

COMMONWEALTH OF PENNSYLVANIA



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IRWINA. POPOWSKY
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July 10, 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 Exceptions to the Recommended Decision in the above-referenced proceeding.

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

Respectfully Submitted,

A handwritten signature in cursive script that reads "Jennedy S. Johnson".

Jennedy S. Johnson
Assistant Consumer Advocate
PA Attorney I.D. # 203098

Enclosure

cc: Honorable Susan D. Colwell
Office of Special Assistants
Certificate of Service

149540

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)	:	
	:	

EXCEPTIONS
OF THE OFFICE OF CONSUMER ADVOCATE

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DATED: July 10, 2012

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I. INTRODUCTION

On June 20, 2012, the Commission issued the Recommended Decision (R.D.) of Administrative Law Judge (ALJ) Susan D. Colwell in the PPL Electric Utilities Corporation (PPL) Time of Use (TOU) rate proceeding. The Office of Consumer Advocate (OCA) submits that the ALJ provided an excellent analysis of the key issues in this proceeding and agrees with a number of the ALJ's findings and conclusions. In particular, the OCA agrees with the ALJ that the Company's proposed residential TOU rate is deficient in several respects and should not be adopted. The OCA respectfully submits, however, that the ALJ's ultimate conclusion that the parties should continue to collaborate on the TOU plan, and delay implementation of a new TOU program until June 1, 2013, should not be adopted due to the special circumstances of this case. R.D. at 20. As set forth more fully below, the problem with the ALJ's recommendation is that it leaves in place the Company's current TOU rates which are producing clearly unreasonable results for the residential customers who are still on those rates.

Currently, PPL is offering residential TOU rates that are, for both on peak and off peak periods, substantially higher than the current default service rate for residential customers. Customers taking PPL's current residential TOU service have no opportunity for savings despite any efforts they take to modify their energy consumption and in fact, will pay more than the current default service customers even if they are successful in dramatically changing their energy consumption patterns. That is because PPL's current residential TOU rate is substantially higher than the default rate in both on-peak and off-peak hours. This outcome is contrary to the intent of the smart metering provisions of Act 129 as well as being contrary to sound ratemaking principles.

The OCA submits that neither customers nor the goals of the smart metering provisions of Act 129 are served by the continuation of the existing residential TOU program which would result from the ALJ's recommendation. The OCA respectfully submits that the existing residential TOU program should not be allowed to continue in its current form at this time. If the Commission agrees with the ALJ that the cost to implement an alternative program before June 1, 2013 is too high, the OCA submits that the Commission should either suspend the current residential TOU rate schedule and return the customers to the regular residential rate schedule, or leave the TOU rate schedule in place but set both the on-peak and the off-peak rates at the RS rate level until such time as new rates are determined for the program beginning June 1, 2013.¹ In the alternative, if the Commission wishes to move forward with a new TOU rate design at this time, the OCA submits that the OCA's proposed rate design for the residential TOU program should be adopted.

¹ Leaving the residential TOU rate schedule in place but adjusting the on-peak and off-peak rates would mean that customers would not have to re-enter the program on June 1, 2013 when a new rate plan is established for the TOU program.

II. EXCEPTIONS

OCA EXCEPTION 1: The ALJ Erred In Allowing For The Continuation Of PPL's Current Residential Time-Of-Use Rate Schedule Until June 1, 2013 Without Modification. (R.D. at 20; OCA M.B. at 6-17; OCA R.B. at 2-7)

The OCA fully supports the ALJ's reasoning in rejecting PPL's TOU proposal in this proceeding. R.D. at 18-20. The OCA respectfully submits, however, that the ALJ's recommendation to delay the implementation of a new TOU program until June 1, 2013 should not be adopted. PPL's current tariff shows that the remaining residential customers that volunteered to take service under TOU rates are paying rates of 9.9 cents/kWh for off-peak power and 11.7 cents/kWh for on-peak power even though PPL's residential default service rate for June-August of 2012 is 7.3 cents/kWh.² See, PPL Electric Exh.1. At the close of the record in this proceeding, there were still approximately 3,300 customers remaining on the TOU rate option. PPL St. 1-R at 8. The rate differential between the TOU rate option and the regular residential default service rate option is particularly troubling for RTS (Residential Thermal Storage) customers that selected the TOU rate option as a method of saving money after the phase out of the RTS generation rate discount.

In rejecting PPL's proposed TOU program, the ALJ identified the following concerns:

This program would be effective for less than one calendar year. There is another proposal in PPL Electric's pending default service provider case. The effectiveness of this program would not be evident until after the litigation of the DSP case is finished, and therefore, the lessons learned will not be available in time to apply them. What is certain is that the implementation of any new

² PPL has recently estimated that its default service rate for RS customers will be 7.778 cents/kwh for the period September 2012 through November 2012. <http://www.papowerswitch.com/shop-for-electricity/shop-for-your-home/by-distributor/ppl/rs>

program incurs costs. For the instant program, those costs would be for minimal or no benefit, considering the length of time that the program would run. This is not in the public interest.

R.D. at 20.

The OCA understands and shares the ALJ's concerns regarding the cost of implementing a new TOU rate at this time. The OCA submits, however, that leaving the current residential TOU rate option in place will only harm customers who are seeking ways to reduce their energy bills through changes in their energy usage. If the Commission agrees with the ALJ that introduction of a new residential TOU plan at this time is not reasonable or cost-effective, the OCA submits that the Commission should take one of two actions. The Commission could leave the residential TOU rate schedule in place but set both the on-peak and the off-peak rates at the RS rate level until such time as new rates are determined for the program beginning June 1, 2013. Customers would remain TOU customers and would be charged the new TOU rates when a new TOU plan is adopted on June 1, 2013. Alternatively, the Commission could choose to suspend the current residential TOU rate schedule and return the customers to the regular RS residential rate schedule until a new program is developed. The customers would then have to elect to enter the new TOU program.

The OCA submits that if the Commission determines that implementing a new program for the period of time between now and June 1, 2013 is not cost-effective, it should not allow the current residential TOU rate design to remain in place as it is harmful to customers, contrary to the goals of the smart metering provisions of Act 129 and contrary to sound ratemaking principles.

OCA EXCEPTION 2: The OCA's Recommended Residential TOU Rate Design Should Be Used If A New TOU Rate Program Is Adopted. (OCA M.B. at 6-17; OCA R.B. at 2-7)

If the Commission chooses to move forward with a new residential TOU rate program at this time, the OCA submits that the Company's foundation for a TOU rate structure that uses the default service rate as a base is appropriate, but that the discount and premium off of the default service rate proposed by PPL are not reasonable. The Company's proposed "premium/discount" methodology that ties TOU rates to the default service price for this program is a reasonable approach at this time. The Company has identified the problems that can occur when the link between its TOU service and its default service price is severed. The OCA submits, however that the Company's proposed filing should be modified so as to encourage greater participation by, and benefits to, residential customers. As the ALJ pointed out with respect to the PPL proposal:

[T]he overall proposal seems to be geared towards discouraging participation while protecting the Company from incurring future undercollections that the Commission may or may not permit it to recoup. Considering the utility's experience with the prior TOU program, its reluctance to propose a bold, attractive, and thus risky, program is understandable. However, there is no evidence that the Company sought to develop anything other than a stop-gap program to meet the minimum standards required, that is, a time of use program that offers rates which are differentiated based upon the time of day that the energy is consumed.

R.D. at 20. The OCA submits that the ALJ correctly identified the flaws contained in the Company's proposal.

As designed, the Company's proposed program will be unattractive to customers and may produce negative results for customers who are unable to shift enough usage. In particular, the OCA submits that the Company's premium/discount percentages are too low to drive the type of significant savings that will garner customer participation. The OCA's expert

witness identified a number of modifications to the Company’s proposal that were necessary to attract customers and incent load shifting. OCA witness Richard S. Hahn³ recommended three key modifications. First, Mr. Hahn proposed a redesign of the premium/discount to better reflect the cost differentials seen in the wholesale market. Second, Mr. Hahn recommended modifications to the Company’s on-peak and off-peak periods to reflect the seasonality associated with wholesale peak usage periods. Finally, Mr. Hahn recommended that the TOU rates be developed in a revenue neutral fashion so that an average customer who elects TOU service and does not shift any usage, or does not shift enough usage, would not face higher generation bills than had they not elected TOU service.

Taking these factors into consideration, the OCA’s expert witness recommended the following:

OCA Proposed Modifications to Daily On-Peak and Off-Peak Hours

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

OCA St. 1 at 10.

³ Mr. Hahn is a Principal Consultant for La Capra Associates who has worked in the electric utility business for over thirty years. Mr. Hahn has testified as an expert witness on numerous occasions in several states. Mr. Hahn has held technical and managerial positions in both regulated and unregulated companies covering all aspects of utility planning, operations, regulatory activities and finance. He is currently an elected Commissioner for the Reading Municipal Light Department (RMLD) in Massachusetts and is Chairman of its Rate and Power Subcommittee. The RMLD is one of the largest municipal systems in New England and maintains its own staff to actively manage its power supply portfolio. Mr. Hahn has a BSEE and an MSEE from Northeastern University and an MBA from Boston College.

OCA Proposed Modifications to Premiums and Discounts

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 OCA submits that its recommendations are fully supported by the Direct and Surrebuttal testimony of Mr. Hahn with a full description of the underlying data used to develop these recommendations. The OCA submits that with these modifications, the residential TOU program would be designed to attract customers, incent load shifting, and reduce energy bills for customers who are able to shift sufficient usage to the off-peak period. This design better aligns with sound ratemaking principles and the goals of the smart metering provisions of Act 129.

OCA EXCEPTION 3: The Commission Should Address Cost Recovery Of The TOU Undercollection In PPL's Pending Reconciliation Rider Petition. (R.D. at 21-23; OCA M.B. at 18-19; OCA R.B. at 7-8)

In this proceeding, the Company seeks Commission approval to recover the current under recovery of TOU-related costs that has accrued in its existing program. R.D. at 21. This amount is estimated to be \$1.8 million. PPL St. 1 at 8. PPL has also made a request to recover this same under recovery amount in another proceeding at Docket P-2011-2256365. In that case, PPL proposed a Competitive Transition Rider that would apply to all distribution customers as a means of recovering the undercollection. In the prior proceeding, the OCA supported PPL's proposed Competitive Transition Rider to recover these historic costs from all

customers because these costs were historic one-time costs from a unique program. In her R.D. in this case, the ALJ described PPL's request in the prior proceeding, and the status of that case, as follows:

The request was made first in *Petition of PPL Electric Utility Corporation for Approval to Implement a Reconciliation Rider for Default Service Supply*, P-2011-2256365, amended to include a Competitive Transition Rider (CTC) which is proposed to recoup all "historic" costs through the 1307(e) reconciliation method from all distribution customers on an "once and done" basis. The Commission has not yet considered the matter, which includes a Recommended Decision that the request for CTC be denied and the recovery of the TOU undercollection be deferred to the present proceeding.

R.D. at 21.

As the ALJ noted, in the prior proceeding, the ALJ recommended that the Commission deny PPL's proposed Competitive Transition Rider and take up the issue of cost recovery for the TOU undercollection in the case at bar. In light of that recommendation, the ALJ considered the Company's request here and determined that the Company's proposed recovery of the undercollection from all default service customers in their respective groups should be approved. R.D. at 22-23. The ALJ found that shifting energy usage from on-peak to off-peak periods will reduce energy costs for all customers and should, therefore, be reflected in lower default service rates. The ALJ then found that the undercollection should be recovered from default service customers of the same usage group. R.D. at 23.

The OCA submits that the Commission should address the issue of the recovery of the historic undercollection in PPL's pending Petition at Docket P-2011-2256365 where a full record has been developed on the issue. OCA witness Hahn testified as the significance of the issue as follows:

The Company has an existing under-collection of costs associated with its prior residential TOU program of \$1,889,460, as of October 31, 2011. If this was charged to remaining TOU customers only, it would add 13.15 cents/kWh to the residential TOU rates. This would probably cause almost all customers to leave the TOU rate. The Company has therefore proposed in a separate docket to collect this shortfall from all residential customers through a Competitive Transition Rider (“CTR”). If the Commission does not approve the CTR in Docket No.P2011-2256365, the Company requests in this proceeding approval to collect the under-collection through the GSC-1 reconciliation mechanism.

OCA St. 1 at 17-18.

As noted above, the OCA supports PPL’s proposal in Docket No. P-2011-2256365 to implement a Competitive Transition Rider for the recovery of these costs. If the Commission does not adopt that proposal, it will be important for PPL and the other parties to review the Commission’s reasoning before crafting a different recovery proposal. OCA witness Hahn testified:

The Commission has been asked to address this issue in a different proceeding. Until the Commission rules on the request for a CTR, it does not seem appropriate to comment on the possible secondary collection mechanism. If the Commission rejects the proposed CTR, parties can view its reasoning and consider whether some other mechanism might be appropriate.

OCA St. 1 at 18.

The OCA submits that it is inappropriate to consider PPL’s request for recovery of this historic undercollection from the implementation of the TOU program in this docket. If this request is considered, however, the OCA continues to recommend that the recovery of this historic undercollection be from a broad customer base due to the unique nature of this situation. The OCA has stated in the Company’s proposed Competitive Transition Rider docket that the Company should be permitted to recover this extraordinary, historical undercollection but in no

case would it be reasonable to collect these substantial costs from just a few thousand remaining TOU customers.

III. CONCLUSION

For the reasons detailed in the OCA's Main Brief, Reply Brief and these Exceptions, the OCA submits that PPL's existing residential TOU program should not be allowed to continue. PPL's existing residential TOU program should be suspended or modified in accordance with the recommendations of the OCA in these Exceptions. If a new TOU rate design is implemented in this case, it should be designed in accordance with the OCA recommendations set forth herein. In addition, the OCA submits that the Commission should address cost recovery of the existing TOU undercollection in the PPL's pending Reconciliation Rider proceeding at Docket Number P-201102256365 as the issues have been fully briefed and are squarely before the Commission in that proceeding.

Respectfully submitted,



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DATED: July 10, 2012
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CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2011-2264771
	:	C-2011-2267808
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 Exceptions to the Recommended Decision, 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 10th day of July 2012.

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