

COMMONWEALTH OF PENNSYLVANIA



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April 24, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

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

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Exceptions, 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
PA Attorney I.D. # 86625

Enclosure

cc: Honorable Susan D. Colwell
Office of Special Assistants

155453

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

EXCEPTIONS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: April 24, 2012

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I. INTRODUCTION

On August 25, 2011, PPL Electric Utilities (PPL, PPL Electric, or Company) filed an Amended Petition with the Commission seeking approval of two reconcilable rate mechanisms related to the cost recovery of its default service costs.¹ The first reconcilable charge sought by the Company was termed the Reconciliation Rider. The Reconciliation Rider is being proposed for the purpose of addressing over and undercollections related to default service transmission and generation costs beginning June 1, 2012. Amended Petition at 2.

The second reconcilable rate mechanism sought by the Company is the Competitive Transition Rider. The Company stated that the Competitive Transition Rider is needed to provide a method to refund or recoup historic over or undercollections related to transmission service and generation supply service that were incurred prior to the effective date of the Reconciliation Rider. Amended Petition at 3. The Company further stated that the Competitive Transition Rider is needed because current shopping levels may restrict the Company's ability to recover undercollections incurred prior to the effective date of the Reconciliation Rider in a timely fashion. PPL St. 1 at 4; Amended Petition at 3, 18.

In addition to these riders, the Company proposed revisions to its existing tariff and riders to facilitate the implementation of the proposed Reconciliation Rider and Competitive Transition Rider. PPL St. 1 at 8. Among these changes, the Company has proposed to modify the reconciliation provisions under GSC-1 to permit reconciliation on an annual PJM planning year basis, rather than on a quarterly basis. PPL St. 1 at 8. The Company states that these changes "should reduce the volatility of the Reconciliation Rider, reduce the number of calculations required, and reduce customer confusion regarding this issue." PPL St. 1 at 8.

¹ The Company initially filed its Petition for the Reconciliation Charge on August 3, 2011, but later amended its Petition on August 25, 2011 to include the proposed Competitive Transition Rider.

The Office of Consumer Advocate (OCA) filed its Notice of Intervention and Public Statement in this matter on August 23, 2011. The Commission's Bureau of Investigation and Enforcement (BI&E) entered its Appearance in this matter, and the Office of Small Business Advocate (OSBA) filed a Notice of Intervention in this proceeding. Answers to the Company's Petitions were filed by the PP&L Industrial Customer Alliance (PPLICA), OSBA, Dominion Retail and Retail Energy Supply Association (RESA). Petitions to Intervene in the matter were submitted by Richards Energy Group, Inc., RESA, Dominion Retail, Inc., Wal-Mart Stores East, LP and Sam's East, Inc.

The PPL Petition was assigned to the Office of Administrative Law Judge and was further assigned to Administrative Law Judge (ALJ) Susan D. Colwell for investigation and the scheduling of hearings. On December 5, 2012, ALJ Colwell presided over evidentiary hearings in Harrisburg. At that hearing, the Direct and Surrebuttal testimony of the OCA's witness in this matter, Dr. Alvaro E. Pereira, were admitted into the evidentiary record along with the testimony and exhibits of the various parties.²

On April 4, 2012, Administrative Law Judge (ALJ) Susan Colwell's Recommended Decision was issued by the Commission. ALJ Colwell recommended the approval of the Reconciliation Rider, rejection of the Competitive Transition Rider, adoption of a 12 month reconciliation mechanism, and the treatment of TOU costs as default service costs. The OCA respectfully files these Exceptions to the ALJ's Recommended Decision (RD).

² Dr. Pereira is a Managing Consultant for La Capra Associates of Boston, Massachusetts. Dr. Pereira has over 15 years of experience in economic, technical, and policy analysis with expertise in rate design and power markets. Dr. Periera also has expertise in rate design and analysis, demand side management programs, and economic impact modeling and forecasting. Dr. Pereira received an M.S. in Transportation and a Ph.D. in Urban and Regional Economics and Studies, both from M.I.T.; and two bachelor degrees in Economics and Finance from UMass Amherst. See, OCA St. 1, Appendix A.

II. EXCEPTIONS

Exception 1: The Commission Should Approve The Company's Proposed Competitive Transition Rider (R.D. at 42-43; OCA M.B. at 6-8; OCA R.B. at 1-5).

In her R.D., ALJ Colwell recommends that the Commission reject the CTR. R.D. at 42. The ALJ found that the CTR does not differentiate between default and shopping customers, and that it does not attempt to align cost causation with the parties responsible for the costs. R.D. at 42. The OCA respectfully submits, however, that on balance the CTR provides a reasonable manner to collect transitional costs that arose as the Company came out from the rate cap period, is consistent with cost causation, and should be approved.

The CTR provides a reasonable method for the recovery of historic costs that are associated with the transition from the rate caps to default service beginning in 2010 as well as the costs associated with the Company's Time of Use program that has encountered difficulties in design and customer retention. OCA witness Pereira testified in support of the CTR, explaining that the Company's CTR approach would recover costs resulting from the transition from rate caps (when almost all residential customers took service from PPL) to the present day from all customers. OCA St. 1 at 8-9. As OCA witness Pereira explained:

[M]ost of the current undercollection balances were primarily a result of the proration of customer bills between December 2009 and January 2010, which was the first month of the approved GSC rate rider. The collection of a relatively large amount was made more difficult as customers increasingly left default service.

OCA St. 1 at 8-9. As Dr. Pereira testified, there has been a rapid decrease in the default service customer base over which to spread undercollections during the post rate cap period. The combination of events detailed in this testimony lends itself to a temporary charge to address the cost recovery issues that arose after the expiration of rate caps.

As Dr. Pereira testified, there are valid reasons that weighed in favor of implementation of the CTR for all customers, as follows:

[A]s stated by the Company, collection of these historical over and undercollections over the entire distribution customer base is more consistent with the customer base that created these amounts compared to the existing default service customer base. In addition, the spreading of these amounts will lessen the rate impact on the existing default service customer base, which may include a large number of customers that are unable or unwilling to shop for any number of reasons

Finally, given that much of these under and overcollections have already occurred, the Company would have to identify those customers responsible for causing these under and overcollections, which may be difficult or costly due to the fact that the composition of basic service customers has changed significantly.

OCA St. 1 at 9.

In addition, the Company's proposed CTR would allow for a reasonable resolution to the recovery of its existing Time of Use (TOU) rate undercollection that cannot reasonably be recovered from only remaining TOU customers. See, OCA M.B. at 8; OCA R.B. at 2-4. Company witness Kleha testified that only 3,900 customers remain on TOU service. PPL St. 1-R at 30. The current TOU undercollection is approximately two million dollars. PPL St. 1-R at 30. The OCA submits that the CTR mechanism allows for a reasonable method of collecting these costs from all residential customers.

The OCA submits that the CTR is reasonable at this time under these unique circumstances. As Dr. Pereira testified, given the significant decline in default service load at PPL, the collection of the CTR historic over and undercollections over the entire distribution customer base is more consistent with the customer base that created these amounts than recovery of these costs only from current remaining default service customers. OCA St. 1 at 9. In addition, the CTR provides a reasonable resolution of the TOU undercollection issue. The

OCA submits that the costs associated with the CTR are limited, one-time unique in nature, and that the use of the CTR across all residential customers is appropriate for these circumstances.

Exception 2: The Commission Should Not Approve The Company's Proposed RR Mechanism Because It Would Add Customer Confusion And Is Not Necessary At This Time (R.D. at 29-36; OCA M.B. at 8-11; OCA R.B. at 6-7).

In her R.D., the ALJ recommends that the Commission approve the proposed RR. R.D. at 29-36. The ALJ found that the Company's experience with the transition from a fully integrated electric utility to a distribution only default service provider shows the need for the RR. R.D. at 29. In making her recommendation, the ALJ found that the RR is reasonable because it would bill and/or credit those customers who were the "actual users of the electricity" when those costs were incurred. R.D. at 36.

The OCA does not support implementation of the RR as proposed. The OCA submits that the Application Provisions contained in the proposed Reconciliation Rider result in the RR serving as a "migration rider" and being applied to both shopping and non-shopping customers for varying periods of time. The Application Provisions pose significant educational challenges and could create customer confusion about the default service rate. Amended Petition, Exhibit A (page 2 of 3). Under the PPL proposal, the RR would be applied to some, but not all, default service customers, and some, but not all, shopping customers. The RR would be applied based on the number of months that a customer had received default service.

OCA witness Pereira expressed his concerns with the problems inherent with the Application Provisions of the proposed RR. As Dr. Pereira explained, the Application Provisions proposed by the Company will result in instances of frequent rate changes for

individual customers and customer confusion.³ OCA St. 1 at 10. The OCA submits that the application provisions contained in the RR are unwieldy and will result in customer confusion.

As a result, the OCA submits that the RR should not be approved at this time.

Exception 3: TOU Costs Are Recoverable Costs To The DSP, But Are Not Default Service Costs (R.D. at 46-48; OCA R.B. at 2-4).

In her R.D., the ALJ concluded that TOU rates are default service rates. R.D. at 47. The ALJ found that the similarities between TOU service and standard default service outweigh the differences. R.D. at 47. The ALJ deferred the issue of specific cost recovery of the TOU undercollection to the Company's pending TOU filing at Docket No. R-2011-2264771. R.D. at 48.

The OCA supports the implementation of the CTR to recover historic TOU undercollections that cannot reasonably be collected from remaining TOU customers. The OCA disagrees, however, with the ALJ's adoption of the Company's argument that TOU costs are default service costs. R.D. at 47. While the OCA fully supports the recovery of the TOU costs through the CTR, the OCA respectfully disagrees with this aspect of the R.D.

The term Default Service Provider was defined in Act 129 of 2008 as follows:

An electric distribution company within its certified service territory or an alternative supplier approved by the commission that provides generation service to retail electric 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 electric generation supplier.

³ PPL Witness Kleha provided eight hypothetical illustrations of how the RR could be applied to customers' bills who switch from, or to, default service. PPL St. 1 at 21-22. In addition, Mr. Kleha provided additional examples of how the RR would apply to new customers, customers that move within the service territory, and customers subject to landlord/tenant arrangements. PPL St. 1 at 23. The OCA submits that Mr. Kleha's hypothetical examples illustrate the complexity of the applications provisions of the RR mechanism and highlight the benefits of avoiding this type of migration rider at this time.

66 Pa. C.S. §2803. There is no question that PPL is the Default Service Provider that provides reconcilable, quarterly adjusting default service to customers that meet the above two criteria. The terms of default service are set forth in great detail in Section 2807(e) of the Public Utility Code, including the default service provider's "right to recover on a full and current basis, pursuant to a reconcilable automatic adjustment clause under section 1307 ... all reasonable costs incurred under this section and a commission-approved competitive procurement plan." 66 Pa. C.S. §2807(e)(3.9).

In the same Act in which it set forth the detailed requirements for default service under Section 2807(e), the General Assembly established a separate set of requirements for "smart meter technology and time of use rates" in Section 2807(f). 66 Pa. C.S. §2807(f). As part of this section, the General Assembly assigned an additional task to default service providers to "submit to the commission one or more proposed time-of-use rates and real-time price plan." 66 Pa. C.S. §2807(f)(5). While this duty was assigned to the default service provider, the OCA submits that this is not a default service – *i.e.* the type of service that is received by customers who make no affirmative choice of an alternative supplier. On the contrary, under Section 2807(f)(5), residential and small business customers must "elect to participate in time-of-use rates or real-time pricing." *Id.*

Under Section 2807(f)(5), each Default Service Provider is assigned the task of submitting a time of use rate offering that customers can voluntarily select. The TOU rate is not "default service," but is an offering that each Default Service Provider must make.⁴

⁴ The Bureau of Investigation and Enforcement (BI&E) argued in its Main Brief that the TOU costs are not default service costs, and therefore recovery of the TOU under collection through the CTR would not be appropriate. BI&E M. B. at 9. The OCA agrees that TOU rates are optional, voluntary rates that are paid by customers who make an affirmative selection and is not default service. BI&E M.B. at 7. The OCA, however, reaches a different conclusion on the recovery of the historic TOU costs for the reasons set forth herein and in the OCA's Main Brief at 6-8.

Despite the OCA's disagreement with the Company's default service argument in support of its claim, the OCA submits that the Company's request for recovery of the TOU cost undercollection through the proposed CTR is just and reasonable. The Company has an obligation under Act 129, as a DSP with smart meters in place in its service territory, to offer customers a TOU rate by filing a plan that includes a time of use rate option. The Company filed such a plan and the Commission approved it. The Company administered its Commission-approved TOU program, consistent with its tariff. The current undercollection of costs resulted from operation within that tariff.

In addition, the Company had in place a Commission-approved mechanism to continue to collect the undercollection from the remaining residential TOU customers. The Company made a filing under the existing approved tariff and voluntarily asked for a suspension of existing rates in order to protect the existing TOU customers from experiencing an extraordinary and unreasonable rate shock on September 1, 2011. The Commission issued an Order suspending the rates on August 25, 2011. The Company has complied with the Commission's suspension order and filed a revised TOU program going forward in the fall of 2012. Given the actions of the Company to date, the OCA submits that the collection of the historic TOU undercollection costs through the CTR is just and reasonable.

III. CONCLUSION

For the reasons set forth above, the OCA submits that the Company's proposed Competitive Transition Rate provides it with a reasonable mechanism to collect historic costs associated with the transition to post-rate cap residential default service as well as the undercollection of residential time of use rates that were a result of unique circumstances. The CTR should therefore be approved. The OCA submits, however, that the proposed Reconciliation Rider should not be approved as proposed because the Rider is not necessary at this time and would add considerable customer confusion around default service.

Respectfully Submitted,



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Dated: April 24, 2012

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CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Exceptions, 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 24th day of April 2012.

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