



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166  
Tel: 717.232.8000 • Fax: 717.237.5300

Adeolu A. Bakare  
Direct Dial: 717.237.5290  
Direct Fax: 717.260.1744  
abakare@mwn.com

April 24, 2012

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**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 for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the original and nine copies of the Exceptions of the PP&L Industrial Customer Alliance ("PPLICA") concerning the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and Exceptions, and kindly return them for our filing purposes. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'A. Bakare', written over a horizontal line.

Adeolu A. Bakare

Counsel to PP&L Industrial Customer Alliance

Enclosures

c: Administrative Law Judge Susan D. Colwell (via E-mail and Hand Delivery)  
Certificate of Service

RECEIVED  
2012 APR 24 PM 4:01  
PA PUC  
SECRETARY'S BUREAU

[www.mwn.com](http://www.mwn.com)

HARRISBURG, PA • LANCASTER, PA • STATE COLLEGE, PA • HAZLETON, PA • COLUMBUS, OH • WASHINGTON, DC

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

---

**EXCEPTIONS OF THE  
PP&L INDUSTRIAL CUSTOMER ALLIANCE**

---

RECEIVED  
2012 APR 24 PM 4:04  
PA PUC  
SECRETARY'S BUREAU

Pamela C. Polacek (I.D. No. 78276)  
Adeolu A. Bakare (I.D. No. 208541)  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 237-5300  
ppolacek@mwn.com  
abakare@mwn.com

Counsel to the PP&L Industrial Customer Alliance

Dated: April 24, 2012

## I. INTRODUCTION

On August 3, 2011, PPL Electric Utilities Corporation ("PPL" or "Company") filed a Petition for Approval to Implement a Reconciliation Rider ("RR") for Default Supply Service ("Initial Petition"). Shortly afterwards, on August 25, 2011, PPL filed an Amended Petition to Implement a Reconciliation Rider and Competitive Transition Rider ("CTR") for Default Supply Service ("Amended Petition" or "Petition"). The RR and CTR would reconcile undercollections and overcollections associated with PPL's current Transmission Service Charge ("TSC"), Generation Supply Charge-1 for small business and residential customers ("GSC-1"), and Generation Supply Charge-2 for large commercial and industrial customers ("GSC-2"). PPL proposed both riders seeking to more accurately recover undercollections and overcollections related to the provision of generation supply and transmission services.

The PP&L Industrial Customer Alliance ("PPLICA") filed an Answer to the Initial Petition on August 25, 2011 and an Answer to the Amended Petition on September 19, 2011. PPLICA is an ad hoc association of energy-intensive commercial and industrial customers receiving electric service in PPL's service territory. PPLICA members purchase service from PPL primarily under Rate Schedules LP-4, LP-5, LP-6, IS-P and IS-T, as well as available riders.<sup>1</sup> These Rate Schedules make up the Large Commercial and Industrial ("Large C&I") Class.

The Commission subsequently assigned the proceeding to Administrative Law Judge ("ALJ") Susan D. Colwell. ALJ Colwell convened a Prehearing Conference on October 5, 2011, where the parties established a procedural schedule for testimony, hearings, and briefs. In accordance with the procedural schedule, PPLICA participated in evidentiary hearings, filed a Main Brief on January 9, 2012, and filed a Reply Brief on January 23, 2012.

---

<sup>1</sup> Some PPLICA members also have accounts on Rate Schedules GS-1 and GS-3.

On April 4, 2012, ALJ Colwell issued a Recommended Decision ("R.D.") recommending that the Commission approve the RR, with modifications suggested by PPLICA and Office of Small Business Advocate ("OSBA"), and deny the CTR entirely. The R.D. adopted several modifications to PPL's proposed RR, including PPLICA's recommendation that any rider approved in this proceeding must separately reconcile transmission-related expenses for Large C&I Primary and Large C&I Transmission customers consistent with PPL's current reconciliation practices. The R.D. also accepted modifications recommended by the OSBA, including suspending imposition of the RR for new customers and recovering the RR balances through a rolling annual reconciliation period rather than the fixed annual reconciliation period originally proposed by PPL. With the adopted modifications, the R.D. finds that the RR aligns default service costs with customers taking default service at the time such costs were incurred.

With regards to the CTR, the R.D. finds that the CTR ostensibly violates principles of cost causation and that further analysis of whether the CTR actually violates principles of costs causation cannot be completed as the balance to be recovered will remain unknown until May 31, 2012. For the above reasons, the R.D. denies the CTR entirely.

PPLICA is concerned that the R.D. fails to consider that cost causation is determined by the source of the balance accrued rather than the amount. For generation-related balances, the entirety of the historical balance to be reconciled through the CTR accrued after the expiration of generation rate caps when most Large C&I customers transitioned to competitive supply. Conversely, PPLICA's Main and Reply Briefs show that the historical transmission-related balances for the Large C&I customer classes includes overcollections recovered by PPL before the expiration of generation rate caps on December 31, 2009. During 2009, substantially all Large C&I customers were served by default service, paid the retail TSC to PPL and therefore

contributed to the accrual of this overcollection balance.<sup>2</sup> Due to reporting errors and Commission-ordered deferrals, substantial portions of the 2009 transmission-related balance remain on PPL's accounts. Therefore, while the transmission-related balance existing as of May 31, 2012 cannot be determined at this time, the record establishes that all Large C&I customers contributed to the currently deferred TSC balance. However, PPL's current reconciliation methodologies would reconcile the deferred TSC balance amongst only the 14% of PPL's customers remaining on default service. See R.D. p. 5. The 86% of PPL's customers taking competitive supply would be excluded from the reconciliation of TSC balances, despite having contributed to the balances. R.D., p. 5. The R.D., in an attempt to preserve cost causation, overlooks the fact that permitting PPL to reconcile its historical transmission-related balance through the CTR would appropriately assign the outstanding balances to the Large C&I Primary and Large C&I Transmission customers responsible for its accrual. Accordingly, PPLICA hereby files this Exception urging the Commission to partially reject the R.D.'s denial of the CTR and allow PPL to implement the CTR to reconcile historical transmission-related expenses for the Large C&I Primary and Large C&I Transmission customers.

## II. EXCEPTION

### A. Exception No. 1: The R.D. Erred in Denying PPLICA's Request to Approve PPL's Proposed CTR for Reconciliation of Historical Transmission Related Expenses.

#### *R.D. Recommendation*

The R.D. erroneously rejects PPLICA's arguments for permitting PPL to implement the CTR solely for purposes of reconciling historical transmission-related expenses. The R.D. correctly observes that the proposed CTR does not differentiate between shopping and non-

---

<sup>2</sup> As confirmed by PPL "shopping was almost non-existent on PPL Electric's system until after the generation rate caps expired in December 31, 2009." PPL Stmt. No. 1-R.

shopping customers, but fails to apply PPLICA's separate analysis of the generation and transmission components of the rider. As a general matter, PPLICA agrees with the R.D. that imposing a non-bypassable rider to recover default service-related under and overcollections "appears to violate [Act 129] and the regulation requiring the cost of default service to be borne by the default service customers." R.D., p. 42. PPLICA makes precisely the same observation in its Main Brief, finding that:

Act 129 entitles an electric supplier serving as a provider of last resort to full and current recovery of all reasonable costs incurred in providing default service. 66 Pa. C.S. § 2807(e)(3.9). However, Section 2807(e)(3.9) of the Act does not suggest or imply that such costs can be recovered from customers taking competitive supply. PPLICA M.B., pp. 13-14.

Although both PPLICA and the R.D. reach identical conclusions regarding the general applicability of cost causation principles, the analyses diverge from this point. The R.D. finds that PPL's proposed CTR is unreasonable because the critical question of cost causation cannot be addressed without analyzing the actual under and overcollection data as of May 31, 2012. R.D., p. 42. With the data being absent, the R.D. denies the CTR without prejudice, thereby enabling PPL to resubmit its request upon consideration of the actual data to be recovered through the rider. R.D., p. 43.

Although the CTR would recover under and overcollection balances that cannot be determined prior to May 31, 2012, the unavailability of actual cost data does not entirely frustrate analysis of cost causation. The R.D. briefly summarizes PPLICA's analysis showing that large portions of the currently deferred transmission-related variances are attributable to all Large C&I customers, but fails to incorporate this observation into its disposition of the CTR. Contrarily, the R.D. appears to mischaracterize PPLICA's position by suggesting that PPLICA's

non-opposition to the transmission-related component of the CTR conflicts with its opposition to the RR. The relevant excerpt reads as follows:

...PPLICA has no objection to refunds, only to assessing shopping customers for undercollections occurring during those customers' time on default service. As these are two sides to the same coin, they cannot be separated. R.D., p. 30.

Although the above excerpt is taken from the R.D.'s discussion of the RR, it seems directed towards PPLICA's position on the CTR. PPLICA opposed implementation of the RR without qualification. Therefore, the above language suggests that PPLICA's opposition to the CTR for reconciliation of generation-related variances is contradicted by its non-opposition to the CTR for reconciliation of transmission-related variances. This perspective would explain the R.D.'s reluctance to address PPLICA's bifurcated analysis of the CTR, but it nevertheless lacks evidentiary support. PPLICA demonstrated that the generation-related variances to be recovered through the CTR accrued after the introduction of competitive supply, while substantial transmission-related variances accrued during periods where all Large C&I customers remained on default service. The R.D. portrays PPLICA's bifurcated position as contradictory, where in fact, PPLICA's separate analysis of the generation and transmission components of the CTR was developed in observance of the same cost causation principles cited as support for the R.D.'s conclusions.

*PPLICA Non-Opposition of Transmission-Related CTR*

Contrary to the suggestion of the R.D., PPLICA's non-opposition to the transmission-related CTR relates not on the existence of an overcollection, but from its analysis identifying the source of the overcollection. PPL's generation-related under and overcollections are attributable to the customers remaining on default service after the expiration of generation rate caps. On the other hand, as demonstrated in PPLICA's Main Brief and summarized below, the under and

overcollections to be recovered through the transmission-related CTR are attributable to all Large C&I customers.

It is undisputed that PPL's generation-related under and overcollections accumulated after customers began transitioning to competitive suppliers. PPL clarifies that:

Prior to January 1, 2010, PPL Electric was operating under generation-related rates that were capped in accordance with the settlement of its restructuring proceeding. As a result, the Company did not have in place a reconcilable Section 1307(e) generation-related (energy and capacity) cost recovery mechanism from January 1, 1997 through December 31, 2009. PPL Stmt. No. 1.

As PPL's generation-related cost recovery mechanism did not exist prior the introduction of competitive retail markets, the associated over and undercollection balances necessarily accrued after customers began migrating to competitive suppliers. PPLICA R.B., p. 7. Specifically, PPL's generation-related balances were primarily caused by a proration accounting methodology creating a two-week lag between costs and billed revenues beginning in January 2010. PPLICA M.B., p. 7. The reverse holds true for PPL's transmission-related balances, which were substantially incurred before the expiration of generation rate caps.

PPLICA's Main Brief provided a detailed account of PPL's TSC variances from December 2009 through November 2011, showing that the overcollection reported in December 2009 remains largely unrecovered from customers. For December 2009, PPL reported a transmission-related overcollection of approximately \$3.2 million for the Large C&I Primary class and \$5.1 million for the Large C&I Transmission class. PPLICA M.B., p. 18, Table 1. These balances were distorted in 2010 due to PPL's erroneous use of 2008 Peak Load Contribution ("PLC") data in the reconciliation of its 2010 TSC.<sup>3</sup> *Id.* at 18. As a result of the

---

<sup>3</sup> PPL's erroneous TSC reconciliation spurred both PPL-specific and statewide investigations into appropriate methodologies for TSC reconciliations. See PPLICA M.B., p. 19 citing PPL Electric Utilities Corp. Proposed

reconciliation error, PPL reported inaccurately low TSC balances from December 2010 to April 2011. Id. at 19, Table 2. PPL self-reported the error and applied corrective adjustments to its TSC reconciliation. Id. at 20-21. As the adjustments were applied prospectively, and not retroactively, they were reflected in the subsequent November 2011 TSC Reconciliation Report. Id. The adjustments restored the TSC overcollection balances to approximately \$1.4 million for the Large C&I Primary customer class and approximately \$4.4 million for the Large C&I Transmission customer class. Id. at 20, Table 3.

Although PPL corrected the reconciliation error to reflect the TSC overcollections, the balances have not been refunded to customers due to a Commission-ordered deferral. Following the adjustments made in the 2011 TSC Reconciliation Report, PPL filed its proposed calculation of the 2011/2012 TSC. Id. at 20. The Commission agreed that PPL's calculations now reflected accurate TSC balances, but recognized that current reconciliation methodologies would require refunds of an approximately \$5 million overcollection to the small percentage of Large C&I customers remaining on default service. Id. at 20. The Commission astutely determined that such an act would distort retail markets by severely deflating PPL's price-to-compare ("PTC"). Id. To avoid unintended market disruptions, the Commission issued an Order at Docket No. M-2011-2239805<sup>4</sup>, requiring PPL to defer refunds to Large C&I customers pending a Final Order in

---

Transmission Service Charge (TSC) Reconciliation for the Twelve Months Ending November 30, 2010, Docket No. M-2010-2213754 (Order entered May 19, 2011) ("PPL TSC Investigation Order") and Investigation Re Transmission Reconciliation Service Charge (TSC) Reconciliation Methods, Docket No. M-2011-2239714 (Order entered May 19, 2011) ("Statewide TSC Investigation Order"). Per the PPL TSC Investigation Order, the Commission's Law Bureau is conducting an investigation of PPL's TSC reconciliation practices. To date, this investigation remains pending. See PPLICA M.B., p. 21.

<sup>4</sup> PPL Electric Utilities Corp. Transmission Service Charge Effective June 1, 2011, Docket No. M-2011-2239805 (Order entered May 19, 2011). The Commission's Order suggested that the balance to be refunded to customers accrued from January 2010 through April 2011. As detailed herein and further supported in PPLICA's Main and Reply Briefs, PPLICA vigorously disagrees with this observation and has demonstrated that the TSC balances to be refunded date back to December 2009, when substantially all Large C&I customers remained on default service.

the Commission's investigation of PPL's TSC methodologies at Docket No. M-2010-2213754. Id. at 20.

As a result of PPL's reconciliation abnormalities and the Commission's subsequent deferral of TSC refunds, the overcollections reported by PPL in December 2009 remain largely unrecovered by the customers responsible for the accruals and deserving of a resolution. Unlike the balances associated with PPL's generation-related under and overcollections, all Large C&I customers contributed substantially to the TSC-related balances. As such, applying the CTR to reconcile PPL's historic transmission-related under and overcollections would align the TSC balances with the responsible customer base in accordance with cost causation principles.

In light of the established cost causation between PPL's historical TSC balances and the entire Large C&I customer base, the Commission should reject the R.D.'s conclusion and resolve this proceeding in a manner restoring fairness and equity for PPL's Large C&I customers. The Commission should not overlook an opportunity to provide its Large C&I customers with the same "full and current" cost recovery afforded to utilities under Act 129. PPLICA M.B., pp. 13-14. The R.D.'s denial of the CTR would continue the tremendous uncertainty faced by Large C&I customers with respect to PPL's TSC. Id. at 11. As noted above, PPL's TSC methodologies are the subject of dual PUC investigations, one addressing PPL-specific TSC calculations and another evaluating statewide TSC best practices. See supra, p. 6, n. 3. In addition to the potential reform of PPL's TSC calculations and policies, PPL's Large C&I customers are forced to continue business operations with no indication of a final resolution to the Commission Order deferring the approximately \$5 million overcollection. PPLICA M.B., p. 20. PPLICA's Reply Brief extensively documented the benefits of concurrently resolving the various TSC-related dockets currently before the Commission. PPLICA R.B., pp. 11-13. Most significantly, separate

resolutions of the TSC proceedings would erode the impact of each decision as a prior resolution in one docket may be altered by the subsequent decision in another. *Id.* at 12. In addition to recommending approval of the CTR for reconciliation of PPL's historical transmission-related balances, PPLICA strongly encourages the Commission to resolve each of the TSC proceedings as expeditiously as possible in order to restore stable and reliable TSC rates for PPL's Large C&I customers.

### **III. CONCLUSION**

The R.D. concludes that the fairness and equity of applying a CTR to shopping customers cannot be assessed because we do not know the actual costs to be recovered through the CTR. This analysis fails to recognize that significance of the source of costs to be recovered through the CTR. Because we know the source of the costs to be recovered through the CTR, we can determine whether a CTR should be applied to shopping customers. With regards to Large C&I customers, the record shows that almost all shopping customers contributed to the deferred TSC balances. Therefore, it is appropriate to include shopping customers in the reconciliation of historical TSC balances through the CTR. Conversely, there exists no showing that shopping customers contributed to the historical generation-related balances and therefore no cause to apply a CTR for recovery such costs. By failing to apply the CTR to recover historical TSC balances, the R.D. eliminates an opportunity to restore cost causation to PPL's TSC reconciliation. All of PPL's Large C&I customers contributed to substantial overcollections that have remained unrecovered for more than two years. In the intervening period, the Commission has opened numerous dockets to address PPL's TSC, including the pending investigation into PPL's TSC calculations and the investigation into the appropriate method for refunding the deferred overcollection. PPLICA M.B., p. 11-12. With these proceedings pending, the R.D.

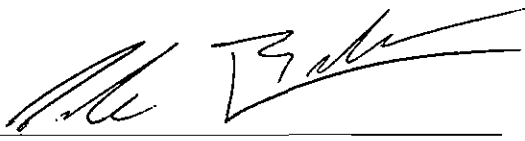
seeks to add another layer of uncertainty for PPL customers, but particularly its Large C&I customers, by denying the CTR without prejudice. PPLICA asserts that the record amply demonstrates that the CTR is appropriate for recovery of historical over and undercollections associated with the Large C&I TSC and should be adopted for such purpose.

**WHEREFORE**, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission:

- (a) Allow PPL to implement the Competitive Transition Rider solely for the purposes of reconciling historical transmission-related under and overcollections; and
- (b) Take any other actions as deemed necessary and appropriate.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Pamela C. Polacek (I.D. No. 78276)  
Adeolu A. Bakare (I.D. No. 208541)  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 237-5300  
ppolacek@mwn.com  
abakare@mwn.com

Counsel to the PP&L Industrial Customer Alliance

Dated: April 24, 2012

RECEIVED  
2012 APR 24 PM 4:02  
PA PUC  
SECRETARY'S BUREAU

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

**VIA E-MAIL AND FIRST-CLASS MAIL**

Aron J. Beatty, Esq.  
Tanya J. McCloskey, Esq.  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place - 5th Floor  
Harrisburg, PA 17101-1921  
[abeatty@paoca.org](mailto:abeatty@paoca.org)  
[tmccloskey@paoca.org](mailto:tmccloskey@paoca.org)

Richard A. Kanaskie, Esq.  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[rkanaskie@state.pa.us](mailto:rkanaskie@state.pa.us)

Elizabeth Rose Triscari, Esq.  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101  
[etriscari@pa.gov](mailto:etriscari@pa.gov)

Todd S. Stewart, Esq.  
Hawke, McKeon, Sniscak & Kennard, LLP  
100 N. 10<sup>th</sup> Street  
Harrisburg, Pa 17101  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)


Anthony D. Kanagy, Esq.  
Christopher T. Wright, Esq.  
Post & Schell, P.C.  
17 North Second Street  
12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
[akanagy@postschell.com](mailto:akanagy@postschell.com)  
[cwright@postschell.com](mailto:cwright@postschell.com)

Daniel Clearfield, Esq.  
Deanne M. O'Dell, Esq.  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8<sup>th</sup> Floor  
Harrisburg, PA 17101  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)

Craig A. Doll, Esq.  
P.O. Box 403  
25 West Second Street  
Hummelstown, PA 17036  
[CDoll76342@aol.com](mailto:CDoll76342@aol.com)

Holly Rachel Smith  
Holly Rachel Smith, PLLC  
Hitt Business Center  
3803 Rectortown Road  
Marshall, VA 20115  
[holly@raysmithlaw.com](mailto:holly@raysmithlaw.com)

RECEIVED  
2012 APR 24 PM 4:04  
PA PUC  
SECRETARY'S BUREAU

  
\_\_\_\_\_  
Adeolu A. Bakare

Counsel to PP&L Industrial Customer Alliance

Dated this 24<sup>th</sup> day of April, 2012, at Harrisburg, Pennsylvania.