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May 4, 2012

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

RE: Petition of PPL Electric Utilities Corporation for Approval to Implement a Reconciliation Rider for Default Service Supply, Docket No. P-2011-2256365; **REPLIES OF DOMINION RETAIL, INC. TO EXCEPTIONS**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission are the original and nine (9) copies of the Replies of Dominion Retail, Inc. to Exceptions in the above-captioned docket. Copies of the Replies have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions related to this filing, please contact the undersigned.

Very truly yours,

Todd S. Stewart
Counsel for Dominion Retail, Inc.

TSS/alh
Enclosures

cc: Honorable Administrative Law Judge Susan D. Colwell
Office of Special Assistants

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLIES OF DOMINION RETAIL, INC.
TO EXCEPTIONS

Dominion Retail, Inc. d/b/a Dominion Energy Solutions ("DES") hereby Replies to the Exceptions of PPL Electric Utilities Corporation ("PPL"), that were filed on April 24, 2012, in response to the Recommended Decision ("RD") of Administrative Law Judge Susan D. Colwell ("ALJ"), that was issued April 4, 2012 in this matter. PPL takes exception to the RD's rejection of its proposed Competitive Transition Rider ("CTR") and other aspects of the RD, and in so doing, repeatedly relies upon the Reconciliation Rider ("RR") that was also proposed in this proceeding, and what DES submits are the mistaken interpretations of law and fact that led the ALJ to recommend approval of PPL's RR while at the same time approving the CTR.

DES Excepted to the RD and raised its legal and factual arguments for the why the RR and other aspects of the RD are blatantly illegal, illogical and ill-conceived. From a policy perspective, if the RD is not corrected by the Commission, the resulting imposition of a migration rider in the PPL service territory will stymie the further development of competition, and will likely cause the current shopping statistics to reverse course. In short, allowing the RR

to become effective would send a signal to the market that what the Commission is doing at ground level is contrary to the progress the Commission has made in implementing programs that will otherwise increase competition.

The choice is stark; continue down the path the Commission already has charted with the paradigm that default service customers pay for default service and shopping customers pay supplier charges, or backslide and allow PPL to drag out the old, anti-competitive, already rejected, regulated service concept of trying to assign default service costs to customers after they shop in an obvious attempt to slow or reverse the shopping trends in its territory. DES submits that the correct choice is obvious, the RR, and the CTR are obviously illegal and anticompetitive and should be rejected. The annual reconciliation also is contrary to the regulations and sound policy and likewise should be rejected.

INTRODUCTION AND BACKGROUND

The RD approved PPL's RR and rejected its CTR. As discussed at length in DES' Main and Reply Briefs and its Exceptions, the RR, will impose a natural gas industry type migration rider in PPL's service territory and will result in competitive customers, DES' customers, to be charged for the cost of default service - after they have switched to competitive service. Contrary to what can be discerned from the scanty analysis of the legal issues in the RD, the RR violates Act 129 and the Pennsylvania Public Utility Commission's ("Commission") regulations on this point.[1] Accordingly, PPL's arguments in its Exceptions relative to the CTR fail on their own accord and because the underpinning of much of PPL's argument is seriously and fatally flawed.

[1] 66 Pa. C.S. § 2807(e)(4) requires that customers who take competitive supply and subsequently return to default service be treated by the EDC "exactly as it would any new applicant for utility service," and, 52 Pa. Code § 54.187(a) requires that the costs of default service be recovered only from default service customers.

The Competitive Transition Rider ("CTR") is PPL's attempt to look backwards and to recover, again from all customers, alleged balances that may or may not already have been refunded to or recovered from customers via PPL's existing reconciliation process, recognizing that shopping activity has leveled off in its service territory. DES considers these balances as "alleged" because throughout the litigation process, PPL's witness stated that the balances could disappear by the end of May 2012.

In her RD dated April 4, 2012, the ALJ recommended approval of PPL's RR and recommended denying PPL's CTR proposal. The ALJ also recommended that PPL abandon its long standing practice of prorating its bills, deferred on the resolution of the issues of over and under collections with respect to GSC-1, GSC-2, and TSC reconciliations for each customer class and recommended that PPL be required to establish separate RR rates for large C&I primary, and large C&I transmission customers.

On April 24, 2012, DES and others filed Exceptions to the Initial Decision wherein DES argued that the ALJ erred in approving the RR because it is patently contrary to Act 129, 66 Pa. C.S. § 2807(3)(4), and the Commission's Regulations, 52 Pa. Code §54.187. In particular, DES submits that 66 Pa. CS § 2807(e)(4) requires that an Electric Distribution Company ("EGS") treat new customers and customers returning to default service in "exactly" the same fashion, and the Commission's regulations at 52 Pa. Code § 54.187 requires that the costs of default service be recovered only from default service customers through the Price to Compare ("PTC"). The RR violates both provisions as discussed more completely in DES' Briefs and Exceptions. Nonetheless, the ALJ recommended approval of the RR based upon her unsupported belief that to do otherwise would "artificially inflate" the PTC. (RD at 36).

Despite the approval of the RR without any legal analysis, the ALJ then recommends, correctly, rejection of the CTR on the basis that "on its face it appears to violate the statute and regulation requiring that the cost of default service be borne by the default service customers." (RD at 42). It simply is illogical to correctly conclude that the CTR violates these provisions, 66 Pa. C.S. § 2807(e)(4) and 52 Pa. Code § 54.187, as the ALJ has done, having in the prior breath concluded that the RR does not. The timing may be different, the calculation different, but both mechanisms, the RR and the CTR, would charge prior period default service costs to customers not taking default service and both mechanisms fail the test and should have been rejected. DES suggests that the Commission disapprove both because they both violate the law.

REPLY TO PPL EXCEPTION NO. 1

PPL Excepts to the ALJ's conclusion that "the CTR violates Act 129 of the Commission's regulations that require the cost of default service to be borne by default service customers. (RD p. 42)" (PPL Exceptions Page 8-9). PPL contends that Act 129 allows PPL to refund or recover over and under collections related to transmissions and generation supply service, and that the RD did not give sufficient weight to the fact that the current shopping customers contributed to historic balances. PPL is correct that Act 129, 66 Pa. C.S. § 2807(e)(3.9) does allow a reconcilable automatic adjustment clause, and no party to this case has disputed that fact. But what the law does not allow, and in fact prohibits, is to collect the costs of default service outside the PTC and from non-default service customers.

The obvious legal reality was not lost on the ALJ when she ruled that the CTR violated the statute and regulations, which are clear, neither the statute nor the regulations permit PPL to

recover any reconciled surcharge from non-default service customers.[2] In neither circumstance, under the CTR or RR, should PPL be permitted to charge customers who are no longer taking default service, for default service costs.

In support of its erroneous contention, PPL asserts that customers presently shopping are possibly responsible for the default service costs that are the basis of the CTR, but this suggestion is pure speculation. PPL cannot offer any proof. It is not controverted that a great number of customers of PPL switched on January 1, 2010, and it strains credulity to imagine how they could be responsible for the costs at issue. In fact, for the residential customers, the most significant balance that PPL sought to recover through the CTR was the result of its misconceived Time of Use ("TOU") rate program which was in place from January 2011 through the end of May 2011 and which was fundamentally and tragically flawed from the outset. Moreover, the record in this case makes it clear that the significant contributing factor to PPL's unrecovered balances is not shopping and not customer migration, but PPL's inability to accurately forecast its rates and to match its revenues and expenses.

PPL claims (PPL Exceptions, p. 10) that it has unrecovered balances, but it is clear from the record in this case, that PPL cannot support the existence of any balance as of this date. In fact, PPL's own witness would not make any projection as to what those balances may be at the end of May 2012. Accordingly, it strains credulity for PPL to continually assert that the Commission should simply rely on PPL's unsupported claim that such balances will exist. If in fact the alleged balances are minimal or nonexistent at this point, it completely undermines PPL's contention that its existing reconciliation process is inadequate to recover those balances in due course. DES' witness suggested that PPL simply did not need the extraordinary measure

[2] This conclusion begs the question of how the ALJ could possibly have recommended approval of the RR.

of a CTR. Accordingly, PPL has failed utterly to carry its burden of proving the need for this mechanism, and the law clearly requires that PPL's Exceptions should be rejected.

In its attack on the ALJ's rejection of the CTR, PPL states: "the RD's focus on individual customers is inconsistent with the principals of class rate making." (PPL Exceptions Page 13). In fact, the lack of focus on class rate making is the basis for the ALJ's mistake in adopting PPL's RR in the first instance. That is, the ALJ's understanding that the RR would theoretically satisfy an individual customer's cost causation through the RR, appears to have been the basis for her plainly overlooking the fact that the RR violates the prohibition against charging shopping customers for default service costs or for treating new or returning customers differently. This matching argument ignores the legal reality that once a customer leaves default service they cannot be charged for the costs of default service, and if a customer returns to default service, they must pay the full costs of the service, regardless of when the costs were incurred. That is what the law requires, no more, no less.

In support of this class ratemaking idea, PPL makes a claim at the bottom of page 13 that "although there may be individual customers who did not contribute to any of the net historic over and under collection balances, many current shopping customers took default service at one point in time and contributed to the net historic over and under collection balances to be recovered through the CTR." While the claim regarding contributions to any balance is provably false, the point that PPL is missing is that unless we move to customer specific rate making, there always will be circumstances in which certain customers are expected to pay rates which recover costs to which they did not contribute, and some customers will be excused from paying such costs.

The General Assembly and the Commission already have decided, in this particular circumstance, that the costs of default service are to be borne only by those customers taking default service and the costs of shopping are to be borne by customers who are shopping - costs are not to follow customers as they move between these alternatives. Despite the fact that the ALJ mistakenly believes that it would be permissible to assign specific costs to shopping customers after they had already shopped, through the RR, does not change the correctness of her conclusion that PPL cannot do so through the CTR. Accordingly, PPL's Exceptions should be denied.

REPLY TO PPL EXCEPTION NO. 2

PPL's second exception is that the ALJ erred in concluding that there is no evidence that the CTR is needed to recover or refund any remaining net historic over or under collection balances as of May 31, 2012. PPL's contention that it "historically has incurred significant over and under collections related to default service" (PPL Exceptions at 14) is unavailing. PPL's own witness declined to provide any substantiation for the existence of balances in those accounts as of the end of this month (May 2012). (Transcript "TR" 54:6-9). Accordingly, there is no evidence in the record that any balance does in fact exist or will exist as of the date of the Commission's decision in this matter. PPL's claim, reduced to its essence is "trust us" there might be a balance, however small. PPL cannot cite to any evidence to support that claim.

It may be true that PPL did accumulate, for whatever reason, over and under collection balances. (Dominion Retail Statement No. 1 "DR St. No. 1", pp. 6-9). It may also be true that significant numbers of customers in certain rate classes did switch to competitive supply, and it likely is true that PPL has done an inadequate job of developing default service rates to account

for its revenues and its reconciliation methodology. (DR St. No. 1, pp. 5-6). However, there is simply no evidence to refute Mr. Butler's assertion that PPL would be able to recover those balances in due course. (DR St. No. 1, 3:16-18; 7:5-15; 8:5-22; 9:2-7; 9:10:15) Mr. Kleha would not commit (TR 54:6-9), so PPL is arguing, in the hypothetical, that there may be balances and that it needs this extraordinary, but otherwise illegal CTR, just in case. PPL audaciously contends that even if such balances are minimal, the CTR is nonetheless justified, but offers no rationale why any residual balance could not be managed in the current manner.

In short, there simply is no basis, in fact or in law, to support PPL's request for a CTR or an RR and both should have been rejected by the ALJ not just the CTR, and PPL's Exception must be denied.

REPLY TO PPL EXCEPTION NO. 3

PPL complains that the RD "erred in recommending that PPL Electric abandon its long-standing practice of prorating its Section 1307(e) cost recovery mechanism to match the actual billed revenue with actual incurred costs for each application." (PPL Exceptions at 18). It would appear that the RD's concern is that PPL's persistent inability to reconcile in a way that did not cause radical variations in PPL's PTC. As Mr. Butler testified, the main cause of the variance in the PTC historically had been PPL's inability to appropriately reconcile based upon its forecast and its revenues. (DR St. No. 1, pp. 5-6). It appears that the RD sought to remedy PPL's failures by imposing a requirement that PPL reconcile actual revenues with actual expenses in the actual periods in which those costs were incurred. More to the point, by PPL's own admission, in 2010, it reconciled twelve (12) months of costs with the eleven and a half (11 ½) months of revenue, which to no one's surprise caused a significant under collection. PPL's rationale for

this approach is that "this is the way we always did it." The fact is, without reconciling twelve (12) months of costs with twelve (12) months of revenue, the only possible result was to create a large under collection balance, which it now claims it needs to recover from all customers. That is, PPL is clearly the creator of the problem which it now seeks to fix by imposing these costs on all customers. While it is true that this ratemaking methodology is under review at other dockets, it is at the heart of this case because PPL seeks to impose the RR as one way to mask the effects of this problem, and other reconciliation problems, by altering and expanding the base of customers across which it recovers these charges - including customers who have left default service and who have shopped, which is blatantly illegal.

Accordingly, PPL Exception No. 3 should be denied.

REPLY TO PPL EXCEPTION NO. 4

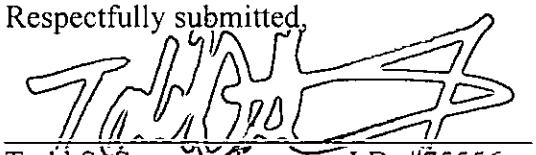
PPL Excepts to the ALJ's recommendation that its proposal to net over and under collections in the GSC-1, GSC-2, and TSC reconciliations for each class be deferred to another proceeding. DES does not object to the netting proposal, however, it does object to PPL's argument in support of its proposal in which it states that "PPL Electric carefully and appropriately balanced the need to reduce rate volatility, promote retail competition, better assign costs to customers and ensure PPL Electric fully recovers these costs as required by law." (PPL Exceptions at 21). To the contrary, it is obvious that PPL did nothing in its RR to promote retail competition or to better assign costs to customers in a way that recovers those costs as required by law. The RR and the CTR both would seek to recover the costs of default service from new customers and those returning to default service differently in violation of Act 129's requirement

of "exact" treatment, and would violate the Commission's regulations which are plain on their face that shopping customers cannot be charged for the cost of default service.

CONCLUSION

The proposed CTR is obviously illegal and the ALJ found it to be so. As discussed herein and in DES' Exceptions, the RR also is illegal, as well as PPL's annual reconciliation request. DES therefore respectfully requests that the Commission Grant its Exceptions and Deny PPL's exceptions in the interests of preserving the law, and the progress in the competitive markets that is gaining so much momentum.

Respectfully submitted,



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Dated: May 4, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party)

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Dated this 4th day of May 2012