to increase again in 2011. PPL Electric Statement No. 8-RM, pp. 5-6. Further, employment at Donsco's Wrightsville Foundry was at its lowest recent level in 2009, before the electric distribution rate increase became effective. PPL Electric Exhibit OGK-5. Employment at the Wrightsville Foundry increased in 2010 over 2009 levels. PPLICA Statement No. 1-R, pp. 3-4. In fact, Donsco lost money in 2009, but returned to profitability in 2010, despite the electric distribution rate increase. Donsco Remand Statement No. 1-R, pp. 1-2. Any financial hardship experienced by Donsco primarily was the result of the world-wide recession in 2008-09, not the electric distribution rate increase in 2010. In this respect, Donsco, like virtually all businesses, is affected by the health of the national and world economies. Donsco's financial hardship from the recession of 2008-09 was shared by many businesses. Again, Donsco was not unique in that experience. Its needs are not special.

Donsco also claims that it is unique because electric distribution costs affect its ability to provide jobs for the workforce. PPLICA Statement No. 1, p. 14; PPLICA Remand Statement No. 1-R, p. 2. Clearly the level of all expenses incurred by Donsco, of which electric distribution rates are but one, affects its ability to hire or retain employees. The statement, however, is true for every business. It does not make Donsco unique or create special needs.

Further, it is clear in the evidentiary record that electric distribution rates are not a prime driver of the size of Donsco's employee complement. In fact, Donsco has stated that employment of foundry workers is directly related to the level of production. PPL Electric Exhibit OGK-5. Donsco's production levels have increased since 2009. Therefore, presumably its employee complement for the Wrightsville Foundry has grown also, again despite the increase in electric distribution rates in 2010.

In fact, electric distribution rates clearly have little impact on the size of Donsco's workforce. As stated by Donsco in its Petition for Reconsideration, pp. 12-13, ¶ 20 (Jan. 5, 2011), Donsco recently reduced its workforce by 151 employees. The payroll reductions from these layoffs far exceeded the increase in the annual cost of electric distribution service effective January 1, 2010, which was approximately \$400,000. PPL Electric Statement No. 8-RM, p. 6.

Donsco also contends that it is unique because it has a demand of greater than 4 MW. PPLICA Statement No. 2, p. 7. The record, however, shows that PPL Electric serves about 20 customers under Rate Schedule LP-4 with demands of 4 MW or greater. Tr. 415.

Donsco next contends that it is unique because its Wrightsville Foundry is in close proximity to a PPL Electric 69 kV facility. PPLICA Statement No. 1, p. 14. Donsco's Wrightsville Foundry is located approximately 1.3 miles from the closest PPL Electric transmission facility, which is at the North Columbia substation. PPL Electric owns and operates approximately 5,000 miles of transmission lines that operate at transmission voltages of 69 kV or greater. These transmission lines crisscross PPL Electric's service territory. Further, industrial facilities tend to be clustered in industrial parks and in areas zoned for industrial uses. Generally, transmission lines traverse these areas due to the large loads of industrial customers. Therefore, many industrial customers of PPL Electric are as close to or closer to PPL Electric's transmission

facilities than Donsco. In fact, all of the 20 largest Rate Schedule LP-4 customers are closer to transmission facilities of PPL Electric than is Donsco's Wrightsville Foundry. Donsco's claim of uniqueness due to its proximity to a PPL Electric transmission facility is simply incorrect. PPL Electric Statement No. 8-RM, pp. 10-11.

Donsco next claims that it is unique because it can document environmental, economic or other impediments to converting to 69 kV service under Rate Schedule LP-5. Donsco is correct that, if it qualified for service under Rate Schedule LP-5, charges from PPL Electric under Rate Schedule LP-5 would be much lower than charges under Rate Schedule LP-4. However, the same can be said for most other customers under Rate Schedule LP-4. In fact, of the 1,130 customers served by PPL Electric under Rate Schedule LP-4, approximately 854, or 76 percent, would benefit economically from receiving service under Rate Schedule LP-5. Presumably all of these customers would convert to service under Rate Schedule LP-5 if there were no physical, environmental or economic obstacle to the conversion. PPL Electric Statement No. 8-RSR, p. 6.

Donsco also cites the necessity to cross the Susquehanna River as an obstacle to receiving service under Rate Schedule LP-5 in support of its claim that it is unique. PPLICA Remand Statement No. 1-R, p. 4. Donsco is not correct factually. Donsco can receive service at transmission voltage levels at its Wrightsville Foundry from transmission facilities on the same side of the River without any need for transmission facilities to cross the Susquehanna River. PPL Electric investigated an option under which Donsco could receive service from a transmission facility of Metropolitan Edison on the west side of the Susquehanna River, the same side as Donsco's Wrightsville Foundry. Donsco concluded, however, that this option was too expensive. PPLICA Cross-Examination Exhibit No. 6. Regardless, the fact remains that the presence of the Susquehanna River is nothing more than one of many factors that affect the costs

of receiving service at transmission voltage. Such costs also prevent 854 other customers served under Rate Schedule LP-4 from receiving service at 69 kV under Rate Schedule LP-5. Nothing is unique about Donsco's situation; its needs are the same as other Rate Schedule LP-4 customers.

Donsco next contends that it is unique because it paid a revenue guarantee with regard to the 12 kV conductors that were constructed in 1999 to serve Donsco. PPLICA Statement No. 1, p. 14. In making this contention, however, Donsco ignores the fact that revenue guarantee contracts are common. In fact, revenue guarantees are the standard requirement for certain line extensions, as set forth in Rule 3 of PPL Electric's tariff. Tariff – Electric Pa. P.U.C. No. 201, pp. 7-7B, PPL Electric Exhibit OGK 1. Such contracts are common and are required pursuant to the provisions of PPL Electric's tariff under circumstances described therein. Donsco is not in any sense unique because it entered into a revenue guarantee contract with PPL Electric.

In fact, the only sense in which Donsco is "unique" is that it currently is the largest customer served by PPL Electric under Rate Schedule LP-4, measured in terms of kW of demand. For the reasons explained below, however, such "uniqueness" does not justify any special rate for Donsco. In addition, in *SEPTA* and in *United States Steel Corp. v. Pa. P.U.C.*, 390 A.2d 849 (Pa. Cmwlth. 1978), the Commonwealth Court affirmed decisions by the Commission to reject claims that large customers are entitled to a special rate due to their size.

Claims of uniqueness based on a customer's size should not be permitted because it would lead to many such claims. The size of customers, in terms of electric energy usage or demand, changes over time; the largest customer today may not be the largest customer tomorrow. Further, if the largest customer under a rate schedule qualifies for a new, special,

discounted rate, today's second largest customer will become the largest customer, and the process could be repeated indefinitely until no customers remain under Rate Schedule LP-4.

Significantly, PPL Electric serves a large range of sizes of customers under all of its major rate schedules. The size of a customer's load is not relevant under PPL Electric's tariff, in determining which rate schedule will be applied to a customer. The Commission has approved this classification system in many rate cases over the decades.³ Demand and electric energy usage are irrelevant under the system of classification of customers provided by PPL Electric's Commission-approved tariff. In fact, as demonstrated in footnote 3, the ratio of the maximum monthly demand to the average monthly demand is less under Rate Schedule LP-4, under which Donsco is served, than under any other major rate schedule. Thus, if size of load were a basis for qualifying for special rate treatment, the largest customers in all of the other major rate schedules would qualify for special rate treatment before Donsco.

More importantly, however, with the Commission's approval, PPL Electric classifies customers under rate schedules based on the voltage level at which they receive service and not their level of energy usage or demand. Rate Schedule LP-4 applies to all customers where

³ Residential customers, regardless of their size, are served under the rate schedules for residential service. In 2009, the largest residential customer, expressed in monthly energy usage, used approximately 250 times the average monthly usage. Similarly, all customers receiving service under Rate Schedule GS-1 receive single-phase service at 120/240 volts. In 2009, the largest customer in Rate Schedule GS-1 is served under the same Rate Schedule as the average Rate Schedule GS-1 customer even though its demand is approximately 400 times greater than the average demand. Customers served under Rate Schedule GS-3 receive three-phase service at 120/240, 120/208 or 227/480 volts. Their demands vary from 0 kW to 3,790 kW; the average demand is approximately 82 kW. The largest customer served under Rate Schedule GS-3 is served under the same Rate Schedule as the average customer under Rate Schedule GS-3 even though the largest customer's demand is more than 46 times greater than the average demand. Donsco is served under Rate Schedule LP-4. All customers served under Rate Schedule LP-4 receive service at primary voltage, which is 12,000 volts. Their demand varies from 0 kW to 16,835 kW, the latter being Donsco's maximum monthly demand during the historic test year. All customers receiving service at 12,000 volts are served under Rate Schedule LP-4 even though the largest customer's demand is more than 16 times greater than the average demand. Similarly, all customers receiving service at transmission voltages of 69,000 volts or higher are served on Rate Schedule LP-5. All customers receiving service at 69,000 volts or greater were served under Rate Schedule LP-5 even though the maximum demand was more than 20 times greater than the average demand. PPL Electric St. 8-RSR, pp. 4-5.

service is: “supplied from available lines of three phase 12,470 volts or single phase 7,200 volts when the customer furnishes and maintains all equipment necessary to transform the energy from line voltage.” PPL Electric Exhibit OGK 1, p. 27. Rate Schedule LP-5 applies to all customers where service is: “supplied from available lines of 69,000 volts or higher, with the customer furnishing and maintaining all equipment necessary to transform the energy from line voltage.” PPL Electric Exhibit OGK 1, p. 28.

Assigning customers to these rate schedules based on the voltage level at which they receive service makes sense because it follows the manner in which costs are incurred by PPL Electric and the manner in which the revenue requirement is allocated among the rate classes in determining PPL Electric’s rate structure.

In the cost of service studies produced by PPL Electric in this proceeding, the costs of the primary distribution system are excluded from the costs assigned to Rate Schedule LP-5 because those customers receive service at transmission voltages of 69 kV or greater and do not utilize the primary distribution system which supplies electric energy at 12 kV or lower voltages. PPL Electric Statement No. 16-RM, p. 2. PPL Electric properly classifies customers into Rate Schedules LP-4 and LP-5 based on the voltage levels at which they take service.

There is nothing “unique” about Donsco that justifies a special, discounted rate. It is properly classified as a Rate Schedule LP-4 customer receiving service through the primary distribution system at 12 kV.

D. REPLY TO PPLICA EXCEPTION 4. THE ALJ PROPERLY REJECTED THE RATE PROPOSED BY PPLICA AS NOT COST BASED AND ULTIMATELY AS NOTHING MORE THAN A RATE DONSCO IS WILLING TO PAY.

Donsco’s proposed special, discounted rate has many shortcomings and should be rejected. First, the revenue requirement associated with serving Donsco or any other individual

or small group of customers would be highly variable depending upon the age of the facilities. Older facilities nearing retirement would be nearly fully depreciated and have little rate base value. When such facilities are replaced, the rate base and associated revenue requirement would increase substantially. Such unstable ratemaking processes are not sound practices.⁴

Second, basing rates on individual customer costs of service is not a sound ratemaking practice because approximately one-half of the customers under any rate schedule would benefit from such analyses to the detriment of the other customers. As more and more individual customer rates were developed, an ever smaller group of remaining customers would be left to pick up an ever growing portion of the costs of service.

Third, in this proceeding, the Commission approved a specific methodology for determining the cost of service for PPL Electric. That methodology requires that substation and primary distribution system plant costs be classified into customer and demand components and then allocated among the distribution voltage rate classes in proportion to customer count and non-coincidental peak demands. Under this methodology, Donsco is contributing a lower rate of return than the average rate of return contributed by the Rate Schedule LP-4 rate class as a whole. As explained by OSBA:

“Thus, based on the available evidence, the Commission’s approved COSS methodology implies that customers with demands in excess of 10,000 kW are providing a lower rate of return than customers with demands below 10,000 kW. Therefore, the Commission approved COSS provides no cost basis for setting lower rates to customers with billing demands above 10,000kW.”

⁴ PPLICA recommends that, in such an eventuality, a levelized revenue requirement could be calculated. Although the calculation might be possible, such an alternative again would be an unsound ratemaking practice for different reasons. Upon replacement of old, deteriorated, depreciated facilities, Donsco would calculate a levelized revenue requirement. In other words, for approximately the first half of the useful life of the facilities, Donsco would be paying far less than the associated revenue requirement. During the second half of the useful life of facilities, Donsco would be paying more than the annual revenue requirement of facilities. Therefore, if Donsco were to cease operations or go out of business, other customers would be left with the responsibility for the substantial cost of facilities no longer used by Donsco.

OSBA Statement No. 5, p. 5 (footnote omitted). In other words, Donsco is not paying the subsidy; it is receiving a subsidy.

Fourth, the special, discounted rate proposed by PPLICA for Donsco is based upon an inadequate rate of return. Donsco's proposed overall rate of return at a monthly charge of \$13,062 is 7.78 percent, which is 541 basis points lower than the Rate Schedule LP-4 rate class overall rate of return of 13.19 percent. To calculate the monthly charge of \$13,062, PPLICA used a return on equity of only 9 percent. Under PPLICA's actual proposal for a fixed monthly charge of \$11,000, the return on equity would be even lower – 5.52 percent. PPL Electric Cross Examination Exhibit 1-Remand. The return on equity proposed by PPLICA for Donsco is far less than this Commission has determined for any major public utility for many years. PPL Electric Statement No. 7-RM, p. 3.

Fifth, despite the fact that PPLICA's calculated cost of service clearly is inadequate for a series of reasons explained above, under PPLICA's proposal, Donsco would not even pay its understated cost of service. The monthly cost of service produced by the arithmetic exercise produced by PPLICA and described above is \$13,062. Nevertheless, PPLICA proposes that Donsco pay only \$11,000 per month. PPLICA Remand Statement No. 2, p. 9. There is no analysis or calculation that leads to this result; it is merely an arbitrary further reduction to rates for Donsco.⁵ Thus, PPLICA's proposed departure from the cost of service to establish rates for Donsco also is improper because it is a departure from the requirement that rates be established

⁵ Interestingly, PPLICA proposes that Donsco's rate be carried forward in the future based upon the same methodology used in this proceeding. PPLICA Remand Statement No. 2, p. 10. PPL Electric is uncertain how that can be done where there is no methodology that produces the proposed monthly charge of \$11,000. Despite its proposal, PPLICA has presented no methodology to calculate its rates that is capable of being carried forward in the future.

based on the cost of service. *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 (Pa. Cmwlth. 2006), *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007).

Sixth, PPLICA's proposal for a fixed rate for five years, regardless of the results of any intervening base rate cases, also is unreasonable. No customer on the PPL Electric system has the assurance that rates will be stable for five years into the future, and PPLICA has provided no basis for the granting of such a benefit to Donsco. Donsco's sole rationale for this extraordinary relief is that it would provide "needed cost and planning stability for Donsco." PPLICA Remand Statement No. 2, p. 10. PPLICA has provided no explanation of why Donsco needs cost and planning stability more than other customers. Donsco's five-year term should be rejected.

E. REPLY TO PPLICA'S EXCEPTION 5. THE ALJ CORRECTLY CONCLUDED THAT THE ELIGIBILITY CRITERIA FOR PPLICA'S PROPOSED RATE SCHEDULE LP-4 IS TOO BROAD BECAUSE 20 CUSTOMERS WOULD QUALIFY, THEREBY GREATLY INCREASING THE REVENUE SHORTFALL THAT WOULD BE BORNE BY OTHER CUSTOMERS.

PPLICA proposed that a separate rate schedule, LP-4 SI be established for Donsco. It also proposed eligibility criteria for the rate schedule that are substantially similar to the bases for PPLICA's claims that Donsco is unique. PPLICA St. 2, p. 7. These criteria were summarized by the ALJ as follows:

(1) whose demand exceeded 4 MW and one of four additional criteria were met: (2) economic development, load retention and employment; (3) economic and/or environmental feasibility of converting the account to transmission voltage in Rate Schedule LP-5; (4) the proximity to 69 kV (or higher) facilities and/or the ability to specifically identify the lines and equipment used to serve the facility; and (5) payment of a contribution in aid of construction or a line extension guarantee. PPLICA Statement 2 at 7; RR at Tab 7; PPLICA Remand MB at 23.

RDR, p. 33. PPL Electric has explained in detail that these criteria would not substantially restrict eligibility for the proposed special rate among large Rate Schedule LP-4 customers. PPL Electric St. 8-RM, pp. 8-14; *see also* RDR, pp. 33-36. Because, under

PPLICA's proposal, a customer would qualify for the Rate Schedule LP-4 SI if its demand is 4MW or greater and it meets **any one** of the other criteria and because almost every business customer would meet all of the other criteria, the only effective restriction would be the 4 MW minimum demand. In fact, all 20 of PPL Electric's largest customers under Rate Schedule LP-4 would qualify for PPLICA's proposed special rate. PPL Electric St. 8-RM, p. 15. PPLICA has not disputed this conclusion. *See, e.g., PPLICA Exc., p. 19.*

The significance of PPLICA's proposed lax eligibility criteria is that many more customers than just Donsco would qualify for the discounted rate. As a result, the revenue shortfall from the rate discount would be far greater than PPLICA has calculated for just Donsco and the shortfall would be recovered from fewer customers, further compounding the burden to customers who do not qualify for the rate discount. PPL Electric St.8-RM, p. 15. The fact that 20 customers would qualify for the special rate also reaffirms the fact that Donsco' "special circumstances" are far from unique.

F. REPLY TO PPLICA EXCEPTION 6. THE ALJ CONSIDERED AND PROPERLY REJECTED PPLICA'S PROPOSED TARIFF PROVISION.

PPLICA contends erroneously that the ALJ failed to consider its proposed tariff provision. PPLICA Exc., pp. 20-22. That contention is simply incorrect. The ALJ stated: "The PPLICA proposed tariff 'contains no restrictions on eligibility whatsoever.' PPL Electric Stmt. 8 at 16. As a tariff is designed to set rules for both the company issuing it and the customers to be served, the design of the PPLICA tariff is not useable." RDR, p. 36. The ALJ is correct.

Above, PPL Electric explained that PPLICA's proposed Rate Schedule LP-4 SI is flawed, *inter alia*, due to its lax eligibility criteria that would allow all of the 20 largest customers under Rate Schedule LP-4 to receive a special, discounted rate. PPLICA's tariff proposal is even worse because it contains no eligibility criteria at all.

In any event, the issue of whether PPLICA's proposed tariff provision should be imposed on PPL Electric is moot because it would apply only to customers who demonstrate their "specific needs" or "competitive alternatives." As explained above, PPLICA has not made the required showings for Donsco and, therefore, Donsco would not be eligible for a special rate under its proposed tariff provision, even if it were made a part of PPL Electric's tariff.

G. REPLY TO PPLICA EXCEPTION 7. THE ALJ FULLY CONSIDERED AND PROPERLY REJECTED PPL ELECTRIC'S ALTERNATIVE RATE DESIGN.

Contrary to PPLICA's contentions (PPLICA Exc., pp. 22-24), the ALJ did consider an alternative rate design that was submitted PPL Electric. RDR, pp. 38-41. The ALJ described the alternative and then noted that the alternative had "a number of problems pointed out by OSBA." RDR, p. 40.

In the Reply Brief on Remand, PPL Electric acknowledged that OSBA had correctly criticized PPL Electric's alternative proposal. First, the cost-of-service study prepared by PPL Electric in support of its alternative rate design for Rate Schedule LP-4 was inconsistent with the cost-of-service study methodology approved by the Rate Case Order. Under the Commission-approved methodology, the primary distribution system plant is classified into customer and demand components and then allocated among rate classes in proportion to customer count and non-coincident peak demands. OSBA St. No. 5, p. 5. Significantly, PPLICA had supported the cost-of-service study methodology approved by the Commission. PPLICA Main Brief, pp. 10-12 (Sept. 2, 2010).

When a cost-of-service study evaluating the cost of serving Donsco is prepared in a manner consistent with the methodology approved by the Commission in this proceeding, it

shows that Donsco contributes at present rates⁶ an overall rate of return of 11.9 percent, which is less than the average contribution of the Rate Schedule LP-4 rate class of 13.4 percent. That is, at present rates, Donsco already is receiving a subsidy from other Rate Schedule LP-4 customers. Any further rate reduction for Donsco would increase the subsidy. Based on the cost-of-service study methodology approved by the Commission, there is no cost basis for reducing rates to customers with billing demands above 10,000 kW. OSBA St. No. 5, p. 5.

Further, under the Commission's approved cost-of-service study methodology, demand-related costs allocated to Rate Schedule LP-4 will increase as demand increases. However, under the demand billing cap of 10,000 kW proposed by PPL Electric for the alternative rate design for Rate Schedule LP-4, there would be no increase in cost to Donsco if its demand were to increase. Therefore, load growth by Donsco would cause more costs to be allocated to the Rate Schedule LP-4 rate class, but Donsco would not bear any portion of the cost increase it caused. Instead, such costs would be absorbed by other Rate Schedule LP-4 customers further exacerbating the inequities arising under the alternative rate design for Rate Schedule LP-4. OSBA St. No. 5, p. 6.

Moreover, establishing rates for individual or small groups of customers is not proper ratemaking policy. As explained above, such practices would lead to rate instability because old substantially depreciated facilities are replaced by new, undepreciated facilities and because such practices effectively can undermine class ratemaking and lead to discriminatory rates. For these reasons, PPL Electric did not pursue its alternative rate design for Rate Schedule LP-4. PPL Electric Remand Reply Brief, p. 14.

⁶ Here, "present rates" refers to rates in the compliance filing that currently are being charged to customers.

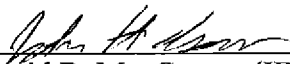
Significantly, PPLICA never produced evidence providing any support for the alternative design for Rate Schedule LP-4. The alternative has no sponsor. PPLICA's attempt to resurrect the flawed alternative design for Rate Schedule LP-4 is indicative of the weaknesses in PPLICA's rate proposal, which are explained above and in the RDR. The alternative rate design should not be adopted.

III. CONCLUSION

WHEREFORE, for all the foregoing reasons, PPL Electric Utilities Corporation respectfully requests that Recommended Decision on Remand of Administrative Law Judge Colwell be affirmed.

Respectfully submitted,

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