



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Anthony D. Kanagy

akanagy@postschell.com
717-612-6034 Direct
717-731-1985 Direct Fax
File #: 2507/140069

July 20, 2012

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**RE: Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation
Docket Nos. R-2011-2264771, C-2011-2267808 and C-2011-2268983**

Dear Secretary Chiavetta:

Enclosed please find the Reply Exceptions of PPL Electric Utilities Corporation in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Anthony D. Kanagy', is written over a large, stylized circular mark. Below the signature is the printed name 'Anthony D. Kanagy'.

ADK/skr

Enclosure

cc: Certificate of Service
Honorable Susan D. Colwell

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL AND FIRST CLASS MAIL

Tanya J. McCloskey
Aron J. Beatty
Jennedy S. Johnson
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Richard A. Kanaskie
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
PO Box 3265
Harrisburg, PA 17105-3265

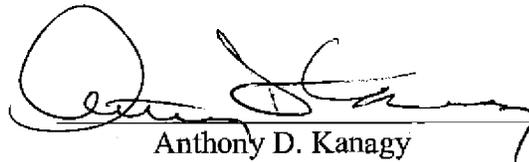
Sharon Webb
Office of Small Business Advocate
Commerce Building
300 North Second Street, Suite 1102
Harrisburg, PA 17101

Kenneth L. Mickens
The Sustainable Energy Fund of Central
Eastern Pennsylvania
316 Yorkshire Drive
Harrisburg, PA 17111

Eric Joseph Epstein
4100 Hillsdale Road
Harrisburg, PA 17112

Todd S. Stewart, Esquire
Hawke, McKeon & Sniscak LLP
100 N. 10th Street
PO Box 1778
Harrisburg, PA 17101

Date: July 20, 2012



Anthony D. Kanagy

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	Docket Nos. R-2011-2264771
v.	:	C-2011-2267808
	:	C-2011-2268983
PPL Electric Utilities Corporation	:	

**REPLIES OF PPL ELECTRIC UTILITIES CORPORATION
TO EXCEPTIONS OF OTHER PARTIES**

Paul E. Russell (ID #21643)
Associate General Counsel
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
Voice: 610-774-4254
Fax: 610-774-6726
E-mail: perussell@pplweb.com

David B. MacGregor (ID #28804)
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
Voice: 215-587-1197
Fax: 215-320-4879
E-mail: dmacgregor@postschell.com

Of Counsel:

Post & Schell, P.C.

Anthony D. Kanagy (ID #85522)
Jessica R. Rogers (ID #309842)
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Voice: 717-731-1970
Fax: 717-731-1985
E-mail: akanagy@postschell.com
E-mail: jrogers@postschell.com

Dated: July 20, 2012

Attorneys for PPL Electric Utilities Corporation

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I. INTRODUCTION

The Recommended Decision (“RD”) of Administrative Law Judge Susan D. Colwell in the above-captioned proceeding was issued by the Pennsylvania Public Utility Commission (“Commission”) on June 20, 2012. On July 10, 2012, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), the Bureau of Investigation and Enforcement (“I&E”) and the Office of Consumer Advocate (“OCA”) filed Exceptions to the RD. Herein, PPL Electric files Replies to the Exceptions of I&E and the OCA.

II. SUMMARY OF REPLIES TO EXCEPTIONS

In the RD, the ALJ recommended that PPL Electric keep its current TOU rates in effect through May 31, 2013, at which time a new TOU program will be approved by the Commission under the Company’s default service proceeding at Docket No. P-2012-2302074. In its Exceptions, the OCA disagrees with this recommendation, arguing that the currently effective TOU rates are too high as compared to the Company’s currently effective fixed price default service rates.

PPL Electric supports the ALJ’s recommendation to leave the currently effective TOU rates in place until May 31, 2013. There are several reasons why the ALJ’s recommendation is sound. The rate differential does not present a significant concern because TOU customers can leave the TOU rate at any time and either shop or select the fixed price default service option. In fact, PPL Electric has notified TOU customers of these options on several occasions. In addition, it is not certain that the rate differential will continue in the future. The fixed price default service rate could increase in later months, thereby reducing the rate differential. In addition, if the TOU rates remain higher than the Company’s fixed price default service rate, this could serve to reduce the Company’s existing TOU undercollection.

The ALJ's recommendation to leave the current TOU rates in effect is also reasonable because it provides continuity for existing TOU customers. The currently effective TOU rates have been in effect for over a year. Continuing the currently effective TOU rates in effect through May 31, 2013, will provide rate certainty for TOU customers until a new TOU program is adopted.

In Exceptions, the OCA offers two alternative proposals to adopting a new TOU program. The OCA's first proposal is to set both the residential TOU on-peak and off-peak rates at the fixed price default service rate. The second alternative is to suspend the current residential TOU program pending the approval of a new TOU program in the Company's default service proceeding at Docket No. P-2012-2302074. Of note, this is the first time that the OCA has raised these proposals. It is not appropriate for the OCA to raise these two alternative proposals for the first time in Exceptions because PPL Electric and the parties do not have the opportunity to properly consider them or to respond with on the record evidence.

Moreover, both of these proposals arguably violate Act 129. As a default service provider with smart meters, PPL Electric is required to offer TOU rates to customers. TOU rates are rates that vary based on the time of day. The OCA's first alternative does not vary the rates by the time of day, and therefore, would appear to violate Act 129. The OCA's second proposal also appears to violate Act 129 because it would prevent PPL Electric from offering TOU rates to residential customers.¹

The OCA further argues that if one of its alternative proposals is not adopted, the Commission should adopt the OCA's proposed modifications to the Company's TOU program.

¹ The Commission does not need to decide whether the OCA's proposals violate Act 129, but could simply reject them because they were raised for the first time in Exceptions. See *Pa. P.U.C. v. Columbia Gas of Pa., Inc.*, Docket No. R-2009-2093219, 2009 Pa. PUC LEXIS 1843, *37 - *38, Order entered September 24, 2009; *Pa. P.U.C. v. Pennsylvania Power and Light Company*, 57 Pa. P.U.C. 559, 596-597, Order entered August 19, 1983.

As explained below, the OCA's proposed modifications to the Company's TOU program would negatively impact customer convenience, would likely discourage customer participation and would not create an incentive for the average customer to shift load.

In Exceptions, I&E continues to argue that the Company's TOU rate option is not a default service option and that the Company should not be permitted to fully recover its TOU costs. I&E ignores the plain language of Act 129 in making this argument. As a DSP, PPL Electric is required to offer a TOU rate option for default service customers. The TOU rate option and fixed price rate option are simply two different rate options for default service.

I&E argues that the Company's TOU rate option is more characteristic of a competitive offer than default service. The TOU rate option is not similar to competitive service. The TOU rate option is offered under Act 129, is regulated by the Commission and the Company cannot make a profit providing TOU service. Contrary to I&E's assertions, the TOU rate option is not at all similar to a competitive offer.

In addition, the Company has explained that it is entitled to recover its TOU costs, including its TOU undercollections, regardless of whether TOU service is default service or not because the Commission has previously granted the Company permission to recover its TOU program costs. The Company has also explained that it is reasonable to recover TOU default service undercollections from all default service customers, by customer class.

Finally, the OCA argues that the Commission should not decide the TOU undercollection issue in this proceeding but should decide the issue in the Company's Reconciliation Rider/Competitive Transition Rider ("RR/CTR") proceeding at Docket No. P-2011-2256365. The OCA's argument cannot be accepted. The Commission has just issued an order in the RR/CTR proceeding on July 19, 2012. In that order, the Commission deferred ruling on the

TOU program over/under collection issues to this proceeding. Therefore, the OCA's request is moot, and this is the appropriate proceeding for the Commission to decide this issue. As noted in testimony in this proceeding, PPL Electric's request for recovery of TOU undercollections was an alternative proposal in the event that the Company was not permitted to recover its prior period TOU undercollection through the RR or CTR. The Commission recently disapproved the RR and CTR as cost recovery mechanisms. However, this disapproval does not preclude recovery of prior period TOU undercollections through a separate mechanism.² In the RR/CTR Order, the Commission held that it would decide whether the TOU over and undercollections were reasonably incurred in this proceeding. As explained in this proceeding, PPL Electric's TOU costs are reasonable and PPL Electric is authorized by statute and prior Commission Order to recover its TOU undercollections. Moreover, there is a full record in this proceeding upon which to make a decision. Therefore, PPL Electric's alternative proposal to recover its prior period TOU undercollections from all default service customers in this proceeding is reasonable.

III. REPLIES TO EXCEPTIONS

A. TOU Program Design

1. The ALJ's Decision To Continue The Company's Current TOU Rates Is Sound.

The RD recommends that PPL Electric continue its currently effective TOU rates through May 31, 2013, until the Commission approves a new TOU program in the Company's default service proceeding. RD at 25. The OCA filed Exceptions to this Recommendation, arguing that it is not reasonable to keep the currently effective TOU rates in place due to the difference

² In the April 4 Recommended Decision at Docket No. P-2011-2256365, the ALJ recommended that PPL Electric include its TOU undercollection amount in its Reconciliation Rider rates, consistent with the amount of the undercollection approved as reasonably incurred costs in this proceeding. April 4 Recommended Decision, p. 59. No party in this proceeding has presented any evidence whatsoever that any of PPL Electric's TOU costs are or were unreasonable.

between the currently effective TOU default service rate option and the fixed price default service rate. OCA Exc., p. 3.

PPL Electric recognizes that both the currently effective TOU on-peak and off-peak default service rates are above the fixed price default service rate. However, PPL Electric does not believe that the RD erred in recommending that the Company keep its currently effective TOU rates in place until May 31, 2013, for several reasons. First, TOU customers are free to shop or elect the fixed price default service option at any time. In fact, PPL Electric has advised TOU customers of these options on numerous occasions. Second, as noted by the RD, the TOU rates will only be in effect until May 31, 2013, until a new TOU program is adopted. This is a relatively short time period and will provide continuity for customers that elect to remain on the TOU program. Third, the currently effective TOU rates have already been in place for almost a year and have not caused any significant issues. Fourth, the fixed price default service rate could increase between now and May 31, 2013. This would reduce the rate differential between the TOU default service option and the fixed price default service option. Fifth, higher TOU rates will serve to mitigate or even reduce the Company's TOU undercollection. One of the primary issues in this proceeding is how PPL Electric should be able to recover its TOU undercollection. If PPL Electric is able to collect more of the undercollection from TOU customers, this will reduce the amount of the undercollection to be recovered from non-TOU customers.

There are many reasons supporting the RD's recommendation to leave the currently effective TOU rates in place through May 31, 2013, and this decision should be upheld.

2. OCA's Alternatives To Adopting A New TOU Program Appear To Be Contrary to Law And Cannot Be Adopted.

In Exceptions, the OCA states that it understands the ALJ's concerns about adopting a new TOU program at this time. OCA Exc. at 4. As explained above, the OCA disagrees with

the RD's recommendation to continue the currently effective TOU rates. Instead, the OCA proposes two alternatives to adopting a new TOU program. The first alternative proposed by the OCA is to leave the TOU rate schedule in place but to set both the on-peak and off-peak residential TOU default service rates at the fixed price default service rate. The second OCA alternative is to suspend the current residential TOU rate schedule and return the TOU customers to the fixed price residential default service rate until a new program is adopted. OCA Exc. at 4. The OCA has raised these two proposals for the first time in its Exceptions. The OCA did not offer these proposals in its testimony, and the Company did not have an opportunity to respond to them in the record. It is not appropriate for the OCA to raise new proposals in its Exceptions, and these proposals should not be accepted for this reason alone. See *Pa. P.U.C. v. Columbia Gas of Pa., Inc.*, Docket No. R-2009-2093219, 2009 Pa. PUC LEXIS 1843, *37 - *38, Order entered September 24, 2009; *Pa. P.U.C. v. Pennsylvania Power and Light Company*, 57 Pa. P.U.C. 559, 596-597, Order entered August 19, 1983.

Moreover, both of these alternatives appear to be contrary to law and cannot be adopted. As explained in this proceeding, PPL Electric, as a default service provider with smart meters, is required to offer a TOU rate option as a matter of law. Under Act 129, a TOU program is a program that has different rates based on different time periods. See 66 Pa.C.S. § 2806.1(m). The OCA's first proposal to set both the on-peak and off-peak rates at the fixed price default service rate appears to violate Act 129 because it does not adopt time-varying rates. In addition, OCA's second proposal also appears to violate Act 129 because the Company would not offer any TOU rate option for residential customers. See 66 Pa.C.S. § 2807(f)(5).

The Commission should not adopt the OCA's proposals because they (1) were improperly raised for the first time in Exceptions, and (2) appear to be contrary to Act 129.

3. If A New Residential TOU Program Is Adopted, The Commission Should Adopt PPL Electric's Proposal.

In Exceptions, the OCA argues that if the Commission adopts a new residential TOU program in this proceeding, the Commission should adopt the OCA's proposed modifications to the Company's residential customer TOU program. OCA Exc. at 5. PPL Electric disagrees with the OCA's argument. If the Commission adopts a new residential TOU program in this proceeding, the Commission should adopt the Company's proposal as filed.

(i) On-Peak and Off-Peak Periods

One of the Company's primary goals in proposing the new TOU program was to present a simple program for customers, particularly with respect to the on and off peak periods. A simple program design makes it easier for customers to compare options, including competitive options. However, at the same time, any design must account for differences in on peak and off peak PJM prices, adopt time periods that are attractive to customers and encourage load shifting from on peak to off peak periods.

PPL Electric's witness, Mr. Woodruff, explained how the Company determined the on-peak and off-peak period for residential customers. First, the Company evaluated the relationship between historical market prices and load shapes for residential customers. PPL Electric St. No. 2, p. 8. The 2010 hourly Locational Marginal Price ("LMP") for the PPL Zone and the actual load shape for the residential class were used to average price variances for on-peak and off-peak periods. Then, the Company evaluated on-peak periods to see what period would: (1) have a sufficient provision to encourage load shifting, (2) have a reasonable timeframe to encourage participation and (3) include typical summer and winter peak load periods. PPL Electric St. No. 2, p. 8. Based upon its evaluation, the Company concluded that a

year-round on-peak period of 12:00 p.m. to 7:00 p.m. for residential customers was reasonable. PPL Electric St. No. 2, p. 7

The proposed on-peak and off-peak periods for residential customers are different than those that exist under the Company's Current TOU program. Under its Current TOU program, the Company has separate on-peak and off-peak periods for the summer and non-summer seasons for residential customers. The summer peak hours are from 1:00 p.m. to 6:00 p.m. and the non-summer peak hours are from 5:00 p.m. to 7:00 p.m. Under its proposed TOU program, the Company is simplifying the on-peak and off-peak periods so that the on-peak period is from 12:00 p.m. to 7:00 p.m. year-round, excluding weekends and holidays.³ This new peak period captures both the summer and non-summer peak periods from the Company's previous TOU programs. The new year-round, consistent time period will simplify TOU program implementation for customers because it will: (1) be easier for them to remember, (2) not require them to reset timers on appliances or other devices, or (3) not require them to change usage patterns on a seasonal basis. PPL Electric St. No. 2, p. 7.

In Exceptions, the OCA opposes the simplified year round on-peak and off-peak periods. The OCA supports a summer peak period of 11 a.m. to 7 p.m. and a non-summer peak period of 5 p.m. to 9. p.m. OCA Exc. at 6. According to the OCA, this design is superior to the Company's design because it reflects seasonality associated with wholesale peak usage periods.

PPL Electric disagrees that the OCA's TOU program design is superior to the Company's proposal for several reasons. First, PPL Electric's rate design captures both summer and non-summer peak periods. See PPL Electric MB at 24. Moreover, the OCA's proposal would likely discourage customer participation as compared to PPL Electric's proposal. OCA's proposed

³ Holidays are those recognized by PJM Interconnections, LLC which are New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

summer on-peak period is one hour longer than the Company's proposed on-peak period. This is not substantially different. However, in order to make his summer on-peak period work, the OCA proposes a summer on-peak premium of 50%, while the Company's on-peak premium is only 20%. See OCA St. No. 1, p. 14; PPL Electric St. No. 2, p. 10. On its face, the proposed 50% premium could discourage customers from choosing the TOU program. In addition, this proposal could make the TOU program very unattractive for residential air conditioning customers due to the long peak period and high premium for a long part of the summer day.

The OCA's non-summer peak period also could discourage customer participation because it extends very late in the evening hours. Customers that return to their homes from a normal work-day would have to limit electric usage in non-summer months until relatively late at night, and well past dark, in order to achieve savings. Moreover, the OCA would only propose a discount of 4%, with a premium of 25%. OCA St. No. 1, p. 14. The discount is lower than what PPL Electric would propose, the premium is higher and the on-peak period would appear to be more inconvenient for many customers. In addition, under the OCA's proposal, customers would have to reset any equipment controls and adjust usage on a seasonal basis. For these reasons, the OCA's proposal would likely discourage customer participation.

A TOU program looks at more than just historic on-peak periods in developing on-peak periods. In addition to looking at historic on-peak periods, a reasonable TOU program should adopt a reasonable timeframe, a reasonable premium and a reasonable discount to encourage customer participation. PPL Electric Exh. No. 1, p. 9. In addition, a default service provider should offer a simple TOU program that does not inhibit competition. PPL Electric St. No. 2-R, p. 5. PPL Electric has considered all of these factors in developing its TOU program, including its on-peak and off-peak periods.

For the reason stated above and in the Company's Briefs, the Company's proposal would likely foster greater customer participation, be more attractive to customers and encourage greater load shifting than the OCA's proposal.

(ii) On-peak and Off-peak Pricing

One of the primary differences between the Company and the OCA proposals is how to set the TOU rates. The OCA argues that TOU program rates should be set to be revenue neutral on a class average basis. OCA Exc. at 6. PPL Electric disagrees with this rate design methodology because it does not create the proper incentives for customers to shift load from on-peak to off-peak periods.

PPL Electric designed the TOU program to provide appropriate incentive for customers' to shift usage. In addition, the Company attempted to limit the number of potential "free riders" or customers that could take the TOU default service rate and save money when compared to the fixed rate option within shifting usage. Under the Company's proposed TOU program, a residential customer with an average load profile would need to shift just over 7% of their on-peak usage to off-peak periods to save money, when compared to the fixed price default service rate. In addition, a small C&I customer with an average load profile would need to shift over 11.4% of his/her on-peak usage to off-peak periods to save money, when compared to the fixed price default service rate. PPL Electric St. No. 2-R, p. 22. This is a reasonable approach because it provides an incentive for customers to shift load rather than allowing the average customer to enroll in the program, not shift load and have the same bill as if the customer remained on the fixed price default service rate. The goal of the program is to encourage customers to shift load, not to retain the status quo.

Moreover, the OCA's proposed TOU pricing would likely discourage customer participation. In the summer periods, the OCA proposes a 50% premium as opposed to the Company's proposed 20% premium. Customers may be discouraged from participating in the program as proposed by OCA due to the considerably higher price that would be charged in the summer period. Customers could view this higher premium as a penalty. Moreover, as noted above, for non-summer months, the OCA proposed on-peak premium is higher than the Company's, the OCA's proposed discount is less than the Company's, and the OCA proposes more inconvenient hours. The OCA's proposal will discourage customer participation and should not be adopted.

B. Cost Recovery Issues

1. The TOU Rate Option Is A Default Service Option.

In its Exceptions, I&E argues that the RD erred in finding that the TOU rate option is a default service option. I&E Exc. at 3. According to I&E, PPL Electric has "not provided substantial evidence to support the classification of its TOU program as default service." I&E Exc. at 3. Contrary to I&E's assertions, the issue of whether a TOU rate option is a default service option is an issue of statutory interpretation not an issue of substantial evidence.

PPL Electric, as a default service provider, is required to offer a TOU program under Act No. 129, which provides, in pertinent part, as follows:

By January 1, 2010, or at the end of the applicable generation rate cap period, whichever is later, a *default service provider* shall submit to the commission one or more proposed time-of-use rates and real-time price plans. . . . The *default service provider* shall offer the time-of-use rates and real-time price plan to all customers that have been provided with smart meter technology. . . . Residential or commercial customers may elect to participate in time-of-use rates or real-time pricing. The *default service provider* shall submit an annual report to the price programs and the efficacy of the programs in affecting energy demand and consumption and the effect on wholesale market prices.

66 Pa. C.S. § 2807(f)(5) (emphasis added). Under Act 129, a TOU program is a default service option that is provided by a default service provider. Indeed, the Commission recently confirmed that a TOU program is an element of default service under 66 Pa. C.S. § 2807(f)(5) provided by a default service provider, not a transmission or distribution rate option provided by an electric distribution company. *Petition of PECO Energy Company for Approval of Its Initial Dynamic Pricing and Customer Acceptance Plan*, Docket No. M-2009-2123944, 2011 Pa. P.U.C. LEXIS 5 (April 5, 2011).

Throughout this proceeding, I&E has argued that the TOU rate option is not default service because default service customers choose the TOU option. I&E Exc. at 4. This argument is inconsistent with the Public Utility Code. Under the Public Utility Code, a default service provider provides generation service to 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 generation supplier.**

66 Pa. C.S. § 2803 (emphasis supplied).

Therefore, under the Public Utility Code, the relevant choice is not whether the customer chooses the TOU rate option, but whether the customer chooses an EGS. If the customer does not choose an EGS, the customer is taking default service.

I&E also argues that the Company's TOU program is "more characteristic of a competitive offering than default service." I&E Exc. at 4. This argument is clearly incorrect for many reasons, including the following:

- The Company, as a regulated EDC, does not make competitive supply offerings. EDCs are not supposed to compete with EGSs in Pennsylvania.
- The Company is required to offer the TOU rate option under Act 129. EGSs are not required to make any specific supply offer to customers.

- The Company's TOU rate option is regulated by the Commission. EGSs' competitive offers are not regulated by the Commission.
- The Company is not making a profit on its TOU rate option. EGSs can make a profit on competitive offers.

For these reasons, the Company's TOU rate option does not have the characteristics of a competitive offering.

I&E also argues that the "necessary characteristics associated with default service, including the least cost procurement obligation, have not been demonstrated." I&E Exc. at 5. This argument is completely incorrect. The Company acquires electric supplies for TOU customers under its Commission-approved default service plan in the same manner that it procures supplies for all default service customers. When the Commission approved the Company's default service plan, the Commission specifically held that the Company's default service plan met the least cost requirements of Act 129.⁴ Therefore, I&E's argument that TOU generation supplies are not obtained under Act 129's least cost requirements is incorrect.

As the Company explained in its Briefs in this proceeding, I&E appears to be confusing "service" and "rates" in order to make its argument that TOU default service is a different service than fixed default service. The Public Utility Code separately defines "rate" and "service". In this context, "service" is what is received by the customer, i.e., electricity supply. "Rates" are what the customer pays for that "service". PPL Electric only offers one default service. The statute requires that PPL Electric provide customers with a fixed price rate option and a TOU rate option for that service. I&E's distinction between TOU default service and fixed default service is a distinction based on different rates, rather than different service.

⁴ *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 through May 31, 2013*, Docket No. P-2008-2060309, Order entered June 30, 2009.

2. PPL Electric Should Be Able To Recover TOU Default Service Costs From All Default Service Customers On A Class Basis.

I&E disagrees with the RD's recommendation that PPL Electric be permitted to recover its TOU undercollections from all default service customers, by class. I&E Exc. at 5-8. The RD's recommendation regarding TOU cost recovery was sound and should be upheld.

As explained above, PPL Electric's TOU rate option is offered by the Company, as a DSP, to meet its Act 129 requirements. The Company's TOU program clearly is default service, and the Company is authorized by statute to recover its default service costs. Moreover, as explained in the Company's Main Brief, even if the TOU rate option is not default service, the Commission has authorized PPL Electric to recover its TOU costs through a Section 1307(e) cost recovery mechanism.⁵

I&E also argues that the Company should not be able to recover its TOU undercollection because the program was poorly designed and it allowed customers to choose the TOU program and save money without shifting usage. I&E Exc. at 6. This situation occurred because PPL Electric procured generation supplies for TOU customers through the PJM spot market, and spot market prices could be higher or lower than the Company's fixed price default service rate. Using spot market supplies was not a poor program design. In fact, in its Order approving the Company's current TOU program, the Commission stated as follows:

The Commission believes that the proposed TOU program takes a step in right direction when compared to PPL's present TOU program. One of the key components that facilitates this step in the right direction is PPL's proposal to use spot market procurements to provide TOU participant load. This structure essentially allows TOU participants to be provided a form of short term market based rates.

⁵ *PPL Electric Utilities Corporation Supplement No. 94 to Tariff Electric – Pa. P.U.C. No. 201 – Time-of-Use Rates*, Docket No. R-2010-2201138, pp.7, 13.

PPL Electric Utilities Corporation Supplement No. 94 to Tariff Electric – Pa. P.U.C. No. 201 – Time of Use Rates, Docket No. R-2010-2201138, Order entered December 2, 2010, p. 5.

I&E's argument that the Company's TOU program was poorly designed is based on an improper hindsight review. As the Commission previously has found, "the reasonableness of the utility management's decision-making must be based upon the state of the information available at the time the decisions had to be made and without reliance upon after-discovered facts or hindsight." *Pa. P.U.C. v. Philadelphia Electric Co.*, 71 Pa. P.U.C. 42, 45 (1980).⁶ I&E's reliance on hindsight is improper and is no reason to deny PPL Electric recovery of its costs.

In addition, as the Company explained in its Main Brief, the Company's projected TOU costs are based on the public NYMEX spot market.⁷ PPL Electric St. No. 1-R, p. 7. The fact that these projections were low because they did not anticipate a global increase in energy prices does not make PPL Electric's projections imprudent or unreasonable. On the contrary, PPL Electric took reasonable and prudent steps in developing its prior TOU program, and denying recovery of costs based on hindsight is improper. Further, I&E has offered no evidence that PPL Electric's costs were unreasonable.

Moreover, in its last TOU proceeding, the Commission approved PPL Electric's request to fully recover its TOU costs through a reconcilable Section 1307(e) cost recovery mechanism. *See id.*, pp. 7, 13. Therefore, the Commission already has determined that PPL Electric should be permitted to recover its TOU costs. Because of the amount of the undercollection and the low level of residential TOU customers, PPL Electric will not be able to recover its TOU costs

⁶ *See also C & D Technologies, Inc. et al v. PPL Electric Utilities Corporation*, Docket Nos. C-00992119 et al. (Order entered on February 4, 2005), *Pa. PUC v. Philadelphia Electric Company*, 561 A.2d 1224, 1227 (Pa. 1989), *Pittsburgh v. Pa. PUC*, 88 A.2d 59 (Pa. 1952), *National Fuel Gas Distribution Corp. v. Pa. PUC*, 464 A.2d 546 (Pa. Cmwlth. Ct. 1983).

⁷ *See* PPL Electric Main Brief, p. 12

through the existing mechanism. The fact that PPL Electric will not be able to recover its TOU costs through its existing mechanism does not make the costs imprudent.

I&E also argues that PPL Electric should only recover TOU costs from TOU participants. I&E Exc. at 8. The Company does not agree with this argument for several reasons. First, if PPL Electric is not able to recovery its TOU undercollection from TOU customers, then I&E's position violates PPL Electric's statutory right to recover its costs. Second, the universe of TOU customers is not static. Many former TOU customers that contributed to the undercollection are now taking default service or shopping with an EGS.

Importantly, all residential customers are eligible to select the fixed price option or the TOU option for their default service. They can move back and forth at will and, in fact, have done so as the TOU option rates have moved up and down. Tr. 27. The residential customer class is one class of customers, and the Public Utility Code expressly allows class-based ratemaking. 66 Pa. C.S. § 1304. In addition, the Commission has broad discretion in establishing classes for establishing rates. *Peoples Natural Gas Co. v. Pa. P.U.C.*, 409 A.2d 446, 47 Pa. Cmwth. 512 (1979) ("*Peoples*"). In *Peoples*, the Commonwealth Court stated as follows:

It is well settled that the establishment of a rate structure is an administrative function peculiarly within the expertise of the commission. *Pittsburgh v. Pennsylvania Public Utility Commission*, 168 Pa. Superior Ct. 95, 78 A.2d 35 (1951).

Id. at 456.

Here, fixed price and default service customers are taking and receiving exactly the same service under two different rate options and may move back and forth between the two rate options at will. It is reasonable to treat these customers as one class for reconciliation purposes.

Moreover, the RD's recommendation is consistent with long-standing practice and precedent. As explained by Mr. Kleha, PPL Electric's Commission-approved Competitive

Transaction Charge (“CTC”), Intangible Transaction Charge (“ITC”) and Transmission Service Charge (“TSC”) were established on a customer-class basis. PPL Electric St. No. 1-R, p. 9. Each of these broad customer classes has different rate schedules. For example, the residential class has three separate distribution rate options, including Rate Schedules RS, RTS and RTD. PPL Electric St. No. 1-R, p. 4. The CTC, ITC and TSC do not reconcile costs separately for these three residential rate options. See PPL Electric St. No. 1-R, p. 9. Moreover, in a 2010 Order regarding PPL Electric’s CTC Interim Reconciliation Report, the Commission stated as follows:

By Order issued April 11, 2002 at R-00027213, the Commission approved PPL’s request to modify its CTC Rider to permit reconciliation of CTC revenues on a Rate Class basis rather than on an individual Rate Schedule basis that it had been using. Under the Rate Class based reconciliation, the net over/under collection of a Rate Class is allocated to all of the Rate Schedules within that Class. PPL proposed this modification so it could more readily recover its stranded costs by the established cost recovery period ending December 31, 2009.

PPL Electric Utilities Corporation Competitive Transition Charge Interim Reconciliation Report for 2010, Docket No. M-2009-2145273, Order entered July 15, 2010, 2010 Pa. PUC LEXIS 1828, *1 - *2. This is exactly what PPL Electric is proposing in this proceeding, to reconcile default service costs on a rate class basis as opposed to a rate schedule basis.

In addition, PPL Electric’s TOU costs clearly are reasonable and, in fact, no party has challenged the reasonableness of the Company’s TOU costs in this proceeding. PPL Electric acquires generation supplies for TOU customers through the PJM spot market. PPL Electric St. No. 1-R, p. 6. The PJM spot market reflects the competitive market price for supplies. Therefore, PPL Electric’s TOU costs clearly are reasonable, and PPL Electric should be permitted to fully recover its costs.

3. It Is Reasonable To Decide The TOU Cost Recovery Issue In This Proceeding.

In Exceptions, the OCA also argues that the Commission should not decide the issue regarding recovery of TOU undercollections in this case but rather should decide this issue in the Company's Reconciliation Rider/Competitive Transition Rider ("RR/CTR") proceeding at Docket No. P-2011-2256365. OCA Exc. at 8. The OCA's argument should not be accepted for several reasons.

First, the Commission has just issued its Order in the RR/CTR proceeding on July 19, 2012. *Petition of PPL Electric Utilities Corporation For Approval To Implement a Reconciliation Rider for Default Service Supply*, Docket No. P-2011-2256365. Therein, the Commission did not rule on the TOU over/undercollection reconciliation issue, but specifically deferred that ruling to this proceeding. *Id.* at 55. Therefore, the OCA's proposal is moot and cannot be accepted.

Second, as explained above, PPL Electric is entitled to full recovery of its TOU costs including its TOU undercollections. Even though the Commission denied PPL Electric's proposed RR and CTR mechanisms, without prejudice, the Commission should find that PPL Electric is entitled to recover its TOU undercollections in this proceeding. There is no valid reason to avoid making a decision regarding this very important issue in this proceeding. Moreover, in the RR/CTR proceeding, PPL Electric proposed completely new reconciliation mechanisms, the RR and CTR, that would include TOU undercollections, as well as other over/undercollections. Even though the RR and CTR were denied, this should not preclude the Company from recovering its TOU undercollections. The Commission may approve an alternative request for recovery in this proceeding.

In support of its position, OCA argues that the Commission should decide this issue in the RR/CTR proceeding because a full record of this issue has been developed in that proceeding. OCA Exc. at 8. In making this argument, the OCA ignores that a full record on this issue has been developed in this proceeding as well.

The OCA also states that if the Commission does not adopt the CTR, it would be important for PPL Electric and parties to review the Commission's reasoning before "crafting a different recovery proposal." OCA Exc. at 9. PPL Electric disagrees that this is necessary. Even though the Commission did not adopt the CTR proposal, the Commission can clearly adopt the RD's recommendation in this proceeding to allow the Company to recover TOU undercollections from all default service customers, by class. PPL Electric has explained why this approach is reasonable in this proceeding and no further review by the Company or other parties is necessary.

Finally, the OCA states that it is appropriate to recover the TOU undercollection from a broad customer base and not from a few thousand remaining TOU customers. OCA Exc. at 9 – 10. The Company agrees that it should be permitted to recover its TOU undercollection from a broad customer base. However, that is not a reason to avoid deciding the TOU undercollection issue in this proceeding. In fact, if the ALJ's recommendation in this proceeding is adopted, PPL Electric will recover its TOU undercollection from a broad base of default service customers, not just TOU customers.

Importantly, the TOU undercollection issue should be addressed before any new TOU program is adopted. PPL Electric has offered a TOU rate option to customers under Act 129 and should not be required to offer a new program until after the TOU undercollection recovery issue is resolved.

For the reasons stated above, the Commission should decide the TOU undercollection issue in this proceeding.

IV. CONCLUSION

WHEREFORE, for the reasons explained above, and in the Company's Exceptions, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission find that:

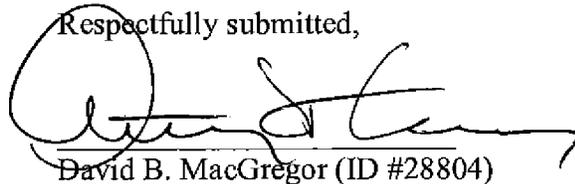
1. PPL Electric shall continue its currently effective TOU rates through May 31, 2013, and
2. PPL Electric shall be permitted to recover its TOU undercollections or refund its TOU overcollections through May 31, 2013, from or to all default service customers, by customer class.

Paul E. Russell (ID #21643)
Associate General Counsel
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
Voice: 610-774-4254
Fax: 610-774-6726
E-mail: perussell@pplweb.com

Of Counsel:

Post & Schell, P.C.

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Respectfully submitted,


David B. MacGregor (ID #28804)
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
Voice: 215-587-1197
Fax: 215-320-4879
E-mail: dmacgregor@postschell.com

Anthony D. Kanagy (ID #85522)
Jessica R. Rogers (ID #309842)
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Voice: 717-731-1970
Fax: 717-731-1985
E-mail: akanagy@postschell.com
E-mail: jrogers@postschell.com

Attorneys for PPL Electric Utilities Corporation