

COMMONWEALTH OF PENNSYLVANIA



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April 11, 2012

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Pennsylvania Public Utility Commission
v.
PPL Electric Utilities Corporation
Time of Use Rates
Docket No. R-2011-2264771 *et al.*

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Reply Brief in the above-referenced proceeding.

Copies have been served as indicated on the Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Aron J. Beatty".

Aron J. Beatty
Assistant Consumer Advocate
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Enclosure

cc: Honorable Susan D. Colwell
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
 :
v. : Docket Nos. R-2011-2264771
 : C-2011-2267808
PPL Electric Utilities Corporation : C-2011-2268983
(Time Of Use Filing) :
 :

REPLY BRIEF
OF THE OFFICE OF CONSUMER ADVOCATE

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I. INTRODUCTION

On March 21, 2012, the Office of Consumer Advocate filed its Main Brief in this proceeding. Main Briefs were also filed by PPL Electric Utilities Corp. (PPL or Company), the Commission's Bureau of Investigation and Enforcement (BI&E), the Office of Small Business Advocate (OSBA), Eric Epstein, Dominion Retail Inc., and the Sustainable Energy Fund (SEF). The OCA submits that nothing argued in the Main Briefs of these parties changes the positions detailed in the OCA Main Brief. The OCA will not repeat each of its arguments in this Reply Brief but will instead highlight certain key arguments for the Commission's consideration.

In its Main Brief, the OCA supported the need for certain modifications to PPL's existing Time of Use (TOU) program. While the OCA supports the Company's proposed premium/discount methodology compared to the default service rate, the OCA submits that modifications to the peak/off-peak periods and the percentage premiums and discounts proposed by the Company are needed. As detailed in the Testimony of OCA witness Richard Hahn, the Company's proposal does not adequately reflect cost differences in the wholesale market as well as seasonal pricing differentials. See, OCA MB at 8-16. Additionally, the Company's program should be "revenue neutral" to ensure that customers who volunteer to take TOU service will not be penalized by making that selection. See, OCA MB at 16-17. Lastly, the Company's proposal to collect its existing TOU-related undercollection is pending before the Commission in another proceeding and should not be decided in this case. See, OCA MB at 18-19.

For the reasons detailed in the OCA's Main Brief, and those detailed below in this Reply Brief, the OCA submits that the Company should modify its TOU program as recommended by OCA witness Hahn to better reflect market conditions and to allow customers to fully benefit from PPL's TOU plan.

II. REPLY ARGUMENT

A. The Company's TOU Program Should Be "Revenue Neutral" And Not Impose Costs On Customers Where None Exist.

In its Main Brief, the Company argues that it is appropriate to develop a TOU program in a manner that is not "revenue neutral." PPL MB at 29. The Company argues that, because it is obligated to provide TOU rates, but not able to recover costs that are the result of customers shifting usage, it is reasonable that it be allowed to design rates that force TOU customers to shift usage to break even. PPL MB at 9, 20-21. The Company argues that such an approach will "reduce, but not eliminate PPL Electric's risk of under-recovering its TOU costs." PPL MB at 9.

Under the Company's TOU plan design, if a customer with an average load shape were to sign up for TOU service, that customer would pay higher rates than under the default service rate unless the customer shifted usage. OCA St. 1 at 14-15; OCA St. 1-S at 2-4. In this way, a customer could be harmed by selecting TOU service.

The OCA submits that the Company's position on this issue is flawed. As OCA witness Hahn explained, the Company will not see any increase in the cost to serve the average customer that selects TOU service if they do not shift load. See, OCA St. 1-S at 2-3. The OCA submits that PPL should not be permitted to create a level of excess revenues above the costs to serve TOU customers, simply to incent them to shift load to lower peak period.

As the Company has recognized, the Commission prohibited the Company from recovering lost revenues as a result of implementation of TOU service in its 2009 TOU plan. PPL MB at 23; see, Pa. P.U.C. v. PPL Electric Utilities Corp., Docket Nos. R-2009-2122718, *et al.* (Order entered March 9, 2010)(March 2010 Order). In making its determination in PPL's

2010 proceeding, the Commission found that PPL's proposed cost recovery method would allow it to recover as "costs" the savings enjoyed by customers who shifted usage under the TOU plan. March 2010 Order at 18. The Commission specifically cited Act 129 of 2008, which states:

(4) In no event shall lost or decreased revenues by an electric distribution company due to reduced electricity consumption or shifting energy demand be considered any of the following:

* * * * *

(ii) A recoverable cost.

66 Pa. C.S. §2807(f)(4). The Commission concluded that section 2807(f)(4) prohibited PPL from recovering any decreased revenues resulting from customers shifting demand. March 2010 Order at 18.

Act 129 requires that energy efficiency and time of use programs be designed to reduce customer costs, and that the Electric Distribution Company (in this proceeding, PPL) running the program should not recover decreased revenues that are, in essence, customer "savings." As OCA witness Hahn testified, there are no "costs" underlying the proposed TOU "adder." Mr. Hahn testified as follows:

If no load shifting occurs, the cost to serve that load will not change from the cost to serve non-TOU rates, so there is no reason to charge higher revenues. TOU rates should provide an incentive to shift usage to the off-peak hours, not penalize customers for not shifting usage. A penalty feature such as this would make TOU rates unattractive to customers.

OCA St. 1-S at 2-3.

In this proceeding, including an artificial adder would undercut the Commission's prior finding that PPL cannot collect the "savings" realized by customers at a later time through rates. PPL's proposal would build the prohibited recovery of customer "savings" into TOU rates

at the front end, requiring customers to pay a non-cost-based adder. The customer would then have to change usage just to get back to square one, with savings only resulting from further energy shifting.

As OCA witness Hahn testified, there is no reasonable basis to build a cushion into the rate design to reduce the impact of customers shifting usage under the TOU program.

Mr. Hahn explained:

I acknowledge that PPL has agreed to absorb the revenue reduction due to load shifting. However, this acceptance should not be premised or based upon a rate design that is designed to over-collect in the first place. In my direct testimony, I estimated that if all residential customers elected PPL's TOU rates, the over-collection would be \$4.7 million. In its rebuttal testimony, the Company stated that such a level could never occur because only a small percentage of these customers would elect a TOU rate. The same argument applies to the rates that I recommend. Even with properly designed TOU rates, the great majority of residential customers would be unlikely to opt for such rates. The revenue loss due to load shifting is likely to be very small relative to total revenues.

OCA St. 1-S at 4.

Additionally, the Company argues that this rate design attempts to limit the "free rider" problem where customers could sign up for TOU service and save money based on their existing usage characteristics. PPL MB at 21. The OCA submits, however, that there is no way to eliminate "free ridership" as defined by the Company when setting rates for "average" customers. As OCA witness Hahn explained:

Regarding the claim that the rates that I recommend will benefit customers with higher off-peak usage than the class average without shifting any load ("Free Riders"), the Company concedes that this is "an inherent problem with any rate design for average customer". The Company has not provided any analysis to support its implicit claim that my rate design will provide a greater incentive for free riders than its proposed rate design or that the

revenue reductions associated with those free riders will be substantially greater.

OCA St. 1-S at 3. As OCA witness Hahn explained, when rates are set for an entire class there will be individual customers who do better than average, and those who fare worse than average. The fact that an individual customer whose usage characteristics deviate from the average usage patterns could potentially benefit from TOU service does not justify the Company's rate design.

The OCA submits that the Company's TOU proposal is not reasonable. The OCA submits that a revenue neutral methodology should be adopted in this proceeding in order to match costs and savings with customer behavior. Such a finding is consistent with the Commission's prior Order and recognizes the intent of the cost shifting provisions found at 66 Pa. C.S. §2807(f)(4). March 2010 Order at 18.

B. The Company's Criticisms Of OCA Witness Hahn's TOU Program Modifications Are Misplaced.

In its Main Brief, the Company argues that its elimination of the summer and non-summer TOU seasons is reasonable and that it will be easier for customers to understand. PPL MB at 24-27. The Company argues that eliminating the seasonal differences will make participation in the program easier in a variety of ways. PPL MB at 18. As the OCA detailed in its Main Brief, however, the underlying market conditions indicate that two TOU rate "seasons" are necessary. See, OCA MB at 9-13. Based on his review of the relevant load shapes, OCA witness Hahn made the following recommendations for the on and off-peak periods for the TOU rates:

Period	PPL Proposed	OCA Proposed
Summer peak	12 pm to 7 pm	11 am to 7 pm
Summer offpeak	All other hours	All other hours
Non-summer peak	12 pm to 7 pm	5 pm to 9 pm
Non-summer offpeak	All other hours	All other hours

OCA St. 1 at 10. As explained in the OCA’s Main Brief (pages 8-12), OCA witness Hahn’s analysis demonstrates that the Company should utilize a separate summer and non-summer period as part of the TOU program, each with its own on-peak hours. The use of two seasons will allow rates to better reflect the wholesale conditions appropriate for the time of year in which energy is consumed.

The Company’s existing TOU program differentiates between summer and non-summer periods, just as the OCA has proposed in this case. OCA witness Hahn clearly demonstrated that market conditions dictate this result because TOU programs should be designed to reflect cost differences. See, OCA St. 1 at 6-10.

The Company also argues that the OCA’s proposed percentage premiums and discounts would discourage participation. PPL MB at 25. PPL further argues that in some instances the OCA discount is lower than the Company’s proposed discount. PPL MB at 26. The OCA notes, however, that there are times under the OCA proposal when the discount would be far greater than PPL’s proposed discount, thus further incentivizing a customer to shift usage. See, OCA St. 1 at 14; see also, OCA MB at 15. The below chart summarizes the OCA recommendations:

Period	PPL Premium/(Discount)	OCA Premium/(Discount)
Summer peak *	+20%	+50%
Summer offpeak	-5%	-20%
Non-summer peak**	+20%	+25%
Non-summer offpeak	-5%	-4%

* OCA summer peak period 1 hour longer than PPL peak period

** OCA non-summer peak period 3 hours shorter than PPL peak period

OCA St. 1 at 14. The important point is that the OCA's discounts and premiums more closely reflect the actual market conditions, thus reaching the true purpose of TOU rates. See, OCA MB at 13-16.

The OCA submits that the Company's plan to move from its current two season plan to a single season oversimplifies the TOU process and results in price signals that do not accurately reflect market conditions. Once the correct seasons are selected, OCA witness Hahn's modifications for the percent premium and percent discount for each season provide a more reasonable basis for TOU service. The Company's criticisms on these issues should be rejected.

C. The Company's Request For The Collection Of Its Existing TOU Undercollection Should Not Be Decided In This Proceeding.

The Company argues in its Main Brief that it is entitled to recover the existing TOU undercollection from all non-shopping customers. PPL MB at 34-43. The Company acknowledges, however, that it has requested the recovery of those same costs in its Competitive Transition Rider (CTR) filing at P-2011-2256365. PPL MB at 35. In making its request here, the Company states that it has requested recovery of these costs here in the event that it is denied recovery in the CTR proceeding. PPL MB at 35. The basis of the Company's substantive argument is that it is entitled to recovery of these costs because they are "default service" costs.¹ PPL MB at 40-43.

The OCA submits that the Company's request is duplicative of a pending request in another proceeding and should not be decided here. See, OCA MB at 18. The request for collection of the unrecovered TOU costs has been fully litigated in the CTR proceeding. See, OCA St. 1 at 17-18; see also, PPL MB at 35. There is a full record there with Main Briefs and

¹ On April 4, 2012, the Commission issued the Recommended Decision of Administrative Law Judge Colwell in the CTR proceeding. Exceptions are due April 24, 2012, with Replies to Exceptions due May 4, 2012.

Reply Briefs of the parties setting forth a full discussion of all issues, and Exceptions and Reply Exceptions are due shortly. The OCA further submits that, if PPL is unable to collect TOU-related costs as a result of the pending CTR decision, the Commission's Order in that proceeding may provide guidance regarding the manner in which to proceed. See, OCA St. 1 at 18.

While the OCA actually supported the Company's recovery of the existing TOU undercollection through an appropriate mechanism in the CTR proceeding, it is not reasonable to have that matter adjudicated in two proceedings. Furthermore, the Company's preferred collection methodology in the CTR proceeding differs from its requested recovery method in this proceeding. PPL St. 1 at 9. The Commission will have the opportunity to rule on the Company's request in the CTR proceeding based upon a full and complete record. The OCA further submits that because this issue is before the Commission in another proceeding, the arguments for and against consideration of TOU costs as "default service" costs do not need to be addressed in this case.²

² Act 129's "smart meter technology and time of use rates" provisions require each default service provider to submit time of use rates. 66 Pa. C.S. §2807(f). As the OCA argued in the CTR proceeding, however, the provision of TOU service is not included in subsection (e), entitled "Obligation to serve" and is not default service. Unlike default service provided pursuant to Section 2807(e), under Section 2807(f)(5) residential and small business customers must, "elect to participate in time-of-use rates or real-time pricing." 66 Pa. C.S. §2807(f). The OCA submits that voluntary TOU service is an affirmative choice taken by a customer is not a default service. Nevertheless, as noted above, the OCA has agreed that it is just and reasonable for PPL to recover these costs through its proposed CTR mechanism.

III. CONCLUSION

As detailed in the OCA's Main Brief, and further clarified through this Reply Brief, the OCA submits that the Company's proposal should be modified to better achieve the goals of the TOU rate plan. While the OCA supports the Company's proposed premium/discount methodology tied to the default service rate, the OCA's proposed modifications provide the necessary price signals needed to attract participation and achieve the intended goals of a TOU plan.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

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 PPL Electric Utilities Corporation : C-2011-2268983
 2012 Time-of-Use Rates :

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Reply Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 11th day of April 2012.

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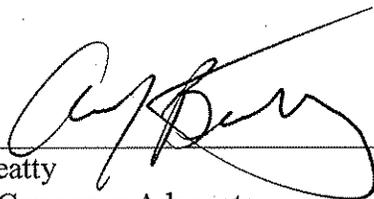
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