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File #: 2507/140069

March 21, 2012

Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**RE: Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation  
Docket Nos. R-2011-2264771, C-2011-2267808 and C-2011-2268983**

Dear Secretary Chiavetta:

Enclosed please find the Main Brief of PPL Electric Utilities Corporation in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Anthony D. Kanagy', is written over a large, light-colored circular mark.

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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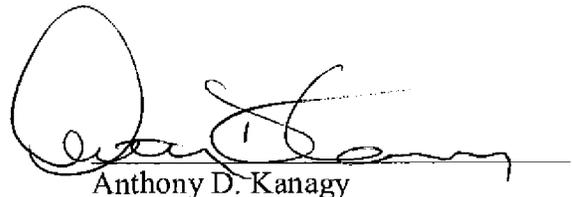
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Anthony D. Kanagy

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	Docket Nos. R-2011-2264771
v.	:	C-2011-2267808
	:	C-2011-2268983
PPL Electric Utilities Corporation	:	

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**MAIN BRIEF OF  
PPL ELECTRIC UTILITIES CORPORATION**

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## I. INTRODUCTION AND BACKGROUND

On August 22, 2011, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) submitted its Generation Supply Charge-1 (“GSC-1”) quarterly rate update, proposing updates to its default service rates, including TOU rates, in accordance with its GSC-1 Rider. The rates were proposed to become effective on September 1, 2011. The TOU default service rates, both on-peak and off-peak, were significantly higher than the Company’s fixed price default service rates. Therefore, PPL Electric requested that the TOU rates be suspended for investigation and stated that it would file a revised TOU program within 30 days. By Order entered on August 25, 2011, the Pennsylvania Public Utility Commission (“Commission”) suspended the TOU rates contained in the August 22, 2011 filing, ordered that the Company’s currently effective TOU rates remain in effect for up to a six-month period and ordered PPL Electric to submit a revised TOU plan within 30 days. *Generation Supply Charge-1 Rider Order*, Docket No. M-2011-2258733.

On September 26, 2011, PPL Electric submitted its revised TOU plan in Supplement No. 110 to Tariff Electric – Pa. P.U.C. No. 201 (“Supplement No. 110”). In this filing, the Company proposes to implement a new TOU program for residential and small commercial and industrial (“small C&I”) customers. Under the proposed TOU program, customers will pay a percentage charge or premium over the fixed price default service rate in on-peak periods and will receive a percentage discount off of the fixed price default service rate in off-peak periods. This methodology maintains the appropriate relationship between the TOU default service rate option and the fixed price default service rate option, is similar to successful TOU rate programs offered by other EDCs and should provide the appropriate incentive for customers to shift load from on-peak to off-peak periods. The proposed TOU program is a transition program that will last until

May 31, 2013. PPL Electric intends to propose a new TOU program to begin on June 1, 2013 under the Company's next default service plan.

On November 10, 2011, the Commission entered an Order suspending Supplement No. 110 until September 1, 2012, unless otherwise directed by Order of the Commission. PPL Electric subsequently filed Supplement No. 116 which continued in effect the Company's presently effective TOU rates through August 31, 2012 in order to match the current TOU rates with the Supplement No. 110 suspension period.

The Commission's Bureau of Investigation and Enforcement ("I&E") and Office of Consumer Advocate ("OCA") filed Notices of Appearance in this proceeding. Dominion Retail, Inc. d/b/a Dominion Energy Solutions ("Dominion"), Eric Joseph Epstein and the Sustainable Energy Fund of Central Pennsylvania ("SEF") filed Petitions to Intervene. In addition, the OCA and Office of Small Business Advocate ("OSBA") filed Complaints, and the Company filed Answers to these Complaints.

An Initial Prehearing Conference was held on Friday, December 9, 2011 before Administrative Law Judge Susan D. Colwell (the "ALJ"). The Parties agreed to a procedural schedule at the Initial Prehearing Conference, which was adopted in the ALJ's Scheduling Order dated December 12, 2011. Pursuant thereto, the Parties undertook discovery and submitted testimony in support of their respective positions. Direct testimony was submitted by PPL Electric, I&E, OCA, OSBA, Dominion and SEF. Rebuttal testimony was submitted by PPL Electric, OSBA and SEF. Surrebuttal testimony was submitted by I&E, OCA, OSBA and SEF. Rejoinder testimony was submitted by PPL Electric.

An evidentiary hearing was held on February 22, 2012 at which the Parties moved their respective testimony and exhibits into the record. Certain parties' witnesses were cross-

examined. Pursuant to the Scheduling Order, PPL Electric hereby submits its Main Brief in support of its proposed TOU program and in support of the full recovery of its prior period TOU undercollections.

## II. STATEMENT OF THE QUESTIONS INVOLVED

1. Whether PPL Electric's proposed TOU rate option is just and reasonable?

Suggested Answer: *In the affirmative.*

2. Whether PPL Electric's proposed TOU on-peak and off-peak periods are reasonable and should be approved?

Suggested Answer: *In the affirmative.*

3. Whether PPL Electric's proposed TOU pricing methodology is reasonable and should be approved?

Suggested Answer: *In the affirmative.*

4. Whether a TOU rate option that is offered by a default service provider is default service?

Suggested Answer: *In the affirmative.*

5. Whether undercollections/overcollections from residential TOU service should be recovered from/refunded to residential customers and undercollections/overcollections from small C&I TOU service be recovered from/refunded to small C&I customers?

Suggested Answer: *In the affirmative.*

### III. LEGAL STANDARDS/BURDEN OF PROOF

Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. It is well established that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. P.U.C.*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). Consequently, as the party seeking Commission approval of the proposed TOU program, PPL Electric bears the burden of proving that its proposals are just, reasonable, and in the public interest. 66 Pa.C.S. § 315.

Although PPL Electric, as the applicant, bears the burden of proving its proposals are in the public interest, a party proposing an issue not included in a public utility’s proposal bears the burden of proof. For example, in *Pa. P.U.C. v. Metropolitan Edison Company, et al.*, Docket Nos. R-00061366, *et al.*, 2007 Pa. PUC LEXIS 5 (January 11, 2007), a party offered proposals that were not included in the public utilities’ filings. The ALJ held that, as the proponent of a Commission order with respect to the offered proposals, the party bears the burden of proof as to proposals that are not included in the companies’ filings. The Commission agreed and adopted the ALJ’s conclusion that the Public Utility Code cannot reasonably be read to place the burden of proof on the utility with respect to an issue the utility did not include in its filing and which, frequently, the utility would oppose. *Id.* at \*184-87. *See also Joint Default Service Plan for Citizens’ Electric Company of Lewisburg, PA and Wellsboro Electric Company for the Period of June 1, 2010 through May 31, 2013*, Docket Nos. P-2009-2110798, *et al.*, 2010 WL 1259684 at \*2, 19-20 (February 25, 2010) (the companies had the burden of proof as to the proposed plan,

but other parties that had submitted their own proposals bore the burden of proof with respect to their proposals).

#### **IV. SUMMARY OF ARGUMENT**

As a default service provider (“DSP”), PPL Electric is required by Act 129 of 2008 (“Act 129”) to offer a TOU rate option to its default service customers. PPL Electric has offered Act 129 TOU programs to default service customers since 2010. In 2010, PPL Electric offered a TOU program to customers that is similar to the TOU program proposed herein in that the on-peak rate was higher than the fixed price default service rate and the off-peak TOU rate was lower than the fixed price default service rate. PPL Electric could not reconcile all over-undercollections under its 2010 TOU program. Therefore, PPL Electric proposed a new TOU program for 2011, which is the Company’s current TOU program.

Under PPL Electric’s current TOU program, which was approved by the Commission, TOU default service rates are set independently of fixed price default service rates. This structure was designed to provide more transparent and current market price signals to TOU customers, but in practice, this approach has proven unworkable and has caused a number of serious problems, including a significant undercollection due to unpredictable spot market price increases, significant customer enrollment when both on-peak and off-peak prices are above the fixed price default service rate, and rapid and massive customer exits from the TOU program when on-peak and off-peak rates are above the fixed price default service rate. Many of these problems could have been avoided if PPL Electric had been permitted to require TOU customers to remain in the TOU program for an extended period of time. However, the Commission’s regulations do not allow this result. It is clear that the Company’s current TOU program is not working as was intended, and all parties agree that it must be revised. Therefore, the Company is proposing a new TOU program to address the problems with its current TOU program. The proposed TOU program will only be in effect for a short time period, until May 31, 2013. After

this time, the Company will implement a new TOU program that will be part of the Company's next default service filing.

Many factors must be considered in developing a TOU rate option for default service. One obvious and significant factor is the interaction between the TOU rate option and the fixed price rate option. If both the on-peak and off-peak rates are above the fixed price rate, there is little incentive to choose the TOU rate option, and most customers who currently are on the rate will flee the TOU program as soon as possible. If both the on-peak and off-peak rates are below the fixed rate, customers will flock to the TOU rate in great numbers to save money as compared to the fixed price default service rate without shifting their usage. As noted herein, the Company's current TOU program fails in this regard because both on-peak and off-peak rates, at different times, have in fact been higher or lower than the fixed price default service rate. The Company's new TOU program solves this problem by basing the on-peak and off-peak rates on the fixed price default service rate. This is the approach used by other electric distribution companies and was the approach proposed by PPL Electric in its initial Act 129 TOU filing.

Another factor to consider when developing a TOU program is its effect on competition. As the Company explained in this proceeding, the Commission recently has taken significant steps to promote retail competition in Pennsylvania. A TOU program should have a simple design so that customers can compare it to competitive offers. The Company's proposed TOU program has uniform on-peak and off-peak periods on a year-round basis, providing a simpler design than its current program and eliminating the seasonal changes that were difficult for EGSs to compete against. Importantly, PPL Electric's proposed TOU program is supported by Dominion, the only EGS in this proceeding.

Another important factor is cost recovery. As a default service provider, PPL Electric does not earn a profit in providing default service. PPL Electric is entitled to recover its default service costs, including its TOU default service costs. However, the Company, by statute, is not permitted to recover lost or decreased revenues that arise when a customer shifts demand from on-peak to off-peak periods. This places PPL Electric in a position of being required to offer a TOU program, but not necessarily being able to recover its costs. For this reason, it is very important to design a TOU program that does not allow customers to reduce their monthly bills by simply switching to TOU rates, but not changing their usages patterns, i.e., free riders. PPL Electric has addressed this issue by designing its proposed TOU rates to require most customers to shift load in order to save money on TOU rates. This rate design will reduce, but not eliminate PPL Electric's risk of under-recovering its TOU costs.

Another factor to consider is the number of customers in the TOU program. Small numbers of customers can create significant reconciliation problems. PPL Electric's proposed TOU program addresses this issue by treating TOU customers as if they were fixed price customers for reconciliation purposes. PPL Electric may not recover all of its TOU costs under this methodology. However, this approach will avoid creating large TOU over/under collections that can be refunded to or recovered from only a small number of customers.

PPL Electric has considered all of these factors in developing its TOU rate option. Other parties have proposed to modify the Company's TOU program. However, these proposed modifications will disrupt the balance that PPL Electric has achieved with regard to all of the factors listed above. For example, creating separate seasonal peak periods as proposed by OCA and OSBA will add additional complexity to the TOU program, increase the risk of free riders, and could adversely affect the competitive market. Similarly, changing the on-peak and off-peak

pricing as proposed by OCA and OSBA could allow more free riders, prevent PPL Electric from recovering its TOU costs, and would not provide the proper incentives for customers to shift load.

In this proceeding, OSBA and SEF have argued that PPL Electric should bid out its TOU program. PPL Electric is considering whether to bid out its TOU supply requirements in the Company's next default service proceeding, but believes that it is not appropriate to do so at this time. This TOU program will only be in effect for a short period of time, i.e., until a new TOU program takes effect as part of the Company's next default service plan on June 1, 2013. In addition, the parties who contend that PPL Electric should bid out its TOU program have failed to provide any specific criteria as to how this might be accomplished. If this proposal were adopted, PPL Electric would have to develop a complete plan to bid out its TOU rates, and other parties would have to review this proposal, possibly in a fully litigated proceeding. Such a proceeding could not be completed and implemented substantially in advance of June 1, 2013, when a new TOU program would take effect as part of PPL Electric' upcoming default service filing.

Another important issue in this proceeding is whether PPL Electric's TOU service is default service. As explained in more detail below, the Company's TOU service clearly is a default service rate option. As a DSP, PPL Electric is required to offer a TOU rate option for default service customers. The TOU rate option and fixed price rate option are simply two different rate options for default service. I&E contends that, by definition, there can be only one "default" service and that fixed rates and TOU rates cannot both be "default" service. I&E has confused "rates" and "service." These terms are specifically and separately defined in the Public Utility Code, and they are not the same thing. In this context, "service" is what is received by

the customer, i.e., electricity supply. “Rates” are what the customer pays for that “service.” PPL Electric offers one, and only one, default service. As required by law, PPL Electric provides customers with two rate options to pay for that service. PPL Electric is the default “service” provider, not the default “rate” provider. I&E’s argument simply makes no sense and should be rejected.

In this proceeding, PPL Electric has requested that the Commission allow the Company to recover its prior period TOU undercollections from all default service customers by class, if the Commission does not allow PPL Electric to recover these costs through the proposed Competitive Transition Rider at Docket No. P-2011-2256365.<sup>1</sup> The Commission has approved a fully reconcilable Section 1307(e) cost recovery mechanism for the Company to recover its TOU over/under collections. However, given the small number of residential customers currently taking TOU default service, the Company will not be able to recover its residential TOU undercollection from those remaining TOU customers. Therefore, PPL Electric is proposing to recover these costs from all residential default service customers. PPL Electric’s TOU costs were prudently incurred through a Commission-approved process. PPL Electric is entitled to recover its TOU costs, and it is reasonable to recover these costs from all residential default service customers. TOU default service is available to all residential default service customers, and these customers can come and go from TOU default service as they please. It, therefore, is reasonable and appropriate to recover these costs from all residential default service customers. This approach also is consistent with basic principles of class ratemaking and with well-

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<sup>1</sup> As explained in more detail below, there are two separate types of undercollections. The first type is undercollections that occur due to shifted demand. The Company is not permitted to recover these undercollections pursuant to statute, 66 Pa. C.S. § 2807(f)(4), and is not requesting approval to recover any undercollections due to shifted demand. The second type of undercollection are undercollections that occur for other reasons, including differences in projected and actual prices. In this proceeding, the Company is requesting permission to recover prior-period undercollections that it is authorized to recover by the Commission under the Company’s current TOU program.

established Commission precedent. As explained below, in a number of instances, the Commission has approved reconciliation of multiple rate schedules from a single, broader class of customers in order to insure full recovery of costs. This approach is reasonable and necessary and should be adopted here.

For the reasons explained below and in the testimony submitted by the Company's witnesses, the Company's proposed TOU program is reasonable and should be approved.

## V. ARGUMENT

### A. PPL ELECTRIC'S PROPOSALS

#### 1. History of PPL Electric's Act 129 TOU Program.

Act 129 of 2008 requires DSPs to offer TOU rates and real-time price plans to all customers who have smart meter technology. 66 Pa. C.S. § 2807(f)(5). PPL Electric, as the DSP, filed its first Act 129 TOU program on July 31, 2009 in Supplement No. 71 to Tariff Electric – Pa. P.U.C. No. 201 (“Supplement No. 71”). Under this TOU program, PPL Electric proposed to procure default supplies for TOU customers through the Company’s Commission-approved 2010 default service plan. In addition, the Company proposed that TOU program pricing would be based on the Company’s fixed price default service rate. TOU customers would pay higher default service prices in on-peak periods and pay lower default service prices in off-peak periods. In the Supplement No. 71 proceeding, PPL Electric also proposed to fully reconcile TOU costs and recoveries with other default service costs and recoveries under the Company’s Generation Supply Charge (“GSC”). PPL Electric St. No. 1, p. 4.

The Commission approved PPL Electric’s 2010 TOU program, with several modifications, by Order entered March 9, 2010. The Commission approved PPL Electric’s proposal to set TOU pricing based on the fixed price default service rate. However, the Commission held that PPL Electric could not recover lost or decreased revenues due to reduced or shifted demand pursuant to 66 Pa. C.S. § 2807(f)(4). *Pa. P.U.C. v. PPL Electric Utilities Corporation*, Docket No. R-2009-2122718, Order entered March 9, 2010 (“2010 TOU Order”).<sup>2</sup>

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<sup>2</sup> This is not an issue in this proceeding because PPL Electric has designed its reconcilable process not to recover lost or decreased revenues due to shifted demand. In addition, none of PPL Electric’s prior period undercollection under its current TOU program includes lost or decreased revenues due to shifted demand.

In the 2010 TOU proceeding, other parties argued that PPL Electric would experience decreased revenues if a TOU customers shifted usage and saved money.<sup>3</sup> The Commission agreed with the other parties and directed PPL Electric to absorb any costs of the TOU program that were the result of lost or decreased revenues due to reduced or shifted demand. *2010 TOU Order*, p. 43. The effect of the *2010 TOU Order* was to require PPL Electric to offer a TOU program under which it would not be able to fully recover its costs.

On September 23, 2010, PPL Electric filed Supplement No. 94 to Tariff Electric – Pa. P.U.C. No. 201. In Supplement No. 94, the Company proposed a new TOU program to begin January 1, 2011 (“Current TOU program”). Under Supplement No. 94, PPL Electric proposed to keep the same on-peak and off-peak periods that were in place for its 2010 TOU program. However, the Company proposed to acquire default supplies for TOU customers through the spot market purchases under the Company’s default service plan.

In order to set TOU rates for customers, PPL Electric proposed to:

- Obtain market quotes on forward contracts for on-peak and off-peak wholesale energy within the PPL zone.
- Use the historical variation in PJM prices to develop hourly prices.
- From the hourly prices, establish rates for the on-peak and off-peak periods.
- Adjust the prices to reflect capacity, ancillary services, administrative costs, alternative energy credits, gross receipts, taxes and losses.

See *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, Order entered December 2, 2010, p. 5.

As part of the Supplement No. 94 filing, PPL Electric proposed to reconcile TOU recoveries with the Company’s actual TOU costs for spot market supplies. Because PPL Electric

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<sup>3</sup> PPL Electric disagreed with other parties’ analysis of this issue.

was reconciling actual revenue billed with actual PJM spot market costs incurred, the Company did not experience any lost or decreased revenues due to shifted demand. Therefore, this reconciliation process did not violate Section 2807(f)(4) of the Public Utility Code, and the Company could fully recover its TOU program costs. By Order entered December 2, 2010, the Commission approved PPL Electric's Current TOU program.

The initial Application Period for the Current TOU program was from January 1, 2011 through May 31, 2011. During this Application Period, **both** the on-peak and off-peak TOU default service rates were **lower** than the fixed price default service rate. Customers were able to select the TOU rate option and save money when compared to the fixed price rate option even if they did not shift usage. Moreover, if they did shift usage, they saved even more money. Tr. 51. The attractive rates caused a large number of customers, approximately 21,000 as of May 2011, to elect the TOU default service rate option for the initial Application Period. PPL Electric St. No. 1-R, p. 7.

The next Application Period was for June 1, 2011 through August 31, 2011. This time the projected spot market prices (combined with a significant undercollection experienced in the initial Application Period) caused the rates for this Application Period to be higher than the Company's fixed price default service rate. Therefore, **both** the on-peak and off-peak TOU rates were **higher** than the fixed price rate options. PPL Electric Ex. No. 1, p. 2. This eliminated any financial incentive for customers to select the TOU rate option over the fixed price rate option and most but not all customers dropped TOU service.<sup>4</sup> As of the time of the hearing, the number of TOU customers had dropped to approximately 3,200. Tr. 27.

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<sup>4</sup> Because TOU service is default service, PPL Electric could not impose a minimum stay period for TOU customers, and TOU customers are free to shop with an EGS or select the fixed price default service at any time. 52 Pa. Code § 54.189(d).

In addition, PPL Electric experienced a substantial undercollection in its TOU costs for the initial January 1, 2011 – May 31, 2011 Application Period. This undercollection primarily was caused by an oil price spike in February 2011, which increased actual spot prices over the public NYMEX projections that PPL Electric relied upon in setting the rates for its TOU option. PPL Electric St. No. 1-R, p. 7.

PPL Electric was not able to recover its undercollection in the June 1, 2011 – August 31, 2011 Application Period. Due to the size of the undercollection and the relatively small TOU customer base, the TOU rates for the September 1, 2011 – November 30, 2011 Application Period would have been approximately four times the fixed price default service rate. See PUC Order entered August 25, 2011 at Docket No. M-2011-2258733, p. 2 (“*August 25 Order*”). Therefore, PPL Electric requested that the Commission suspend the TOU rates that were to become effective on September 1, 2011, keep the current TOU rates in effect and allow PPL Electric to submit a revised TOU program within 30 days. In the August 25 Order, the Commission: (1) granted the Company’s request to suspend the TOU rates, (2) suspended the new rates for a period of up to 6 months, and (3) directed the Company to submit a new TOU program. In compliance with the *August 25 Order*, the Company submitted its TOU program that is at issue in this proceeding.

Based upon its experience as a default service provider offering TOU default service, PPL Electric believes that default service TOU rates must be based on the fixed price default service rate such that the on-peak TOU rate is higher than the fixed price rate option and the off-peak TOU rate is lower than the fixed price rate option. If both on-peak and off-peak rates are lower than the Company’s fixed price rates, customers have an incentive to choose the lower TOU rates, but their incentive to shift load to off-peak periods is reduced because even the on-

peak rate is lower than the fixed price default service rate. If both on-peak and off-peak TOU rates are higher than the Company's fixed price rate option, customers have no incentive to select the TOU rate option because they will not have an opportunity to save on their electric bill, even if they shift load to off-peak periods. In addition, this can cause significant over or undercollections where customers can leave the TOU program at any time and the TOU program is open to all customers in the qualifying rate class.

**2. Description of the Proposed TOU Program.**

**a. TOU Program Overview**

The Company's TOU rate option is a separate default service rate option for customers. Under the TOU rate option, the Company has selected separate on-peak and off-peak periods that are consistent throughout the year. If customers select the TOU option, they will pay higher rates during on-peak hours and lower rates during off-peak hours. This methodology will provide a financial incentive for TOU customers to shift load to off-peak periods. PPL Electric St. No. 2, p. 4. The proposed TOU program design is discussed in more detail below.

**b. TOU On-Peak and Off-Peak Periods**

**i. Residential Customers**

The proposed on-peak and off-peak periods for residential customers are different than those that exist under the Company's Current TOU program. Under its Current TOU program, the Company has separate on-peak and off-peak periods for the summer and non-summer seasons for residential customers. The summer peak hours are from 1:00 p.m. to 6:00 p.m. and the non-summer peak hours are from 5:00 p.m. to 7:00 p.m. Under its proposed TOU program, the Company is simplifying the on-peak and off-peak periods so that the on-peak period is from

12:00 p.m. to 7:00 p.m. year-round, excluding weekends and holidays.<sup>5</sup> This new peak period captures both the summer and non-summer peak periods from the Company's previous TOU programs. In addition, because it is a consistent time period, it will simplify TOU program implementation for customers because it will: (1) be easier for them to remember, (2) not require them to reset timers on appliances or other devices, or (3) not require them to change usage patterns on a seasonal basis. PPL Electric St. No. 2, p. 7.

PPL Electric's witness, Mr. Woodruff, explained how the Company determined the on-peak and off-peak period for residential customers. First, the Company evaluated the relationship between historical market prices and load shapes for residential customers. PPL Electric St. No. 2, p. 8. The 2010 hourly Locational Marginal Price ("LMP") for the PPL Zone and the actual load shape for the residential class were used to average price variances for on-peak and off-peak periods. Then, the Company evaluated on-peak periods to see what period would: (1) have a sufficient provision to encourage load shifting, (2) have a reasonable timeframe to encourage participation and (3) include typical summer and winter peak load periods. PPL Electric St. No. 2, p. 8. Based upon its evaluation, the Company concluded that a year-round on-peak period of 12:00 p.m. to 7:00 p.m. for residential customers was reasonable. PPL Electric St. No. 2, p. 7.

**ii. Small Commercial and Industrial ("C&I") Customers**

In this proceeding, the Company has proposed to keep the same on-peak and off-peak periods that currently exist for small C&I customers. The proposed on-peak period will be 7:00 a.m. to 7:00 p.m., on a year-round basis, excluding weekends and holidays. The proposed off-

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<sup>5</sup> Holidays are those recognized by PJM Interconnections, LLC which are New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

peak period will be 7:00 p.m. to 7:00 a.m. year-round, and will include all day for weekends and holidays. PPL Electric St. No. 2, pp. 8-9.

As explained by Mr. Woodruff, the Company's small C&I rate schedules include a diverse population of customers that includes retail and manufacturing, small and large usage, operations that end at 5:00 p.m., as well as those that operate around-the-clock, and other attributes that can vary widely from customer-to-customer. When the Company analyzed small C&I customer usage patterns, it did not identify any on-peak periods that would produce significant price differentials in the non-summer months. PPL Electric St. No. 2, p. 9. Mr. Woodruff also explained that, in the summer months, the Company identified late afternoon/early evening periods as potential on-peak periods. However, although customers might be willing to shift lighting or air conditioning on a few occasions, the Company determined that it was unlikely that small C&I customers would be willing to inconvenience their customers or hamper their operations for what would probably be relatively small savings on an on-going basis. Mr. Woodruff further noted that customers taking optional off-peak space heating and water heating service under commercial Rate Schedules GH-1 and GH-2 have equipment that already is controlled to minimize use during a 7:00 a.m. to 7:00 p.m. on-peak, so that period was established as the on-peak period in both seasons, and prices were developed accordingly. PPL Electric St. No. 2, p. 9. The TOU default service program will allow those existing off-peak heating customers an option to save money on the energy portion of their bill, and will provide a basis for establishing on-peak periods and off-peak periods that could support meaningful shifts in usage. Based on these considerations, and the belief that a simple structure that is the same throughout the year and that provides for evening and weekend off-peak periods would appeal to the largest population of commercial customers, the Company is proposing to

continue its on-peak period of 7:00 a.m. and 7:00 p.m. for weekdays on a year-round basis for small C&I customers. PPL Electric St. No. 2, pp. 9-10.

**c. TOU On-Peak and Off-Peak Pricing**

It is the Company’s strong belief, based on the problems that have arisen under its current TOU program, that a TOU program should be based on the fixed price default service rate option. Under PPL Electric’s proposed TOU program, default service TOU customers will pay an adder or premium over the fixed price default service rate option for on-peak periods and receive a discount from the fixed price default service rate option for off-peak periods. PPL Electric St. No. 2, p. 10. The premium and discount are fixed percentages that will be applied to the generation portion of the fixed price default service rate.<sup>6</sup> The on-peak premiums and off-peak discounts for residential and small C&I customers are shown in the table below:

<b>Rate Group</b>	<b>On-Peak Period</b>	<b>On-Peak Premium</b>	<b>Off-Peak Discount</b>
Residential	12 p.m. to 7 p.m.	20%	5%
Small C&I	7 a.m. to 7 p.m.	12%	8%

See PPL Electric St. No. 2, p. 11.

As explained by Mr. Woodruff, PPL Electric designed the TOU program to provide appropriate incentive for customers’ shift usage. In addition, the Company attempted to limit the number of potential “free riders” or customers that could take the TOU default service rate and save money when compared to the fixed rate option within shifting usage. Under the Company’s proposed TOU program, a residential customer with an average load profile would need to shift just over 7% of their on-peak usage to off-peak periods to save money, when compared to the

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<sup>6</sup> The on-peak premium and off-peak discount will not be applied to the Transmission Service Charge of State Tax Adjustment Surcharge portions of the PTC.

fixed price default service rate. In addition, a small C&I customer with an average load profile would need to shift over 11.4% of his/her on-peak usage to off-peak periods to save money, when compared to the fixed price default service rate. PPL Electric St. No. 2-R, p. 22.

PPL Electric notes that several other DSPs in Pennsylvania have TOU programs that are priced based on the DSPs' fixed price default service rates. Both PECO Energy Company and Pennsylvania Power Company have TOU programs under which TOU customers pay a premium over the fixed price default service rate option in on-peak periods and receive a discount from the fixed price default service rate option in off-peak periods. Tr. 136-137.

**d. TOU Supply**

PPL Electric began procuring default supplies for its TOU default service customers under the Company's initial default service plan. The Commission approved the Company's initial default service plan on June 30, 2009. *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 through May 31, 2013*, Docket No. P-2008-2060309, Order entered June 30, 2009. Under this default service plan, the Company acquired default generation supplies for residential customers through a mix of block, load following and spot market purchases. The Company acquired default generation supplies for small C&I customers through a mix of load following and spot market purchases. PPL Electric St. No. 2, p. 11. TOU default service customers received the same mix of supply that other default service customers received.

This is different than how PPL Electric procures supplies for TOU customers under its Current TOU program. Under its Current TOU program, TOU customers only receive spot market supplies. In addition, TOU customers' revenues are reconciled against actual spot market costs. PPL Electric St. No. 1-R, p. 6. As explained by Mr. Kleha, this has created substantial reconciliation problems for PPL Electric because in the January 2011 – May 2011 Application

Period, projected spot market prices were considerably lower than actual spot market prices. This contributed to a substantial undercollection, which PPL Electric has not been able to recover. PPL Electric St. No. 1-R, p. 7.

**e. Reconciliation of Over/Under Collections Under the Proposed TOU Program**

As explained above, the proposed TOU on-peak and off-peak default service rates will be based on the fixed price default service rate for each Application Period. The Company's fixed price default service rate for each application period is an estimate of its projected costs and is reconciled for actual costs each quarter. Any over or under collection of the fixed price default service rates is reconciled through the GSC-1 rates for the next Application Period. PPL Electric St. No. 1, p. 7.

In reconciling costs, the Company will treat TOU default service customers, for reconciliation purposes, as if they were fixed price default service customers. The Company will not use actual revenues received from TOU customers in the reconciliation process, but, rather, will assume that revenues from TOU customers equal TOU customers' kWh usage times the fixed price default service rate. As a result, this reconciliation process will not reflect any amounts for reduced consumption or shifted demand.<sup>7</sup> PPL Electric St. No. 1, pp. 7-8.

A hypothetical example of how PPL Electric will reconcile TOU costs and recoveries is below:

- TOU customer uses 500 kWh on-peak and 1,000 kWh off-peak in a given month.
- TOU customer pays 15¢ kWh for on-peak usage and 5¢ kWh for off-peak usage.
- The fixed price default service rate is 10¢ kWh.
- The TOU customer's generation bill is \$125 (15¢ x 500 + 5¢ x 1,000 = \$125).

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<sup>7</sup> Consistent with 66 Pa. C.S. § 2807(f)(4), any shift in usage patterns will be reflected in future base rate proceedings.

- If the TOU customer had been on fixed price default service, the generation bill would have been \$150 (1,500 kWh x 10¢ = \$150).
- The TOU customer paid \$125 to PPL Electric and saved \$25 for shifting demand to off-peak periods.
- For reconciliation purposes, PPL Electric will apply the TOU customer's actual usage of 1,500 kWh to the fixed price default service rate of 10¢ to get a total of \$150, even though PPL Electric will have only received \$125 from the customer.
- The TOU customer will keep the \$25 savings that were created by the customer shifting demand to off-peak periods, and PPL Electric will not recover the \$25 in the reconciliation process.

PPL Electric is proposing this reconciliation methodology to ensure compliance with 66 Pa. C.S. § 2807(f)(4). For its 2010 TOU program, PPL Electric proposed a TOU pricing program under which TOU customers would pay a premium over the fixed price default service rates in on-peak periods and receive a discount from the fixed price default service rate in off-peak periods. PPL Electric also proposed to reconcile actual TOU program revenues billed with its actual default service costs incurred for all default service customers in each class. PPL Electric St. No. 1, p. 4.

Certain parties in that proceeding argued that PPL Electric's TOU reconciliation process violated 66 Pa. C.S. § 2807(f)(4) because the reconciliation process allowed PPL Electric to recover lost revenues due to shifting energy demand. *Pa. P.U.C. v. PPL Electric Utilities Corp.*, Docket Nos. R-2009-2122718, et al., Order entered March 9, 2010, p. 9. These parties argued that PPL Electric would lose revenues if a customer shifted demand and saved money, and that PPL Electric should not recover these "lost" revenues pursuant to 66 Pa. C.S. § 2807(f)(4). PPL Electric did not agree with this analysis. However, the Commission agreed with the other parties and held that PPL Electric could not recover decreased revenues that resulted from TOU customers shifting usage. *Id.*, p. 18.

PPL Electric's proposed reconciliation methodology is consistent with 66 Pa. C.S. § 2807(f)(4) and with the Commission's Order approving PPL Electric's 2010 TOU program. As demonstrated in the example above, if a TOU customer saves money by shifting demand to off-peak periods, PPL Electric will not attempt to recover the TOU savings from customers. This puts PPL Electric at risk of not fully recovering its TOU costs. However, PPL Electric is accepting this risk at this time given: (1) the short-term nature of its proposed TOU program, (2) the Company's proposed level of on-peak premium and off-peak discount, and (3) the Company's strong belief that a reasonable TOU program that is offered by a DSP must be based on the fixed price default service rate.

**B. OTHER PARTIES ISSUES**

**1. On-Peak and Off-Peak Periods**

**a. Seasonal Peak Period Differential**

In this proceeding, the OCA's witness, Mr. Hahn, recommends that the Company adopt different peak periods in the summer and non-summer seasons. OCA St. No. 1, p. 6. According to Mr. Hahn, the 2010 load data supports his request for separate summer and non-summer peaks. The OSBA's witness, Mr. Knecht, also supports different peak periods in summer and non-summer months. OSBA St. No. 1, p. 18.

PPL Electric does not believe that seasonal peak differentials are necessary for the TOU program. PPL Electric recognizes that its current TOU program does have separate on-peak and off-peak periods for summer and non-summer seasons for residential customers. The current summer peak hours are from 1:00 p.m. to 6:00 p.m. and the non-summer peak hours are from 5:00 p.m. to 7:00 p.m. PPL Electric St. No. 2, p. 7. However, the Company has captured both of these on-peak time periods under its proposed TOU program such that the on-peak time period is from 12:00 p.m. to 7:00 p.m. year-round. PPL Electric also notes that the small C&I on-peak

period of 7:00 a.m. to 7:00 p.m. on a year-round basis under the proposed TOU program is the exact same on-peak period under the Company's current TOU program. PPL Electric St. No. 2, pp. 8-9.

PPL Electric's witness, Mr. Woodruff, explained that, by using the same on-peak and off-peak periods on a year-round basis, it simplifies the TOU program for customers because customers can keep the same usage habits on a year-round basis. Moreover, a seasonal rate differential increases the potential for free riders. PPL Electric St. No. 2-R, p. 8. A customer can take advantage of higher off-peak discounts in summer months, but then shop or move to the fixed price default service rate option during the rest of the year.

The OCA's witness, Mr. Hahn, argues that, based upon his review of 2010 load data, PPL Electric should have a summer peak period of 11 a.m. to 7 p.m. and a non-summer peak period of 5:00 p.m. to 9:00 p.m. OCA St. No. 1, pp. 6-10. PPL Electric disagrees with Mr. Hahn that his proposed on-peak periods are superior to those chosen by the Company. First, Mr. Hahn's proposed summer on-peak period is one hour longer than the Company's proposed on-peak period. This is not substantially different. However, in order to make his summer on-peak period work, Mr. Hahn's on-peak premium is 50%, while the Company's on-peak premium is only 20%. See OCA St. No. 1, p. 14; PPL Electric St. No. 2, p. 10. On its face, the proposed 50% premium could discourage customers from choosing the TOU program. In addition, this proposal could make the TOU program very unattractive for residential air conditioning customers due to the long peak period and high premium for a long part of the summer day.

Mr. Hahn also claims that a non-summer peak period of 5:00 p.m. to 9:00 p.m. is superior to the Company proposed peak period of 12:00 p.m. to 7:00 p.m. on a year round basis. OCA St. No. 1, p. 10. Again, Mr. Hahn's proposal would likely discourage participation because it

extends very late in the evening hours. Customers that return to their homes from a normal work-day would have to limit electric usage in non-summer months until relatively late at night. Moreover, the OCA would only propose a discount of 4%, with a premium of 25%. OCA St. No. 1, p. 14. The discount is lower than what PPL Electric would propose, the premium is higher and the on-peak period would appear to be more inconvenient for many customers. Mr. Hahn's proposal would likely discourage customer participation.

A TOU program looks at more than just historic on-peak periods in developing on-peak periods. In addition to looking at historic on-peak periods, a reasonable TOU program should adopt a reasonable timeframe, a reasonable premium and a reasonable discount to encourage customer participation. PPL Electric Exh. No. 1, p. 9. In addition, a default service provider should offer a simple TOU program that does not inhibit competition. PPL Electric St. No. 2-R, p. 5. PPL Electric has considered all of these factors in developing its TOU program, including its on-peak and off-peak periods.

The OSBA's witness, Mr. Knecht, also argues that the Company should adopt different seasonal peak periods. OSBA St. No. 1, pp. 13, 16-17. Mr. Knecht argues that the Company should develop different seasonal on-peak and off-peak periods to reflect seasonal differentials in energy and capacity costs. OSBA St. No. 1, p. 16. PPL Electric disagrees with this recommendation. As explained by Mr. Woodruff, PPL Electric reviewed historic energy prices in developing the on-peak and off-peak periods. PPL Electric St. No. 2, p. 8. The Company considered LMP data for the PPL Zone and developed proposed on-peak and off-peak periods based upon the historic LMP data, as well as other factors, including what would constitute a reasonable timeframe and a desire to keep the TOU program simple for customers to understand.

Mr. Knecht also states that the Company should reflect seasonal differentials in capacity costs in the TOU rates. OSBA St. No. 1, p. 16. The Company disagrees with this proposal. In this proceeding, Mr. Woodruff explained that there is a difference in how the rates the Company pays for capacity are established and how capacity costs are recovered from customers. PPL Electric's capacity costs are established based upon customer load contributions to summer system peak periods. PPL Electric St. No. 2-RJ, p. 3. However, capacity costs are recovered from customers on a year-round basis. If the TOU program rates would reflect the full cost of capacity in a summer seasonal period, PPL Electric would bear the risk of not recovering capacity costs if customers shift usage to off-peak periods in the summer. In addition, the Company would further risk not recovering all capacity costs in a short summer on-peak period, especially when customers could take TOU service in non-summer periods and drop TOU service in summer periods. PPL Electric St. No. 2-RJ, p. 4.

In his testimony, Mr. Knecht acknowledges that, under his model, customers would be required to enroll in TOU service for a year to avoid gamesmanship. OSBA St. No. 1, p. 17. Under the Commission's regulations, default service customers can choose to take generation service at any time. 52 Pa. Code § 54.189. As explained herein, TOU service is default service. Therefore, PPL Electric cannot require TOU customers to remain on TOU service for 12 months without a waiver of the Commission's regulations.

In addition, the OSBA proposes a summer peak period of 10:00 a.m. to 9:00 p.m. and a non-summer peak period of 6:00 a.m. to 9:00 p.m. OSBA St. No. 1, p. 18. As explained above, an important part of developing a TOU program is choosing on-peak periods that reasonably accommodate customers. The OSBA's non-summer peak period is 15 hours long. On its face, this proposal would likely discourage customer participation. PPL Electric's on-peak period for

small C&I customers is the same period that it has used in its prior TOU programs. The Company's proposal is reasonable and should be accepted.

**b. Load Shapes**

Several parties in this proceeding argue that the Company should develop on-peak and off-peak periods based upon PPL Electric's overall load shape as opposed to individual customer class load shapes. OCA St. No. 1, p. 6; OSBA St. No. 1, p. 16. These Parties argue that there is no economic reason for differentiating on-peak and off-peak periods for each customer class.

PPL Electric differentiated the on-peak and off-peak periods for residential and small C&I customers because these two classes have different load shapes. PPL Electric St. No. 2-R, p. 9. Ratemaking is performed on a class basis. See 66 Pa. C.S. § 1304. In addition, the Company always has offered different on-peak and off-peak periods for TOU customers. PPL Electric St. No. 2-R, p. 9. Moreover, Mr. Woodruff explained that the Company recalculated the on-peak premium and off-peak discounts based on the system load shape and the results were not materially different. PPL Electric St. No. 2-R, p. 10. As explained by Mr. Woodruff, PPL Electric would not make any changes to its TOU pricing if it utilized system load shape to set the prices for each class. PPL Electric St. No. 2-R, pp. 10-11.

SEF argues that the Company's TOU program design is flawed because it relies on class load shapes as opposed to PJM economic peaks or LMP prices. SEF St. No. 1, pp. 8, 10. SEF's argument is incorrect. Mr. Woodruff explained that energy prices are higher in hours of high system load, so actual LMP prices are based on the load shapes. PPL Electric St. No. 2-R, p. 10. In other words, PJM prices are higher when customers' loads are higher. Therefore, PPL Electric's on-peak periods reflect periods when PJM prices are at their highest.

In addition, even though SEF criticized the Company's program as critically flawed for not reflecting appropriate on-peak and off-peak periods, SEF did not propose any different on-

peak and off-peak periods in this proceeding. Tr. 128. It is not reasonable for SEF to simply criticize the Company's proposals without offering any viable alternative proposals.

## **2. On-Peak and Off-Peak Pricing**

In this proceeding, both the OCA and OSBA argue that the on-peak and off-peak pricing should be revenue-neutral based on an average load shape. OCA St. No. 1-S, p. 3; OSBA St. No. 1, pp. 10-11. PPL Electric disagrees. As Mr. Woodruff explained, TOU rates should be designed so that a customer with an average load shape pays more than the fixed price rate to encourage shifting of load to the off-peak period and to reduce the impact of free riders. PPL Electric St. No. 2-R, pp. 12-13. PPL Electric does not believe that it is appropriate for the average default service customer to be able to select the TOU rate option, keep the same usage pattern and save money as compared to the fixed price rate option. This does not provide the proper incentive for this customer to shift load. In addition, this places PPL Electric at a greater risk for not recovering its TOU costs, especially because PPL Electric is not permitted to recover lost revenues created when customers shift demand.

OSBA's witness, Mr. Knecht, claims it is "more common" for TOU rates to be set on a revenue-neutral basis. OSBA St. No. 1, pp. 10-11. In support, OSBA states that PPL Electric proposed a revenue-neutral approach in a prior plan. PPL Electric did design one of its prior TOU plans to be revenue-neutral based on an average load profile. However, now that PPL Electric has more experience with offering TOU programs, the Company does not believe that this design is appropriate for the reasons explained above. Moreover, the TOU option is a voluntary default service option. If the TOU program is not beneficial to a customer because the customer uses significant amounts of energy in on-peak periods and the customer does not want to shift load to off-peak periods, the customer can choose the fixed rate default service rate option or can choose to shop with an EGS.

### 3. Bidding Out TOU Service

In this proceeding, both OSBA and SEF contend that PPL Electric should bid out TOU service to an EGS or third party. OSBA St. No. 1, p. 13; SEF St. No. 1-SR, p. 2. PPL Electric is currently evaluating whether to bid out its TOU default service generation supply requirements as part of its next default service plan beginning June 1, 2013. However, the OSBA and SEF proposals to bid out TOU service at this time are premature and, as a practical matter, cannot be adopted in this proceeding.

First, as explained by Mr. Woodruff, bidding out TOU supply requirements would be inconsistent with the supply contracts under the Company's default service plan. PPL Electric St. No. 2-RJ, p. 5. Currently, PPL Electric procures default service generation supplies for residential customers through a mix of block, spot and load following contracts and procures default generation supplies for small C&I customers through a mix of spot and load following contracts. Wholesale suppliers bid to provide the load following service based upon the supply portfolio approved by the Commission in the Company's current default service plan, and the Company's current default service plan does not include a provision allowing the Company to bid out TOU generation supply requirements. This would be a new risk that was not contemplated in the Company's current load-following contracts. PPL Electric St. No. 2-RJ, p. 5. The Company does not believe that it is appropriate to put this unanticipated risk on existing wholesale suppliers.

In addition, neither OSBA nor SEF have provided any specific criteria for the TOU supply requirements that would be bid out. OSBA states that PPL Electric should establish the parameters for TOU generation supply, including a definition of seasonal on-peak and off-peak periods, as well as minimum on-peak and off-peak ratios, and conduct an RFP for EGSs willing to provide generation supply under those conditions. OSBA St. No.1 , p. 13. However, the

OSBA has not provided those parameters in this proceeding. See Tr. 117. Therefore, these proposals would have to be set forth in another proceeding, which would likely run into 2013. Tr. 113. It is important to note that this proposed TOU program will end May 31, 2013, and that PPL Electric intends to submit a new TOU program to begin in June 1, 2013 in its next default service plan filing. Therefore, there would be very little time, a few months at most, to implement the OSBA proposal prior to the start of the next TOU program. This could be very confusing for customers. Any proposals to bid out TOU supply should be addressed in the Company's next default service proceeding.

SEF states that the Commission should "oversee an RFP process administered by PPL Electric in which a Third Party is engaged to offer the TOU program." SEF St. No. 1-SR, p. 2. Like the OSBA, SEF has not put forth any specific criteria for what should be bid out. In addition, at the hearing, SEF's witness, Mr. Costlow, admitted that a separate proceeding would be needed to implement SEF's proposal. Tr. 128. SEF's proposal also could not be implemented very far in advance of the Company's next TOU plan.

PPL Electric does not believe that it is prudent to wait until 2013 to implement a new TOU program. As explained above, the current TOU program design does not work with PPL Electric's current fixed default service rates, and many customers have left the TOU program.

#### **4. Real-Time Rates for Small C&I Customers**

In testimony, the OSBA also recommends that PPL Electric offer small C&I customers real-time rates, as opposed to TOU rates. Under the OSBA's proposal, small C&I customers would be charged the PJM real-time hourly rate (adjusted to for losses), with an adder for capacity costs, ancillary services, alternative energy requirements and other costs. OSBA St. No. 1, p. 12.

OSBA's real-time rate proposal is not practical at this time. As explained by Mr. Woodruff, certain billing constraints would hinder this approach. Currently, real-time data for small C&I customers is not available the next day for settlement at PJM using real-time prices. PPL Electric St. No. 2-R, p. 16. PPL Electric does not receive final PJM settlement of actual meter reads until 2 months after each billing period. PPL Electric St. No. 2-R, p. 16. If a small C&I customer would leave the real-time service, PPL Electric does not have any current method for ensuring that the customer would be responsible for the final true-up of over or under collection amounts. In addition, PPL Electric would need to make significant billing system modifications to accommodate this approach. PPL Electric St. No. 2-RJ, p. 5. This all would take considerable time and would not be practical given the short-term nature of this TOU program.

#### **5. TOU Program Analysis**

In this proceeding, SEF argues that PPL Electric failed to analyze TOU data, including TOU cost-effectiveness, TOU energy demand reductions and TOU energy consumption reductions. SEF St. No. 1, p. 3. SEF mischaracterizes the facts. As explained below, PPL Electric has provided an analysis of 2010 TOU program data and will submit an analysis for 2011.

As explained by Mr. Woodruff, PPL Electric provided parties with data and analysis of its prior TOU programs in this proceeding. PPL Electric provided an analysis of its pilot TOU program for 2009, including the average summer and non-summer on-peak and off-peak usage, an estimate of how this on-peak and off-peak usage relationship would change under the proposed TOU program, an estimate of bill impacts for residential customers, and actual data for 2010 showing the number of re-enrolled customers for each class. PPL Electric St. No. 2-R, p. 18.

In addition, the Company provided parties with a detailed evaluation of its 2010 TOU program through July 2010, including the number of participating customers by rate schedule, an estimate of the load shifted from on-peak to off-peak periods by participating customers, actual TRC benefits versus projected TRC benefits, the Company's most recent load study, hourly peak load data and actual consumption data. This information was provided to SEF in discovery in this proceeding. PPL Electric St. No. 2-R, pp. 18-19.

SEF also argues that Act 129 requires the Company to submit annual reports regarding its TOU program and the "impact on peak energy demand, energy consumption and wholesale prices." SEF St. No. 1-SR, p. 4. As Mr. Woodruff explained at the hearing, the Company has just received final 2011 data and will file a report analyzing the 2011 TOU program by June 1, 2012. Tr. 88.

In testimony, SEF argued that PPL Electric was "either incapable or unwilling to provide accurate data" for assessment of its TOU program. SEF St. No. 1-SR, p. 8. This argument is simply incorrect. In response to this testimony, Mr. Woodruff explained that the Company had provided substantial data to parties in this proceeding, including, but not limited to:

- Hourly load data for TOU customers back to January 1, 2010.
- Hourly load data for all customers back to January 1, 2001.
- Hourly LMP data for the PPL Zone back to 1998.
- Analysis, work-papers and supporting data for how the Company determined the on-peak premium and off-peak discount.
- A listing of the number of TOU customers by month back to June 2010.
- Normalized load profile data by rate schedule.

PPL Electric St. No. 2-RJ, p. 8. Mr. Woodruff further explained that PPL Electric had provided the necessary data to parties to assess the Company's TOU program.<sup>8</sup>

Despite being provided the necessary information to conduct an analysis, SEF's witness, Mr. Costlow, admitted that he did not attempt to evaluate the data that was provided, did not attempt to analyze the TOU program's impact on demand and did not attempt to analyze the TOU program's impact on consumption. Tr. 128-129. At the hearing, Mr. Costlow initially stated that, to the best of his knowledge, he was not provided with hourly data for individual customers. Tr. 130. However, upon further cross-examination, Mr. Costlow admitted that:

- (1) he did not review all of the discovery responses that were provided to parties in this proceeding, and
- (2) he did not request this data from PPL Electric.

Tr. 129-133.

SEF's contention that PPL Electric is incapable or unwilling to provide accurate data is simply wrong and should be summarily rejected.

#### **6. Recovery of Prior Period TOU Undercollection**

PPL Electric's TOU undercollection for residential customers is approximately \$1.2 million, with approximately 3,300 customers remaining on the TOU rate option. See PPL Electric St. No. 1, p. 8; PPL Electric St. No. 1-R, p. 8. PPL Electric has explained that it is unlikely that the Company will be able to recover the residential TOU undercollection from

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<sup>8</sup> Of note, OSBA's witness, Mr. Knecht, states as follows with respect to the information that PPL Electric provided in this proceeding:

"... the load profile and market price information necessary to design TOU rates is available to all of the participants in this proceeding. Mr. Costlow has the information necessary to design reasonable TOU rates, particularly in light of the fact that TOU rates are necessarily imperfect and substantially dependent on professional judgment."

OSBA St. No. 2, p. 8.

current TOU customers because it would increase TOU rates so significantly that all residential TOU customers would leave the TOU program. PPL Electric St. No. 1, p. 8.

As a result, PPL Electric initially has proposed to recover this TOU undercollection, along with any other undercollections that currently exist, through a Competitive Transition Rider (“CTR”) at Docket No. P-2011-2256365. If the Commission does not approve the CTR prior to ruling in this proceeding, PPL Electric requests that it be permitted to recover its prior period residential TOU undercollection from all residential default service customers. PPL Electric St. No. 1, p. 8.

PPL Electric’s witness Mr. Kleha explained several reasons why this approach is reasonable.

“First, the TOU program is a default service option, and all customers are eligible for TOU rates. Second, as I have explained herein, the Company is proposing to reconcile generation supply costs for customers under its new TOU default service program as if the TOU customers were fixed price default service customers. All default service customers, including TOU and fixed price default service customers, will be charged the same E Factor reconciliation rate. Therefore, it is reasonable to reconcile prior period TOU under collections with all other default service costs for all default service customers. Third, the Company otherwise will not be able to recover the residential TOU under collection balance from only those remaining residential TOU customers due to the size of the under collection balance. Further, the inclusion of the prior period under collection balance in future TOU default service rates under the proposed new TOU program would result in prices that would be higher than the default service rate in both on-peak and off-peak periods, resulting in pricing that would not achieve the objectives of the new program design.”

PPL Electric St. No. 1, pp. 9-10.

As set forth above, Mr. Kleha explained many reasons why it is appropriate to recover TOU undercollections from all default service customers. Additional reasons are explained below.

**a. TOU Service is Default Service**

In this proceeding, I&E argues that TOU service is not default service. I&E St. No. 1, p. 4. According to I&E's witness, Mr. Granger, the TOU program is an optional program that customers affirmatively elect to join and, therefore, is not default service. OSBA's witness, Mr. Knecht, also argues that it is not clear whether TOU service is default service. OSBA St. No. 1, p. 3. Contrary to Mr. Granger and Mr. Knecht's assertions, PPL Electric's TOU service is clearly default service.

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:

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). 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. *Petition of PECO Energy Company for Approval of Its Initial Dynamic Pricing and Customer Acceptance Plan*, Docket No. M-2009-2123944, 2011 Pa. P.U.C. LEXIS 5 (April 5, 2011).

Mr. Granger argues that customers must choose the TOU rate option and, therefore, the TOU rate option is not default service. I&E St. No. 1, p. 4. This argument is inconsistent with

the Public Utility Code. Under the Public Utility Code, a default service provider provides generation service to customers who:

- (1) contract for electric power, including energy and capacity, and the chosen electric generation supplier does not supply the service, or
- (2) **do not choose an alternative generation supplier.**

66 Pa. C.S. § 2803 (emphasis supplied).

Therefore, under the Public Utility Code, the relevant choice is not whether the customer chooses the TOU rate option, but whether the customer chooses an EGS. If the customer does not choose an EGS, the customer is taking default service. In his testimony, Mr. Kleha explained why Mr. Granger's argument was incorrect:

Default service is provided to customers who do not choose an alternative generation supplier. The relevant choice for customers is between an EGS or a default service provider. If the customer does not choose an EGS, the customer is taking default service. Customers who do not choose an alternative generation supplier, but choose one rate option for default service over another, are still taking default service. PPL Electric has two default service rate options for customers who do not choose an EGS. Its TOU rate option is one of those default service options. It is just priced differently than the fixed price rate option. PPL Electric, as the statutory default service provider for its service territory, currently procures generation supply to serve those customers, who have chosen the TOU rate option, from the spot market.

Many service providers have different rate options. For example, 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 both tickets for airline service. The same is equally true for default service.

PPL Electric St. No. 1-R, pp. 4-5.

Mr. Kleha further explained that Mr. Granger appeared to be confusing service with rates:

A rate is not a service and a service is not a rate. The Company may offer multiple rate options for default service, but these

different rate options are still default service for which PPL Electric acquires generation supply as the current default service provider. In addition, I would note that PPL Electric has three different rate schedules (Rate Schedules RS, RTS and RTD) for residential customers who are taking distribution service at secondary voltage; each represents a specific rate option with its own eligibility criteria and charges, which are different from each other. However, all three rate schedules apply to residential customers who are taking distribution service from PPL Electric.

PPL Electric St. No. 1-R, pp. 3-4.

Mr. Kleha's description is further supported by the Public Utility Code which separately defines "rate" and "service". In this context, "service" is what is received by the customer, i.e., electricity supply. "Rates" are what the customer pays for that "service". PPL Electric only offers one default service. The statute required that PPL Electric provide customers with the rate options for that service, a fixed price rate option and a TOU rate option.

At the hearing, both Mr. Granger and Mr. Knecht agreed that TOU service was electricity generation service, with the same reliability and quality as fixed price service. Mr. Granger stated as follows at the hearing:

Q. Thank you. On page three, line six of your direct testimony, you – well, beginning on line three, I guess – you describe the company's default service or price to compare rates. And then you reference the time-of-use rates, and on line six, say that these are two distinct rate schedules.

Do you see that reference?

A. Yes.

Q. And would you agree with me that these two rate schedules, the customers on either one of those schedules, receive the same service, that is generation service, for customers who elected not to shop with an EGS?

A. Well, I think that's a way of simplifying it. But the service they receive is default service and/or time-of-use service.

Q. I'm just asking you, is there any difference in the reliability or quality of the generation of the service received under these two rates?

A. In that respect, I would say no.

Tr. p. 122, line 17 – p. 123, line 10.

Likewise, Mr. Knecht stated as follows:

Q. So whether a customer pays the fixed price per kilowatt hour default service rate or the time-of-use rate, each customer's receiving the same utility service, that is primarily generation service from the company; is that correct?

A. Yes. And they are receiving, and as are the customers who are procuring that service from competitive providers.

Q. Right. And is there any difference in the quality or reliability of generation service received for customers who are on the time-of-use rate option as opposed to the fixed or kilowatt hour rate option.

A. The attributes of the product that are being purchased are somewhat different, at least with respect to the price. Or the product. When you say the quality –

Q. I'm not asking to the price. I'm talking about the electric service provided.

A. For electric service at any one time, I do not know of any difference between the supply provided by PPL under its fixed per kilowatt hour default service rate, under its time-of-use rates, or from an independent electric generation supplier.

Tr. p. 103, line 24 – p. 104, line 20.

Both Mr. Granger and Mr. Knecht agree that the TOU rate option is electric "service". As explained above, the TOU rate option is one of the two options for default "service". TOU customers and fixed price customers receive the exact same generation service, they just pay different rates. The TOU rate option and fixed price rate options clearly are two options for the same service, default electric generation service.

**b. PPL Electric Should Be Permitted to Recover Its Prior Period TOU Undercollection**

In testimony, Mr. Granger recommends that PPL Electric not be permitted to recover its prior period TOU undercollections from customers that did not participate in or receive the benefits of the TOU program. I&E St. No. 1, p. 9. The effect of this argument would be to disallow PPL Electric from fully recovering its TOU costs in violation of the Public Utility Code and the Commission's order allowing the Company to fully recover its TOU program costs.

Act 129 provides that default service providers are entitled to recover, on a full and current basis, all reasonable costs incurred in providing default service. Specifically 66 Pa. C.S. § 2807(e)(3.9) provides as follows:

The default service provider shall have a right to recover on a full and current basis, pursuant to a reconcilable automatic adjustment clause under Section 1307 (relating to sliding scale of rates; adjustments) all reasonable costs incurred under this section and a commission-approved competitive procurement plan.

As explained by Mr. Kleha, PPL Electric procures supplies for TOU customers under its Commission-approved competitive procurement plan or its current default service plan. PPL Electric St. No. 1, p. 5. Specifically, PPL Electric acquires TOU default supplies through the spot market energy purchases that were included in the Company's current default service plan. The Commission approved this methodology in its Order approving the Company's current TOU program. *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, pp. 10-11. PPL Electric, as a default service provider, acquires TOU supplies for customers through its Commission-approved competitive procurement process. Therefore, PPL Electric is entitled by statute to fully recover its TOU costs.

Moreover, 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.*, pp. 7, 13. 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.

I&E argues that PPL Electric should not be able to recover its TOU revenue shortfall because the Company cannot recover its TOU costs under the TOU reconciliation mechanism. The Company does not agree with this argument for several reasons. First, it violates PPL Electric's statutory right to recover its costs. Second, the universe of TOU customers is not static. Many former TOU customers that contributed to the undercollection are now taking default service or shopping with an EGS.

Importantly, all residential customers are eligible to select the fixed price option or the TOU option for their default service. They can move back and forth at will and, in fact, have done so as the TOU option rates have moved up and down. Tr. 27. The residential customer class is one class of customers, and the Public Utility Code expressly allows class-based ratemaking. 66 Pa. C.S. § 1304. In addition, the Commission has broad discretion in establishing classes for establishing rates. *Peoples Natural Gas Co. v. Pa. P.U.C.*, 409 A.2d 446, 47 Pa. Cmwlth. 512 (1979) ("*Peoples*"). In *Peoples*, the Commonwealth Court stated as follows:

It is well settled that the establishment of a rate structure is an administrative function peculiarly within the expertise of the commission. *Pittsburgh v. Pennsylvania Public Utility Commission*, 168 Pa. Superior Ct. 95, 78 A.2d 35 (1951).

*Id.* at 456.

Here, fixed price and default service customers are taking and receiving exactly the same service under two different rate options and may move back and forth between the two rate options at will. It clearly is appropriate to treat these customers as one class for reconciliation purposes.

Moreover, the Company's proposal is consistent with long-standing practice and precedent. As explained by Mr. Kleha, PPL Electric's Commission-approved Competitive Transaction Charge ("CTC"), Intangible Transaction Charge ("ITC") and Transmission Service Charge ("TSC") were established on a customer-class basis. PPL Electric St. No. 1-R, p. 9. Each of these broad customer classes has different rate schedules. For example, the residential class has three separate distribution rate options, including Rate Schedules RS, RTS and RTD. PPL Electric St. No. 1-R, p. 4. The CTC, ITC and TSC do not reconcile costs separately for these three residential rate options. See PPL Electric St. No. 1-R, p. 9. Moreover, in a 2010 Order regarding PPL Electric's CTC Interim Reconciliation Report, the Commission stated as follows:

By Order issued April 11, 2002 at R-00027213, the Commission approved PPL's request to modify its CTC Rider to permit reconciliation of CTC revenues on a Rate Class basis rather than on an individual Rate Schedule basis that it had been using. Under the Rate Class based reconciliation, the net over/under collection of a Rate Class is allocated to all of the Rate Schedules within that Class. PPL proposed this modification so it could more readily recover its stranded costs by the established cost recovery period ending December 31, 2009.

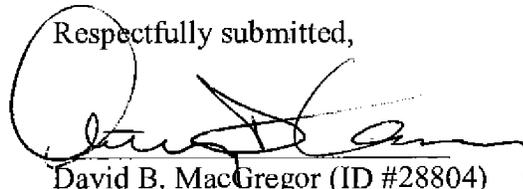
*PPL Electric Utilities Corporation Competitive Transition Charge Interim Reconciliation Report for 2010*, Docket No. M-2009-2145273, Order entered July 15, 2010, 2010 Pa. PUC LEXIS 1828, \*1 - \*2. This is exactly what PPL Electric is proposing in this proceeding, to reconcile default service costs on a rate class basis as opposed to a rate schedule basis.

In addition, PPL Electric's TOU costs clearly are reasonable and, in fact, no party has challenged the reasonableness of the Company's TOU costs in this proceeding. PPL Electric acquires generation supplies for TOU customers through the PJM spot market. PPL Electric St. No. 1-R, p. 6. The PJM spot market reflects the competitive market price for supplies. Therefore, PPL Electric's TOU costs clearly are reasonable, and PPL Electric should be permitted to fully recover its costs.

VI. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that Administrative Law Judge Susan D. Colwell and the Pennsylvania Public Utility Commission approve the Company's proposed Time-of-Use Program as filed and allow the Company to recover its Time-of-Use undercollections from all default service customers, if the Commission already has not approved the Company's request to recover these costs at Docket No. P-2011-2256365.

Respectfully submitted,



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Dated: March 21, 2012

*Attorneys for PPL Electric Utilities Corporation*

# Appendix A

## APPENDIX A

### I. PROPOSED FINDINGS OF FACT

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) proposes the following findings of fact:

1. PPL Electric furnishes electric distribution, transmission and default generation services to approximately 1.4 million customers in a service area that includes approximately 10,000 square miles covering all or portions of twenty-nine counties in eastern and central Pennsylvania. (PPL Electric Exhibit No. 1).

2. On September 26, 2011, PPL Electric filed Supplement No. 110 to the Company’s Tariff Electric – Pa. P.U.C. No. 201 (“Supplement No. 110”). (PPL Electric Exhibit No. 1).

3. In Supplement No. 110, the Company proposes to modify the design of its Time of Use (“TOU”) program for residential and small commercial and industrial (“C&I”) customers. (PPL Electric St. No. 1, p. 6).

4. PPL Electric’s TOU rate option is a separate default service rate option for customers. (PPL Electric Statement No. 1, pp. 4-5).

5. PPL Electric filed its first Act 129 TOU program on July 31, 2009. As explained in that filing, PPL Electric proposed pricing that was based on the Company’s fixed price default service option. (PPL Electric Statement No. 1, p. 4).

6. On March 9, 2010, the Commission entered an Order approving the TOU program proposed in the July 31, 2009 filing with several modifications. The Commission adopted PPL Electric’s proposed TOU rate structure and rates. However, the Commission ordered that PPL Electric could not reconcile any over/under-recoveries resulting from increased

or decreased revenues due to shifted demand from the TOU program through the proposed cost recovery mechanism. (PPL Electric St. No. 1, pp. 4-5).

7. On September 23, 2010, PPL Electric filed with the Commission Supplement No. 94 to its Tariff-Electric Pa. P.U.C. No. 201, which contained a revised TOU program for default service beginning in 2011. (PPL Electric St. No. 1, p. 5).

8. Under Supplement No. 94, PPL Electric proposed to keep the same on-peak and off-peak periods that were in place for its 2010 TOU program, but to acquire default supplies for TOU customers through the spot market purchases under the Company's default service plan. (PPL Electric St. No. 1, p. 5).

9. On December 2, 2010, the Commission entered an Order at Docket No. R-2010-2201138 approving Supplement No. 94 for service rendered on and after January 1, 2011. (PPL Electric St. No. 1, p. 6).

10. On August 22, 2011, PPL Electric submitted its quarterly Generation Supply Charge-1 (GSC-1) filing that reflected proposed updates to its default service rates, including TOU rates, which would become effective on September 1, 2011 for the application period September 1, 2011 through November 30, 2011. (PPL Electric St. No. 1, p. 6).

11. The proposed TOU default service rates submitted on August 22, 2011, were significantly higher than the Company's proposed fixed price default service rates, due to the different methodologies for acquiring TOU default supplies and also due to a significant undercollection of TOU costs in prior application periods. (PPL Electric St. No. 1, p. 6).

12. By Order entered on August 25, 2011, the Commission suspended the proposed TOU default service rates contained in the August 22, 2011 filing, ordered that the Company's

currently effective TOU rates remain in effect for up to a six-month period and ordered PPL Electric to submit a revised TOU plan within 30 days. (PPL Electric St. No. 1, pp 6-7).

13. Under its previous TOU default service programs, PPL Electric had separate on-peak and off-peak periods for the summer and non-summer seasons for residential customers. The summer peak hours were from 1:00 p.m. to 6:00 p.m. and the non-summer peak hours were from 5:00 p.m. to 7:00 p.m. (PPL Electric St. No. 2, p. 7).

14. Under its new TOU default service program, the residential on-peak period is from 12:00 p.m. to 7:00 p.m. year-round, excluding weekends and holidays, which captures both the summer and non-summer peak periods from the Company's previous TOU default service programs. (PPL Electric St. No. 2, p. 7).

15. A reasonable TOU program should look at historic on-peak periods, and adopt a reasonable timeframe, a reasonable premium and a reasonable discount to encourage customer participation. (PPL Electric Exh. No. 1, p. 9).

16. PPL Electric evaluated the relationship between the historical market prices and load shapes to determine the on-peak and off-peak periods for the TOU rates for residential customers. The 2010 hourly Locational Marginal Price ("LMP") for the PPL Zone and the actual load shape for the residential class were used to determine the hourly percentage variance from the annual average for all possible combinations of on-peak and off-peak periods. (PPL Electric St. No. 2, p. 8).

17. The Company evaluated on-peak periods to find a period that would: (1) have a sufficient premium to encourage load shifting, (2) have a reasonable timeframe to encourage participation and (3) include typical summer and winter peak load periods. (PPL Electric St. No. 2, p. 8).

18. Consistent year-round on-peak and off-peak time periods will simplify TOU default service program implementation for customers because it will: (1) be easier for them to remember, (2) not require them to reset timers on appliances or other devices, and (3) not require them to change usage patterns on a seasonal basis. (PPL Electric St. No. 2, p. 7).

19. The on-peak period for small C&I customers is from 7:00 a.m. to 7:00 p.m., also on a year-round basis, excluding weekends and holidays. (PPL Electric St. No. 2, p. 8). This is the same on-peak period for small C&I customers under the Company's current TOU program. (PPL Electric St. No. 2, p. 8).

20. PPL Electric analyzed small C&I customer usage patterns and did not identify any on-peak periods in the non-summer months that would produce significant price differentials. (PPL Electric St. No. 2, p. 9).

21. PPL Electric identified a potential price differential for an on-peak period in the late afternoon/early evening during the summer months; however, PPL Electric determined it was unlikely that such an on-peak period would result in load shifting. (PPL Electric St. No. 2, p. 9).

22. PPL Electric differentiated the on-peak and off-peak periods for residential and small C&I customers because these two classes have different load shapes. (PPL Electric St. No. 2-R, p. 9).

23. A seasonal rate differential increases the potential for free riders. (PPL Electric St. No. 2-R, p. 8).

24. The TOU default service program is designed so that TOU customers pay an adder or premium over the fixed price default service rate for on-peak periods and receive a

discount from the fixed price default service rate for off-peak periods. (PPL Electric St. No. 2, p. 10).

25. The premium and discount will be fixed percentages that are applied to default service rates. As default service rates change from quarter-to-quarter, the same fixed percentage adder and discount will be applied to the new default service rate. (PPL Electric St. No. 2, p. 10).

26. Residential customers will pay an on-peak premium of twenty percent (20%), and will receive an off-peak discount of five percent (5%). (PPL Electric St. No. 2, p. 11).

27. Small C&I customers will pay an on-peak premium of twelve percent (12%), and will receive an off-peak discount of eight percent (8%). (PPL Electric St. No. 2, p. 11).

28. PPL Electric cannot accommodate real-time rates for small C&I customers at this time, because it would require significant billing system modifications in order to do so. (PPL Electric St. No. 2-RJ, p. 5).

29. PPL Electric's TOU program design is consistent with the designs used by other Pennsylvania default service providers, including PECO Energy Company and Pennsylvania Power Company. Tr. 136-137.

30. The TOU default service program is an optional program and customers are not required to select it. (PPL Electric St. No. 2, p. 11).

31. The TOU default service program is designed to provide appropriate incentives for customers to shift usage and minimize "free riders" or customers that can choose the TOU rate and save money without shifting usage. (PPL Electric St. No. 2, p. 11).

32. In order for a residential customer with an average load profile to save money, that customer would need to shift just over 7% of their on-peak usage to off-peak periods. (PPL Electric St. No. 2-R, p. 22).

33. In order for a small C&I customer with an average load profile to save money, that customer would need to shift 11.4% of their on-peak usage to off-peak periods. (PPL Electric St. No. 2-R, p. 22).

34. PPL Electric's new TOU rates are designed in order to encourage a customer with an average load to shift load to the off-peak period. (PPL Electric St. No. 2-R, p. 12-13).

35. PPL Electric's current TOU rates are calculated based upon projected spot market prices for the Application Period plus or minus the applicable over/under collection from prior periods. (PPL Electric St. No. 2, p. 5).

36. Currently, TOU rates do not have a direct relationship with the Company's fixed price default service rates and can be significantly higher or lower depending upon projected spot market prices for the Application Period and the amount of over/under collection from prior periods. (PPL Electric St. No. 2, p. 5).

37. As a result of this design, PPL Electric has an existing under-collection associated with providing TOU default service that was, as of October 31, 2011, approximately \$1,889,460 for residential customers and \$8,237 for small C&I customers. (PPL Electric St. No. 1, p. 8).

38. If PPL Electric attempted to recover this undercollection from existing residential TOU customers, it would add approximately 13.15 cents per kWh to the residential TOU rates if the undercollection was reconciled on a quarterly basis under the Company's current reconciliation methodology. (PPL Electric St. No. 1, p. 8).

39. PPL Electric will not be able to recover this amount from its residential TOU customers because if it imposed this level of rate increase on TOU customers, it is likely that the TOU customers would leave the TOU program. (PPL Electric St. No. 1, p. 8).

40. PPL Electric has modified its TOU rate design so that the TOU rates have a direct relationship with the default service rates. (PPL Electric St. No. 2, p. 10).

41. PPL Electric will procure default service generation supplies for its TOU default service customers pursuant to the Company's POLR II plan that has been approved by the Commission in *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 through May 31, 2013*, Docket No. P-2008-2060309, Order entered June 30, 2009. (PPL Electric St. No. 2, p. 11).

42. Bidding out TOU supply requirements would be inconsistent with the supply contracts under the Company's Commission approved default service plan. (PPL Electric St. No. 2-RJ, p. 5).

43. A separate proceeding would be needed to implement a bid process for the TOU program. Tr. 128.

44. The Company's fixed price default service rate for each application period is an estimate of its projected costs and is reconciled for actual costs each quarter. (PPL Electric St. No. 1, p. 7).

45. In reconciling costs, PPL Electric will treat TOU default service customers as if they were fixed price default service customers. (PPL Electric St. No. 1, pp. 7-8).

46. The reconciliation process will not reflect any amounts for reduced consumption or shifted demand. (PPL Electric St. No. 1, pp. 7-8).

47. PPL Electric has provided substantial data to the parties in this proceeding, and has provided all data that was necessary to assess the Company's TOU program. (PPL Electric St. No. 2-RJ, p. 8; OSBA St. No. 2., p. 8).

## II. PROPOSED CONCLUSIONS OF LAW

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) proposes the following conclusions of law:

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa. C.S. §§ 501, et seq.

2. PPL Electric bears the burden of proving that it is entitled to the relief it seeks in this proceeding. 66 Pa. C.S. § 332(a).

3. The degree of proof required to establish a case before the Public Utility Commission is by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. P.U.C.*, 578 A.2d 600 (Pa. Cmwlth. 1990).

4. The Company’s TOU program is required by Act 129 of 2008, P.L. 1592, 66 Pa. C.S. § 2807(f)(5).

5. PPL Electric’s proposed design for its TOU program is just and reasonable.

6. PPL Electric’s TOU service is a default service rate option.

7. EDCs are entitled to recover their costs for providing service under Section 2807 on a full and current basis. 66 Pa. C.S. § 2807(e)(3.9).

8. PPL Electric is entitled to recover its TOU costs, and these costs should be recovered from all default service customers.

9. Pursuant to the Commission’s regulations, default service customers can choose to take fixed price generation supply at any time and, therefore, PPL Electric cannot require TOU customers to remain on TOU default service for 12 months without a waiver of the Commission’s regulations. 52 Pa. Code § 54.189.

10. PPL Electric has met its burden to demonstrate by a preponderance of the evidence that Supplement No. 110 to the Company’s Tariff Electric – Pa. P.U.C. No. 201,

proposing to modify its TOU program for residential and small C&I customers, is just, reasonable, lawful, and in the public interest.

### **III. PROPOSED ORDERING PARAGRAPHS**

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) proposes the following ordering paragraphs:

1. The request of PPL Electric Utilities Corporation to implement Supplement No. 110 to the Company’s Tariff Electric – Pa. P.U.C. No. 201, filed September 26, 2011, is granted.

2. Supplement No. 110 to the Company’s Tariff Electric – Pa. P.U.C. No. 201 shall become effective on one day’s notice.

3. If the Commission does not authorize recovery of prior period TOU undercollections through the Company’s proposed Competitive Transition Rider at Docket No. P-2011-2256365, PPL Electric shall be permitted to recover prior period TOU undercollection balances from all default service customers (by customer class).

4. The Complaint of the Office of Consumer Advocate, docketed at Docket No. C-2011-2267808, is dismissed.

5. The Complaint of the Office of Small Business Advocate, docketed at Docket No. C-2011-2268983, is dismissed.

6. The Commission’s Secretary shall mark Docket No. R-2011-2264771 as closed.