

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of PPL Electric Utilities  
Corporation for approval of a  
Default Service Program and  
Procurement Plan for the Period  
June 1, 2013 through May 31, 2015**

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**Docket No. P-2012-2302074**

**MAIN BRIEF OF  
THE JOINT SUPPLIERS**

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3. *Opinion and Order in Re: Petition of PPL Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 Through May 31, 2014*, Commission Docket No. P-2008-2060309 (entered June 30, 2009).
4. *Opinion and Order in Re: Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Default Service Programs*, Commission Docket Nos. P-2011-2273650, P-2011-2273668, P-2011-2273669, P-2011-2273670 (entered August 16, 2012).
5. *Opinion and Order in Re: Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Default Service Programs*, Commission Docket Nos. P-2011-2273650, P-2011-2273668, P-2011-2273669, P-2011-2273670 (entered September 27, 2012)
6. *Implementation Order II in Re: Implementation of the Alternative Energy Portfolio Standards Act of 2004*, Commission Docket No. M-00051865 (entered July 18, 2005).

**MAIN BRIEF OF  
THE JOINT SUPPLIERS**

**I. INTRODUCTION**

**A. SUMMARY AND STATEMENT OF POSITION**

Constellation NewEnergy, Inc. and Exelon Generation Company, LLC (“Constellation”), along with NextEra Energy Services Pennsylvania, LLC and NextEra Energy Power Marketing, LLC (“NextEra”) (collectively, the “Joint Suppliers”) hereby submit their Main Brief for consideration by the Pennsylvania Public Utility Commission (“Commission”), with regard to the Default Service Implementation Plan filed by PPL Electric Utilities Corporation (“PPL Electric”) on May 1, 2012<sup>1</sup> (with supporting testimony from PPL Electric circulated on May 16, 2012<sup>2</sup>) in Docket No. P-2012-2302074, *Petition of PPL Electric Utilities Corporation for approval of a Default Service Program and Procurement Plan for the Period June 1, 2013 through May 31, 2015* (the filing herein referred to as the “Default Service Plan” or “DSP”).

The Joint Suppliers submit that PPL Electric’s DSP will be consistent with the Electric Choice Act and the requirements of *Act 129 of 2008* (“Act 129”)<sup>3</sup> if revised to incorporate certain limited improvements including, but not limited to, certain important improvements to PPL Electric’s proposed form of Supply Master Agreement (“SMA”), in order to encourage the broadest participation by suppliers.

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<sup>1</sup> *Petition of PPL Electric Utilities Corporation for approval of a Default Service Program and Procurement Plan for the Period June 1, 2013 through May 31, 2015*, Commission Docket No. P-2012-2302074 (May 1, 2012).

<sup>2</sup> *Direct Testimony of PPL Electric Utilities Corporation*, Commission Docket No. P-2012-2302074 (May 16, 2012) (“PPL Electric Direct Testimony”).

<sup>3</sup> *Press Release, Governor Rendell Signs Energy Conservation Bill to Save Consumers Millions on Electricity; Urges Legislature to Pass Rate Mitigation Bill*, Pennsylvania Office of the Governor (Oct. 15, 2008) ([http://www.portal.state.pa.us/portal/server.pt?open=512&objID=2999&PageID=431162&mode=2&contentid=http://pubcontent.state.pa.us/publishedcontent/publish/global/news\\_releases/governor\\_s\\_office/news\\_releases/governor\\_rendell\\_signs\\_energy\\_conservation\\_bill\\_to\\_save\\_consumers\\_millions\\_on\\_electricity\\_\\_urges\\_legislature\\_to\\_pass\\_rate\\_mitigation\\_bill.html](http://www.portal.state.pa.us/portal/server.pt?open=512&objID=2999&PageID=431162&mode=2&contentid=http://pubcontent.state.pa.us/publishedcontent/publish/global/news_releases/governor_s_office/news_releases/governor_rendell_signs_energy_conservation_bill_to_save_consumers_millions_on_electricity__urges_legislature_to_pass_rate_mitigation_bill.html)).

## **B. BACKGROUND INFORMATION AND PROCEDURAL HISTORY**

PPL Electric on May 1, 2012 filed its DSP. Supporting testimony from PPL Electric was filed on May 16, 2012. On June 6, 2012, a Prehearing Conference was held, with Administrative Law Judge Susan D. Colwell (“ALJ”) presiding. At the Prehearing Conference, the ALJ adopted the procedural schedule (“Procedural Schedule”) agreed to by the parties. The ALJ issued a Scheduling Order on June 7, 2012.

Notices or Petitions to Intervene were filed by the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate, the Bureau of Investigation and Enforcement, Sustainable Energy Fund, Eric Joseph Epstein, UGI Energy Services d/b/a UGI EnergyLink, Direct Energy Services, Retail Energy Supply Association, PP&L Industrial Customer Alliance, FirstEnergy Solutions Corporation, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, Dominion Retail, Inc. d/b/a Dominion Energy Solutions and Interstate Gas Supply, Noble Americas Energy Solutions, Constellation and NextEra.

Pursuant to the Procedural Schedule, direct testimony was submitted by intervening parties on July 20, 2012. Subsequently, rebuttal testimony was submitted by parties on August 17, 2012, and surrebuttal testimony was filed on August 31, 2012. Constellation submitted and circulated to parties direct, rebuttal and surrebuttal testimony for the Commission’s consideration, in order to provide an analysis of the DSP.<sup>4</sup> NextEra did not submit testimony in

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<sup>4</sup> See *Direct Testimony of Stephen E. Bennett on Behalf of Intervenors Constellation NewEnergy, Inc. and Exelon Generation Company*, Commission Docket No. P-2012-2302074 (July 20, 2012) (“Constellation St. 1”); *Rebuttal Testimony of Stephen E. Bennett on Behalf of Intervenors Constellation NewEnergy, Inc. and Exelon Generation Company*, Commission Docket No. P-2012-2302074 (Aug. 17, 2012) (“Constellation St. 1R”); *Surrebuttal Testimony of Stephen E. Bennett on Behalf of Intervenors Constellation NewEnergy, Inc. and Exelon Generation Company*, Commission Docket No. P-2012-2302074 (Aug. 31, 2012) and *Errata to Surrebuttal Testimony of Stephen E. Bennett on Behalf of Intervenors Constellation NewEnergy, Inc. and*

this proceeding. Hearings were scheduled for September 7, 10 and 11, 2012, at which time pre-filed written testimony and exhibits were admitted into the record, and party witnesses were made available for cross examination.

The issues that were reserved for litigation and decisions by the ALJ and the Commission were included in an *Common Outline for Briefs* (“Brief Outline”) sent to the ALJ on September 14, 2012. The Joint Suppliers address in this Main Brief only limited issues identified in the Brief Outline, and has identified those issues with the headings and descriptors laid out in the Brief Outline.

## **II. SUMMARY OF ARGUMENT**

The Joint Suppliers submit that, in order to meet the goals of Act 129, all electric distribution companies’ (“EDCs”) Default Service plans must be designed in such a way as to encourage the broadest participation by wholesale suppliers. PPL Electric’s DSP will be consistent with the Electric Choice Act and the requirements of Act 129, if revised to incorporate certain limited improvements including, but not limited to, certain important improvements to PPL Electric’s proposed form of SMA. With these limited changes, PPL Electric’s proposed design will be more likely to encourage the broadest participation by suppliers, is likely to more effectively meet the goals of Act 129, and will be in the public interest.

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*Exelon Generation Company*, Commission Docket No. P-2012-2302074 (Sept. 7, 2012) (“Constellation St. 1SR”) (collectively, the “Constellation Testimony”).

### **III. ARGUMENT**

#### **A. LEGAL STANDARDS**

##### **1. Burden of Proof**

Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. Further, it is axiomatic that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.”<sup>5</sup>

##### **2. Standards Applicable to Default Service**

The requirements for EDCs’ structures for Default Service procurements can be found in Act 129’s revisions to Section 2807, *Duties of Electric Distribution Companies*, of Title 66 of the Pennsylvania Consolidated Statutes (66 Pa.C.S. § 2807). Overall, Act 129 requires that, for a utility’s Default Service procurement structure:

- (1) “The electric power acquired shall be procured through competitive procurement processes and shall include” auctions, requests for proposals and/or bilateral agreements;<sup>6</sup> (“Requirement (1)”)
- (2) “The electric power procured . . . shall include a prudent mix of” spot market purchases, short-term contracts and long-term purchase contracts “of more than four and not more than 20 years”;<sup>7</sup> (“Requirement (2)”) and
- (3) The “prudent mix” of supply contracts “shall be designed to ensure” (a) “adequate and reliable service,” (b) “the least cost to customers over time,” and (c) “compliance

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<sup>5</sup> *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A. 2d 600, 602 (Pa. Cmwlth. 1990).

<sup>6</sup> Act 129 at 66 Pa.C.S. § 2807(e)(3.1).

<sup>7</sup> Act 129 at 66 Pa.C.S. § 2807(e)(3.2).

with the requirements of Paragraph (3.1)”<sup>8</sup> (“Requirement (3)”). Note that Paragraph (3.1) is the section of Act 129 which describes the “prudent mix” included in the second requirement above.

With respect to Requirement (3)(b), Act 129 provides a template for addressing whether a Default Service Plan is likely to result in “the least cost to customers over time,” stating specifically that:

At the time the Commission evaluates the plan and prior to approval, *in determining if the [DSP] obtains generation supply at the least cost*, the Commission shall . . . make specific findings which shall include the following:

(i) the [DSP] includes prudent steps necessary to negotiate favorable generation supply contracts.

(ii) the [DSP] includes prudent steps necessary to obtain least cost generation supply contracts on a long-term, short-term and spot market basis. [and]

(iii) neither the default service provider nor its affiliated interest has withheld from the market any generation supply in a manner that violates federal law.<sup>9</sup>

Finally, on June 30, 2009, the Commission entered an order regarding PPL Electric Utilities Corporation’s (“PPL Electric”) proposed procurement structure for Default Service supply (“June 2009 Order”).<sup>10</sup> In its June 2009 Order, the Commission affirmed that (a) “provisions that enhance competitive bidding provide tangible and current benefits to Pennsylvania electricity customers,”<sup>11</sup> (b) “a DSP must include prudent steps necessary to obtain

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<sup>8</sup> Act 129 at 66 Pa.C.S. § 2807(e)(3.4).

<sup>9</sup> Act 129 at 66 Pa.C.S. § 2807(e)(3.7) (*emph. added*).

<sup>10</sup> *See Opinion and Order in Re: Petition of PPL Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 Through May 31, 2014*, Commission Docket No. P-2008-2060309 (entered June 30, 2009) (“June 2009 Order”).

<sup>11</sup> June 2009 Order at p.29.

‘least cost generation supply contracts,’<sup>12</sup> and (c) provisions of a DSP “must be structured so as to encourage greater competition.”<sup>13</sup>

## **B. THE PROPOSED DEFAULT SERVICE PROGRAM**

### **1. Class Procurements**

#### *e) AEPS Procurement*

##### *i. Transfer of AECs*

The Joint Suppliers propose that PPL Electric’s SMA should be revised to require the transfer of alternative energy credits (“AECs”) from the wholesale Default Service supplier (“DS Supplier”) to PPL Electric on an annual rather than monthly basis to better reflect the nature of the AEC trading market, as explained by Constellation witness Bennett in his testimony.<sup>14</sup> PPL Electric argues in favor of this monthly AEC transfer on the basis that it “reduces the risk that a [DS Supplier] will default on its obligation to transfer AECs,” that “all suppliers understand their obligations in conjunction with when monthly invoices are issued, reducing confusion and enabling [DS Suppliers] to procure credits closer to the time of delivery,” and that the monthly transfer allows PPL Electric “to recover costs associated with AEC transfers from customers on a more frequent basis.”<sup>15</sup>

Constellation witness Bennett explains that this monthly transfer, however, is a highly unusual practice that causes confusion and administrative burden, and that no other utility in Pennsylvania (or elsewhere to his knowledge) requires such a monthly transfer of AECs pursuant

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<sup>12</sup> June 2009 Order at p.30.

<sup>13</sup> June 2009 Order at p.30.

<sup>14</sup> See Constellation St. 1 at p.34 (line 17) – 35 (line 19).

<sup>15</sup> PPL Electric St. 1-R at p.27 (lines 1-12).

to a Default Service supply agreement.<sup>16</sup> This practice is not common, because it is not in line with the nature of the market in which AECs trade. Because AEC compliance under various states' alternative energy portfolio standards ("AEPS") is typically required on a yearly basis, market participants with such AEPS requirements typically manage their AEC portfolios with such timing in mind.<sup>17</sup> While market participants may trade AECs regularly throughout the year, they do not typically reconcile their portfolios and transfer/retire AECs for compliance purposes more frequently than yearly. As Mr. Bennett explains:

Under this structure, at the end of a compliance year, for instance, an AEC portfolio manager will review all eligible AECs in her portfolio and choose and transfer to a utility all required AECs in an appropriate manner.<sup>18</sup>

In order to reflect the nature of the AEC market, and the practice of all other EDCs, therefore, the Joint Suppliers propose to require DS Suppliers to transfer AECs to PPL Electric on a yearly rather than monthly basis. Thus, the Joint Suppliers propose the following Ordering Paragraph:

PPL Electric is ORDERED to revise the SMA to require the transfer of AECs from the DS Supplier to PPL Electric on an annual rather than monthly basis.

ii. Alternative Compliance Payment

Constellation had proposed in testimony that PPL Electric make clear in the SMA that a DS Supplier that cannot or does not transfer to PPL Electric the appropriate amount of AECs can instead pay the appropriate Alternative Compliance Payment ("ACP") for such shortage.<sup>19</sup> PPL

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<sup>16</sup> See Constellation St. 1 at p.34 (lines 20-22).

<sup>17</sup> See Constellation St. 1 at p.34 (lines 22-25).

<sup>18</sup> See Constellation St. 1 at p.35 (lines 4-6).

<sup>19</sup> See Constellation St. 1 at p.34 (lines 9-25).

Electric in response pointed to the Commission's July 15, 2005 *Implementation Order II* in Docket No. M-00051865, which explains that ACPs are not recoverable by an EDC from its customers.<sup>20</sup> Based on a review of the language in the June 2005 Order, the Joint Suppliers will not pursue any such change to the SMA at this time.

## 2. Rate Design

### *h) Recovery of Transmission and Other Related Charges*

#### i. Costs to be Included in the TSC or GSC

Constellation had proposed in this proceeding that PPL Electric revise its Transmission Service Charge ("TSC") Rider's "non-market based charges" ("NMB Charges") to include certain new charges attributed to load resulting from PJM's implementation of its revised Economic Load Response ("ELR") program in compliance with a recent FERC order regarding demand response compensation. While the Joint Suppliers continue to support such a change for the reasons presented throughout the Constellation Testimony, based on the Commission's recent August 16, 2012 *Opinion and Order* and September 27, 2012 *Opinion and Order* in Docket Nos. P-2011-2273650, P-2011-2273668, P-2011-2273669, P-2011-2273670 ("FirstEnergy DSP Orders") – regarding the *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Default Service Programs* – the Joint Suppliers will not pursue any such change to the TSC Rider at this time, and will accept the Commission's approval of the TSC Rider, and the SMA provisions pertaining to the NMB Charges collected through the TSC Rider, as proposed by PPL Electric.

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<sup>20</sup> See PPL Electric St. 1-R at p.27 (lines 17-24).

ii. Non-Bypassable Structure

Constellation had proposed in this proceeding that PPL Electric assume NMB Charges for all distribution customers and, in turn, that the TSC Rider should apply to all shopping and non-shopping customers alike, in order to collect NMB Charges on behalf of all customers on a non-bypassable basis. While the Joint Suppliers continue to support such a change for the reasons presented throughout the Constellation Testimony, based on the Commission's recent FirstEnergy DSP Orders, the Joint Suppliers will not pursue any such change to the TSC Rider at this time, and will accept the Commission's approval of the TSC Rider, and the SMA provisions pertaining to the NMB Charges collected through the TSC Rider, as proposed by PPL Electric.

**4. Other Default Service Program Issues**

a) *Supply Master Agreement and RFP Process and Rules*

i. Revisions to the Supply Master Agreement

Subject to the additional SMA improvements proposed by Constellation in this proceeding, PPL Electric's procurements under the DSP will be consistent with the requirements under Act 129. Constellation presented evidence in this proceeding outlining important reasons for certain limited improvements to PPL Electric's proposed form of SMA. The Joint Suppliers herein argue for three particular changes proposed by Constellation, "in order to encourage the most robust participation in the DSP's [requests for proposals ("RFPs")]."<sup>21</sup> Specifically, the Joint Suppliers ask that the Commission order PPL Electric to revise the SMA to: (1) include other EDCs' more appropriate unsecured credit thresholds or, at a minimum, the thresholds used in the SMA previously approved for use by PPL Electric in its 2011-2013 Default Service Plan

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<sup>21</sup> Constellation St. 1 at p.26 (line 8).

(the “2011-13 SMA”); (2) provide for weekly settlements in order to reflect and operate in concert with PJM Interconnection, L.L.C.’s (“PJM”) weekly settlement process; and (3) as agreed to by PPL Electric, allow a DS Supplier three Business Days rather than only two Business Days to replace a Letter of Credit. The Joint Suppliers’ suggested improvements to the wholesale supply documents will ensure that PPL Electric’s DSP meets the requirements of Act 129, allowing the DSP to solicit and obtain contracts for the least cost generation supply on a long-term, short-term and spot market basis.

*(1) Act 129 Requires that the Commission Find that the DSPs  
Are Structured so as to Encourage Greater Competition and  
Thus the Least Cost Generation Supply Contracts*

Requirement 3 of Act 129, as identified above, requires that the “prudent mix” of supply contracts in a Default Service Plan “shall be designed to ensure” (a) “adequate and reliable service,” (b) “the least cost to customers over time,” and (c) “compliance with the requirements of Paragraph (3.1)”<sup>22</sup> Moreover, with respect to Requirement 3(b), Act 129 lays out that “*in determining if the [DSP] obtains generation supply at the least cost,*” the Commission must make three specific findings, including that the Default Service Plan includes “prudent steps” necessary to: (i) “negotiate favorable generation supply contracts,” and (ii) “obtain least cost generation supply contracts on a long-term, short-term and spot market basis.”<sup>23</sup>

In order to evaluate whether the procurement methods in the DSP will result in least cost generation supply on a long-term, short-term and spot market basis, the competitive structure provides appropriate answers. In each case PPL Electric has designed the competitive bid

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<sup>22</sup> Act 129 at 66 Pa.C.S. § 2807(e)(3.4).

<sup>23</sup> Act 129 at 66 Pa.C.S. § 2807(e)(3.7) (*emph. added*).

procurement structure such that winning bidders are able to be determined on the basis of “least cost” alone, eliminating the need to make determinations regarding bids based on other less objective criteria.<sup>24</sup>

Moreover, the record is clear and unrefuted that when properly structured to allow for a broad potential pool of bidders, competitive procurements will allow PPL Electric to obtain competitively-priced, favorable generation contracts.<sup>25</sup> The record is also clear that the greater the competition in PPL Electric’s procurements, the more likely it is that such procurements will result in the “least cost” to PPL Electric’s consumers.<sup>26</sup> In this way, in making its Act 129-mandated specific findings under Requirement 3(b), the Commission must also make a finding that the DSP will encourage greater competition.

The Commission, in fact, confirmed this requirement in its June 2009 Order regarding PPL Electric’s Default Service Plan. As noted above, the Commission stated specifically that: “provisions that enhance competitive bidding provide tangible and current benefits to Pennsylvania electricity customers,”<sup>27</sup> “a DSP must include prudent steps necessary to obtain ‘least cost generation supply contracts,’” and provisions of a DSP “must be structured so as to encourage greater competition.”<sup>28</sup>

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<sup>24</sup> Constellation St. 1 at p.13 (lines 14-19).

<sup>25</sup> See Constellation St. 1 at p.13 (lines 1-14) (referring to *Competitive Procurement of Retail Electricity Supply: Recent Trends in State Policies and Utility Practices*, the Analysis Group, Dr. Susan F. Tierney and Dr. Todd Schatzki, Commissioned by NARUC (issued July 2008)).

<sup>26</sup> See, e.g., Constellation St. 1 at pp.26 (line 6) – 27 (line 5) (explaining how wholesale suppliers make their decisions to participate in procurements and that the “most robust participation” in PPL Electric’s procurements will lead to the “least cost generation supply contracts”).

<sup>27</sup> June 2009 Order at p.29.

<sup>28</sup> June 2009 Order at p.30.

Failure to adopt the Joint Suppliers' proposed improvements to the SMAs will cause harm to consumers by impairing the DSP's ability to obtain generation supply at the least cost. Therefore, adopting Joint Suppliers' proposed improvements to the DSP will be in the public interest.

*(2) The SMA's Unsecured Credit Thresholds Should Be More in Line with Those Utilized by Other EDCs or, at a Minimum, with Those Previously Used by PPL Electric in its 2011-13 SMA*

Constellation witness Bennett argued in this proceeding that PPL Electric's proposed SMA should be revised to include those Unsecured Credit Thresholds contained in the form of SMA used by the West Penn Power Company ("West Penn") in its current Default Service procurements or, in the alternative, that PPL Electric continue to at the very least use those Unsecured Credit Thresholds that PPL Electric included in its prior 2011-13 SMA.

In response, PPL Electric argues that "PPL Electric reviewed four (4) other Companies, PECO, NSTAR, Duke Energy Ohio, and New Jersey BGS to determine what their credit thresholds are compared to PPL Electric's" and that "the Company's maximum unsecured credit amount of \$50,000,000 aligns with all four (4) other companies reviewed."<sup>29</sup> PPL Electric also argues that it is "in the interest of default service customers to moderate" the risk that a "supplier refuses or is unable to pay" replacement costs upon a default.<sup>30</sup>

With respect to these arguments, the Joint Suppliers first point out that PPL Electric's highest threshold of \$50,000,000 is in fact *lower than* all but one the four EDCs that PPL Electric reviewed, and does not "align" with those EDCs. Only NSTAR – the one utility that

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<sup>29</sup> PPL Electric St. 1-R at p.21 (lines 5-10).

<sup>30</sup> PPL Electric St. 1-R at p.21 (lines 11-17).

PPL Electric reviewed which is not in PJM – was lower than PPL Electric. In addition, PPL Electric’s proposed highest threshold is \$25,000,000 *less* than that it used in the 2011-13 SMA, and roughly *half* that currently used by West Penn. Moreover, both West Penn and Duke Energy Ohio currently provide some level of unsecured credit at the BB/BB/Ba2 level (S&P/Fitch/Moody’s), and West Penn extends credit down to the BB-/BB-/Ba3 level. PPL Electric has failed to show how its proposed Unsecured Credit Thresholds are in line with other EDCs in PJM. In addition, PPL Electric fails to identify why it believes that its prior 2011-13 SMA, as well as the SMA currently used by West Penn – both previously approved by the Commission – do not adequately “moderate” the risks that are faced upon a DS Supplier default.

In this way, in order to be consistent with the Commission’s June 2009 Order, because the thresholds in the West Penn SMA will be more attractive to potential bidders, PPL Electric *must* bring its SMAs’ Unsecured Credit Thresholds more in line with those included in the West Penn SMA, to be deemed to have “include[d] prudent steps necessary to obtain ‘least cost generation supply contracts,’ and . . . be structured so as to encourage greater competition,”<sup>31</sup> as required by the Commission. At the very least, PPL Electric should be required to use those thresholds it included in its 2011-13 SMA, because it has not provided good cause to move away from those terms. Thus, the Joint Suppliers propose the following Ordering Paragraph:

PPL Electric is ORDERED to adopt the Unsecured Credit Thresholds used in the West Penn SMA, as reflected in Constellation St. 1 at p.29 (lines 19-31).

In the alternative, if it is deemed more appropriate to maintain those thresholds used in PPL Electric’s prior 2011-13 SMA, Joint Suppliers propose the following Ordering Paragraph:

PPL Electric is ORDERED to adopt the Unsecured Credit Thresholds used in the PPL Electric 2011-13 SMA, as reflected in Constellation St. 1 at p.29 (lines 19-31).

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<sup>31</sup> June 2009 Order at p.30.

*(3) The SMA Should Define Their Payments Settlement Period by Relying on the Period Utilized by PJM, Which Currently Uses a Weekly Settlement Period*

The Joint Suppliers propose that the SMA should define its payments settlement period by relying on the period utilized by PJM, which currently uses a weekly settlement period.<sup>32</sup> PPL Electric’s arguments against such a revision are that a move to weekly settlements is unnecessary because PPL Electric has “held twelve successful DSP I solicitations which included monthly settlement provisions” and may shift working capital costs from suppliers to PPL Electric, leading to PPL Electric needing to recover such costs in customer rates.<sup>33</sup>

PPL Electric fails to address, however, that West Penn has appropriately been providing for weekly settlements under its current SMA,<sup>34</sup> and that evidence suggests that such a change will only serve to attract bidders and encourage more competitive pricing.<sup>35</sup>

As Constellation witness Bennett explains, “this proposed change to the SMA can only help to drive costs down for DS Suppliers, resulting in a higher likelihood for more competitive bids in PPL Electric’s RFPs . . . to the ultimate benefit of consumers.”<sup>36</sup> In this way, PPL Electric *must* make such a change in order for its DSP to be deemed to have “include[d] prudent steps necessary to obtain ‘least cost generation supply contracts,’ and . . . be structured so as to

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<sup>32</sup> See Constellation St. 1 at pp.32 (line 16) – 34 (line 8).

<sup>33</sup> See PPL Electric St. 1-R at pp.25 (line 22) – 26 (line 3); see also PPL Electric St. 2-R at pp.15 (line 14) – 16 (line 19).

<sup>34</sup> See Constellation St. 1 at p.33 (lines 11-16).

<sup>35</sup> See Constellation St. 1 at pp.32 (line 26) – 33 (line 10).

<sup>36</sup> Constellation St. 1 at pp.32 (line 26) – 33 (line 10).

encourage greater competition,”<sup>37</sup> as required by the Commission in the June 2009 Order. The Joint Suppliers therefore propose the following Ordering Paragraph:

PPL Electric is ORDERED to adopt weekly settlements language, as reflected in Constellation St. 1-SR, Exhibit 1-SR-1.

*(4) As Agreed to by PPL Electric, the SMA Should Allow a DS Supplier Three Business Days to Replace a Letter of Credit*

As offered in Constellation’s testimony in this proceeding, the Joint Suppliers propose that, in SMA Section 14.2(b), it would be reasonable to allow a DS Supplier three Business Days rather than only two Business Days to replace a Letter of Credit.<sup>38</sup> PPL Electric agreed to such a change, stating that “[t]his change is minor in nature and would be acceptable to the Company.”<sup>39</sup> Thus, the Joint Suppliers propose the following Ordering Paragraph:

PPL Electric is ORDERED to revise SMA Section 14.2(b) to allow a DS Supplier three Business Days rather than only two Business Days to replace a Letter of Credit, as agreed to by PPL Electric.

*e) Additional Information to Wholesale Suppliers Regarding Shopping and Procurements*

Constellation witness Bennett proposed certain important improvements to the types and frequency of data provided to RFP bidders and winning DS Suppliers.<sup>40</sup> In response, PPL Electric agreed to provide:

- “[D]aily shopping and non-shopping customer counts by rate class”; and

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<sup>37</sup> June 2009 Order at p.30.

<sup>38</sup> Constellation St. 1 at p.36 (lines 18-20).

<sup>39</sup> PPL Electric St. 1-R at p.24 (lines 16-17).

<sup>40</sup> See, generally, Constellation St. 1 at pp.37 (line 22) – 39 (line 3).

- “[A]ggregate historical hourly data specifically for those customers that choose PPL Electric’s TOU default service rate option”; and
- “[A]ny additional data and information provide to bidders of the Retail Opt-in Auction . . . regardless of participation in the [Retail Opt-in Auction].”<sup>41</sup>

While PPL Electric did not agree to provide all of the data requested by Constellation, the Joint Suppliers are generally satisfied at this time by the additional data that PPL Electric has agreed to provide. Thus, the Joint Suppliers propose the following Ordering Paragraph:

PPL Electric is ORDERED to make available to DS Suppliers the data agreed to by PPL Electric in PPL Electric St. 1-R at p.33 (lines 14-21), in addition to all data already provided by PPL Electric to DS Suppliers.

#### **IV. CONCLUSION**

Constellation’s proposed improvements to PPL Electric’s DSP design are supported by substantial evidence in the record before the Commission. The PPL Electric DSP, with Constellation’s limited changes, will encourage more competitive procurements for PPL Electric’s DSP and, in turn, will better assure that PPL Electric’s customers are able to receive benefits from the least costs for generation supply contracts, whether remaining on Default Service supply from PPL Electric or taking competitive service from an EGS.

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<sup>41</sup> PPL Electric St. 1-R at p.33 (lines 12-21).

Respectfully Submitted,

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/s/

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