



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

Michael W. Hassell

mhassell@postschell.com
717-612-6029 Direct
717-731-1985 Direct Fax
File #: 2507/151904

October 22, 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: 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
Docket No. P-2012-2302074

Dear Secretary Chiavetta:

Enclosed for filing please find the Reply Brief of PPL Electric Utilities Corporation for the above-referenced proceeding. Copies will be provided as indicated.

Respectfully Submitted,

Michael W. Hassell

MWH/skr

Enclosures

cc: Honorable Susan D. Colwell
Certificate of Service

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
James A. Mullins
Erin L. Gannon
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101-1923

Regina L. Matz
Bureau of Investigation & Enforcement
400 North Street, 2nd Floor West
P.O. Box 3265
Harrisburg, PA 17105-3265

Steven C. Gray
Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, PA 17101

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

Pamela C. Polacek
Adeolu A. Bakare
McNees, Wallace & Nurick
P.O. Box 1166
100 Pine Street
Harrisburg, PA 17108-1166

Eric J. Epstein
4100 Hillsdale Road
Harrisburg, PA 17112

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

Charles E. Thomas, III
Norman J. Kennard
Thomas, Long, Niesen & Kennard
212 Locust Street, Suite 500
PO Box 9500
Harrisburg, PA 17108-9500

Brian J. Knipe
Buchanan Ingersoll & Rooney PC
17 North 2nd Street
Harrisburg, PA 17101

Amy M. Klodowski
FirstEnergy Solutions Corp.
800 Cabin Hill Drive
Greensburg, PA 15601

Patrick M. Cicero
Harry S. Geller
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Daniel Clearfield
Deanne M. O'Dell
Carl Shultz
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
PO Box 1248
Harrisburg, PA 17108

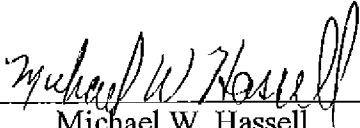
Melanie J. Elatieh
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406

Stephen L. Huntoon
NextEra Energy Resources, LLC
801 Pennsylvania Avenue, N.W., Suite 220
Washington, DC 20001

Date: October 22, 2012

Divesh Gupta, Esquire
Constellation Energy Group, Inc.
100 Constellation Way, Suite 500C
Baltimore, MD 21202

Stephen Bennett
Director, State Government Affairs - East
Exelon Generation Company, LLC
300 Exelon Way
Kennett Square, PA 19348



Michael W. Hassell

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities :
Corporation for Approval of a Default : Docket No. P-2012-2302074
Service Program and Procurement Plan for :
the Period June 1, 2013 through May 31, :
2015 :

**REPLY BRIEF OF
PPL ELECTRIC UTILITIES CORPORATION**

TO ADMINISTRATIVE LAW JUDGE SUSAN D. COLWELL

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

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

Matthew J. Agen
Post & Schell, P.C.
607 14th St. N.W.
Washington, DC 20005-2006
Phone: 202-661-6952
Fax: 202-661-6953
E-mail: matthewagen@postschell.com

Michael W. Hassell (Pa. Bar I.D. # 34851)
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Phone: 717-612-6029
Fax: 717-731-1985
E-mail: mhassell@postschell.com

Of Counsel:

Post & Schell, P.C.

Dated: October 22, 2012

Attorneys for PPL Electric Utilities Corporation

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. ARGUMENT.....	5
A. LEGAL STANDARDS	5
1. Burden of Proof.....	5
2. Standards Applicable To Default Service.....	5
B. THE PROPOSED DEFAULT SERVICE PROGRAM.....	8
1. Class Procurements.....	8
a. Residential - Fixed Rate.....	8
i. Product Mixture	8
ii. Procurement Schedule	16
iii. Wholesale Supplier Load Cap	18
b. Small C&I - Fixed Rate	19
i. Product Mixture and Procurement Schedule	19
c. Large C&I - Real-Time Hourly Rate	20
d. Contract Terms Beyond May 31, 2015.....	20
e. AEPS Procurement	20
i. Transfer of AECs	20
ii. Alternative Compliance Payment	21
f. Administrative Costs and Cash Working Capital	22
2. Rate Design.....	24
a. Residential and Small C&I Customer Classes - Fixed Rate Option	24
i. Frequency of Rate Changes	24

- ii. Hourly Priced Default Service for Small C&I Customers with Load Over 100 kW25
 - b. Residential and Small C&I – Reconciliation26
 - c. Large C&I Customer Class – Rates27
 - d. Large C&I Customer Class – Reconciliation.....27
 - e. The Green Power Program.....27
 - f. Optional Monthly Pricing Service27
 - g. Price to Compare Calculation Date.....28
 - h. Recovery of Transmission and Other Related Charges29
- 3. Time of Use Rate Option30
 - a. The Company’s Proposal to Derive Default Service TOU Rates from Fixed-Price Default Service Rates is Reasonable.33
 - b. SEF’s Recommendation That PPL Electric Should Establish Two Different TOU Rates Should Be Rejected.....34
 - c. The Proposals by SEF and RESA that PPL Electric Assign the TOU Program to a Third Party Should be Rejected.37
 - d. RESA’s Proposal to Simply Certify that an EGSS Offers a TOU Rate Should Not be Accepted.....44
 - e. SEF’s Claim that PPL Electric has Not Acted in Good Faith is Without Merit.....46
 - f. SEF’s Objections Regarding PPL Electric’s “On-peak” Periods Should be Rejected.48
 - g. FES’s Proposal to Bid the TOU Separately or to Continue Certain Spot Market Purchases to Cover TOU Load Should be Rejected.....49
 - h. OCA’s Limited Criticisms of the Proposed Peak Period Definition and the Discount Factors Should be Rejected.52
 - i. The Alternative Summer TOU Proposal Present By PPL Electric Resolves Certain Issues Raised in the Briefs.53
- 4. Other Default Service Program Issues54

a.	Supply Master Agreement and RFP Process and Rules	54
i.	Revisions to the Supply Master Agreement.....	54
b.	Third-Party Manager.....	57
c.	RTO Compliance and Consistency.....	57
d.	Contingency Planning.....	57
e.	Additional Information to Wholesale Suppliers Regarding Shopping and Procurements	57
C.	RETAIL MARKET ENHANCEMENTS AND CUSTOMER REFERRAL PROGRAMS	57
1.	New and Moving Customer Program	58
2.	Customer Referral Mailing	61
3.	Opt-In Auction/Aggregation Program Design.....	62
4.	Standard Offer Program Design.....	68
5.	Timing of the Retail Market Enhancements and Customer Referral Programs	70
6.	Cost Recovery for the Retail Market Enhancements and Customer Referral Programs	75
7.	CAP Customer Participation in the Retail Market Enhancements	76
D.	ADDITIONAL ISSUES	78
1.	Issues for CAP Customers Currently Served by EGSs.....	78
2.	Proposed 5 mils/kWh Charge Added to Default Service Rates.....	78
III.	CONCLUSION.....	80

TABLE OF AUTHORITIES

Page

Pennsylvania Court Decisions

Columbia Gas of Pennsylvania, Inc. v. Pa. PUC, 613 A.2d 74 (Pa. Cmwlth. 1992).....75

Lloyd v. Pa. P.U.C., 904 A.2d 1010 (Pa. Cmwlth. Ct. 2006), *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007).....80

Pennsylvania Administrative Agency Decisions

Final Rulemaking Order, Implementation of Act 129 of 2008, Docket No. L-2009-209564, 2011 Pa. PUC LEXIS 114 (October 4, 2011)..... *passim*

Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan, Docket No. I-2011-2237952, 2012 Pa. PUC LEXIS 324 (March 2, 2012)..... *passim*

Joint Petition of Metropolitan Edison Company, et al. For Approval of Their Default Service Plans, Docket No. P-2011-2273650, 2012 Pa. PUC LEXIS 1348 (August 16, 2012) *passim*

Pa. P.U.C. v. Metropolitan Edison Company, Docket No. R-00061366, 2007 Pa. P.U.C. LEXIS 5 (January 11, 2007)42

Pa.P.U.C. v. Philadelphia Gas Works, Docket No. R-00061931, 2007 Pa. P.U.C. LEXIS 45 (September 28, 2007).....42

Pa. P.U.C. v. PPL Electric Utilities Corporation, Docket No. R-2011-2264771, 2012 Pa. P.U.C. LEXIS 1383 (August 30, 2012)38

Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation, Docket No. R-2009-2122718, 2010 Pa. P.U.C. LEXIS 461 (March 9, 2010).....47

Petition of Direct Energy Services LLC for Emergency Order Approving a Retail Aggregation Bidding Program for Customers of Pike County Light & Power Company, Docket No. P-00062205, 2006 Pa. PUC LEXIS 3 (April 20, 2006).....7

Petition of PECO Energy Company for Approval of Its Default Service Plan, Docket No. P-2012-2283641 (October 12, 2012) *passim*

Petition of PECO Energy Company for Expedited Approval of its Dynamic Pricing Plan Vendor Selection and Dynamic Pricing Plan Supplement, Docket No. P-2012-2297304, 2012 Pa. P.U.C. LEXIS 1525 (September 26, 2012).....37, 40, 41, 42

Petition of PPL Electric Utilities Corporation for Approval to Modify Its Smart Meter Technology Procurement and Installation Plan and to Extend Its Grace Period, Docket No. P-2012-2303075, 2012 Pa. PUC LEXIS 1232 (August 2, 2012).....25

Pennsylvania Statutes

66 Pa. C.S. § 2803.....38, 40, 42

66 Pa. C.S. § 2806.1(m).....43

66 Pa. C.S. § 2807.....44, 45

66 Pa. C.S. § 2807(e)(3.2).....7

66 Pa.C.S. §§ 2807(e)(3.4).....56

66 Pa. C.S. § 2807(e)(3.7)(i.).....21, 56

66 Pa. C.S. § 2807(e)(5).....47

66 Pa. C.S. § 2807(f)(5).....38, 39, 45

73 P.S. §§ 1648.7-1648.8.....21

I. INTRODUCTION

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby files this Reply Brief in response to the Main Briefs of the Office of Consumer Advocate (“OCA”), Office of Small Business Advocate (“OSBA”), Sustainable Energy Fund (“SEF”), PP&L Industrial Customer Alliance (“PPLICA”), Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE”), Retail Energy Supply Association (“RESA”), FirstEnergy Solutions Corp. (“FES”), Dominion Retail, Inc. and Interstate Gas Supply, Inc. (“DES/IGS”), and Constellation NewEnergy, Inc. and Exelon Generation Company, LLC, who filed a joint brief with NextEra Energy Services Pennsylvania, LLC and NextEra Energy Power Marketing, LLC (“Joint Suppliers”)¹. PPL Electric has anticipated and responded to most of the arguments of the parties, and the Company will endeavor to avoid repeating its responses in this Reply Brief.

Most of the parties submitting Main Briefs in this proceeding have focused on a limited subset of issues. However, three parties – OCA, RESA and FES – have addressed a broader range of issues related both to PPL Electric’s proposed procurement of default service supplies under its DSP II Program and PPL Electric’s proposals to implement the market enhancements contained in the Pennsylvania Public Utility Commission’s (“Commission”) *Investigation of Pennsylvania’s Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952, 2012 Pa. PUC LEXIS 324 (March 2, 2012) (“*RMI-IWP Final Order*”). These three parties not only oppose various aspects of PPL Electric’s proposals, but often are diametrically opposed to each other on issues such as products and term lengths for default service supply, structure and

¹ The following entities are parties to this proceeding, but did not submit briefs: Bureau of Investigation and Enforcement (“I&E”), Noble Americas Energy Solutions LLC (“Noble”) and UGI Energy Services, Inc. d/b/a UGI EnergyLink (“UGIES”).

term lengths for the Retail Opt-In Program,² and structure and term lengths for the Standard Offer Referral Program. As explained in detail in PPL Electric's Main Brief, and as will be further explained in this Reply Brief, PPL Electric's proposals on many of these disputed issues reflect a middle ground among these parties' positions.

For example, for both Residential and Small Commercial and Industrial ("Small C&I") customers, RESA advocates a dramatic shift to 3-month full-requirements contracts for default supply, FES supports full-requirements contracts with 12- to 24-month contract terms, and OCA argues in favor of an actively managed procurement process that relies in substantial part on the continued acquisition of block and spot supplies. In contrast, PPL Electric has proposed to procure 12-month and 9-month full-requirement contracts, eliminate further spot purchases and allow existing block purchases to expire without renewal. This proposal reflects a transition away from the current mixture of block supplies, 12- and 24-month fixed-price, full-requirements, load-following contracts and spot market priced full-requirements, load-following contracts.

Similar differences exist with respect to the structure and term length for the Standard Offer Referral Program, with OCA endorsing a 4-month term contract with a guarantee of the discount savings off the Price to Compare ("PTC") and a return of customers to default service at the end of the contract term, FES supporting 1-year term contracts with no guarantee of a discount off the PTC and customers remaining with the EGS unless they affirmatively change, and RESA arguing for a 1-year term, no guarantee off the PTC, a rate change permitted after 4

² PPL Electric is aware that the Commission appears to now favor an Opt-In Program structure that does not involve an auction. *Joint Petition of Metropolitan Edison Company, et al. For Approval of Their Default Service Plans*, Docket No. P-2011-2273650, 2012 Pa. PUC LEXIS 1348 (August 16, 2012) ("*FirstEnergy Order*"); *Petition of PECO Energy Company for Approval of Its Default Service Plan*, Docket No. P-2012-2283641 (October 12, 2012), Motion of Commissioner Witmer and Polling Conducted September 27, 2012 ("*PECO DSP II Order*"). PPL Electric will use the term "Opt-In Program" to generally refer to either an auction or aggregation program.

months and customers remaining with the EGS unless they make an affirmative change. PPL Electric has proposed a 6-month contract with a 7% discount off the PTC in effect when the contract begins, no guarantee of the discount percentage in the event of an intervening PTC change, but protection against multiple PTC changes by proposing a semi-annual PTC change, and customers remaining with the EGS after the contract ends in accordance with existing Commission regulations pertaining to shopping.

PPL Electric emphasizes that it does not support approval of its proposals in this proceeding just because they reflect a compromise of competing positions. PPL Electric's proposals should be approved because, alone among all parties, PPL Electric has presented a series of proposals that are coordinated so that default service terms enhance the retail market enhancement program. In this way, PPL Electric will continue to be a leader in helping customers to understand shopping can be a rewarding experience.

In addition, PPL Electric's default service proposals comply with Act 129, in contrast to various proposals of other parties. For example, RESA's proposal to adopt 3-month term, unladdered full-requirements contracts is contrary to the Commission's recent determination that price stability is an important objective of Act 129. To subject all default service customers to significant price volatility through short term pricing, as proposed by RESA, would be inconsistent with that objective. Similarly, SEF, RESA and FES propose, as an alternative, that PPL Electric bid out its Time of Use ("TOU") responsibilities to EGSs.³ PPL Electric is the default service provider in its certificated service territory and has the statutory responsibility to offer TOU service under Act 129. This responsibility cannot be handed over to a third party as the provider.

³ RESA goes even further to propose that a "certification" that time differentiated products are provided by EGS be sufficient to meet Act 129's TOU requirement. (RESA MB, p. 50). This proposal is obviously inconsistent with the plain language of Act 129.

Various EGS parties reference the Commission's recent decision in *Joint Petition of Metropolitan Edison, et al. for Approval of Their Default Service Plans*, Docket No. P-2011-2273650, 2012 Pa. PUC LEXIS 1348 (August 16, 2012) ("*FirstEnergy Order*") and the recent polling in the *Petition of PECO Energy Company for Approval of Its Default Service Program*, Docket No. P-2012-2283641 (October 12, 2012) ("*PECO DSP II Order*")⁴ in opposition to certain aspects of PPL Electric's proposals for retail market enhancements. What is striking about such references is their selectivity. If the *FirstEnergy Order/PECO DSP II Order* results support a party position, then the results are considered controlling. This is demonstrated on issues such as participation of small business customers in the market enhancement programs (RESA MB, p. 68), term lengths for the Opt In and Standard Offer Programs (FES MB, p. 44), and default service annual reconciliation (DES/IGS MB, p. 13). However, if the *FirstEnergy Order/PECO DSP II Order* results are contrary to a party's position, then the Commission is encouraged to reconsider its decision based on "good cause" in this case. For example, RESA continues to contend that current shopping customers should not be permitted to participate in market enhancement programs (RESA MB, p. 64), FES continues to oppose any cap on the number of customers that a single EGS may be awarded in the Opt In Program (FES MB p. 47), and both RESA and FES support full recovery of market enhancement costs from customers (RESA MB, p. 91; FES MB, p. 57).

PPL Electric believes that the ALJ and the Commission should not simply adopt the results in the *FirstEnergy Order* and the *PECO DSP II Order* to decide the issues presented in this case. PPL Electric supports a review of its proposals in this proceeding on their merits, as was envisioned by the *Investigation of Pennsylvania's Retail Electricity Market*:

⁴ The Commission entered its Order in the *PECO DSP II* proceeding subsequent to the filing of Main Briefs in this proceeding.

Recommendations Regarding Upcoming Default Service Plans, Docket Number I-2011-2237952 (December 16, 2011) (“*December 16 RMI Order*”) and the *RMI-IWP Final Order*. The Company does not endorse a “one size fits all” resolution. PPL Electric believes that its proposals, both as to procurement of default service and as to retail market enhancements, are most compliant with the law, the current level of shopping on PPL Electric’s system and the Commission’s efforts to further retail market shopping and competition, and therefore should be adopted.

II. ARGUMENT

A. LEGAL STANDARDS

1. Burden of Proof

PPL Electric’s position on burden of proof is set forth in its Main Brief. (PPL Electric MB, pp. 8-9).

2. Standards Applicable To Default Service

RESA correctly states that Act 129 of 2008 and the Commission’s implementing regulations⁵ require that default service providers must consider rate stability in developing a procurement plan that meets the “least cost over time” standard. (RESA MB, p. 10). However, RESA continues on to assert that the way to achieve Act 129’s mandate is to establish “market reflective” default service rates in order that a “robust and sustainable competitive market” can provide rate stability and prices that are the least cost over time. (RESA MB, pp. 11, 23-24, 27-28). RESA’s assertion that Act 129’s requirements of rate stability and “least cost over time” can be satisfied for default service customers through sole reliance on “market reflective” default service rates has been considered and rejected by the Commission.

⁵ *Final Rulemaking Order, Implementation of Act 129 of 2008*, Docket No. L-2009-209564, 2011 Pa. PUC LEXIS 114 (October 4, 2011) (“*Act 129 Final Rulemaking Order*”).

In comments submitted in the *Act 129 Final Rulemaking Order* proceeding, RESA contended that the “least cost over time” standard could be satisfied only through “market reflective and market responsive” default rates (*Act 129 Final Rulemaking Order* at 35). The Commission unequivocally rejected such an interpretation of Act 129’s amendments to the Competition Act:

We disagree with RESA’s overall recommendations as to the proper interpretation of the “least cost” standard as mandating that default service rates approximate, on a prospective basis, the market price of energy. Such an interpretation would signal retention of the “prevailing market price” standard that has been expressly replaced under Act 129. Moreover, this interpretation conflicts with the Act 129 objective of achieving price stability which dictates consideration of a range of energy products, not just those that necessarily reflect the market price of electricity at a given point in time. Price stability benefits are very important to some customer groups in that exposing them to significant price volatility through general reliance on short term pricing would be inconsistent with Act 129 objectives.

(*Act 129 Final Rulemaking Order*, pp. 39-40). The Commission further explained that price stability is an important factor in setting default service rates:

Finally, we disagree with RESA’s assertion that the “least cost” standard mandates that a default service plan be reasonably likely to result in a “market-reflective and market-responsive” service rate that recovers all costs related to providing default service. We interpret this standard, not contained in either the Competition Act or Act 129, to mean a preference for short term and spot price supplies which ignore both the Act 129 concerns of price stability and a “prudent mix” of products. We do not believe that adoption of RESA’s suggested standard is consistent with the “least cost” standard contained in Act 129 and would not adequately protect retail customers from volatility and risks inherent in the energy market. Price stability benefits are very important to some customer groups, so an interpretation of “least cost” that mandates subjecting all default service customers to significant price volatility through general reliance on short term pricing is inconsistent with Act 129’s objectives. This is especially true given that the statute specifically enumerates short-term (up to 4 years) and long-term (over 4 to 20 years) contracts as part of the

“prudent mix” of contracts that should be included in a default service plan. 66 Pa. C.S. § 2807(e)(3.2).

(*Act 129 Final Rulemaking Order*, p. 41).

RESA’s proposals to adopt 3-month contracts contribute to significant price volatility because such procurements are unladdered. Without laddered procurements, there is increased risk of an unusual event causing a substantial price change. *See Petition of Direct Energy Services LLC for Emergency Order Approving a Retail Aggregation Bidding Program for Customers of Pike County Light & Power Company*, Docket No. P-00062205, 2006 Pa. PUC LEXIS 3 (April 20, 2006) (“*Pike County*”). This risk must be considered in assessing whether a plan is “least cost over time.”

RESA’s position that Act 129’s requirements can be met for Residential and Small C&I customers by relying solely upon competitive EGSs to provide price stability and electric service that is “least cost over time” is an incorrect interpretation of Act 129. The Competition Act, as amended by Act 129, requires that the Commission consider both price stability and market-reflectivity (to encourage continued development of retail competition) in deciding whether to approve a default service procurement plan as meeting the “least cost over time” standard. RESA’s fixation on market-reflective pricing as the standard for reviewing PPL Electric’s default service procurement plan, and RESA’s resulting recommendation that the current Residential and Small C&I customer classes’ procurements incorporate substantial amounts of 3-month term, fixed-price, full-requirements, load-following contracts, should be rejected.

B. THE PROPOSED DEFAULT SERVICE PROGRAM

1. Class Procurements

a. Residential - Fixed Rate

i. Product Mixture

Three parties – RESA, FES and OCA – oppose PPL Electric’s proposal for procuring default service supplies for Residential Fixed Rate customers. (RESA MB, pp. 17-24; FES MB, pp. 13-14; OCA MB, pp. 13-17). One party – DES/IGS – supports the Company’s Residential Fixed Rate procurement proposal, and the remaining parties have taken no position. (DES/IGS MB, pp. 10-12). For reasons explained in PPL Electric’s Main Brief, and as further explained below, the proposals of RESA, FES and OCA should be rejected. (PPL MB, pp. 12-26).

RESA’s recommendation to incorporate a substantial percentage of 3-month, unladdered, fixed-price, full-requirements, load-following contracts into the Residential default supply mix is based entirely upon RESA’s position that default service pricing must be “more market-reflective,” as discussed in Section II.A.2. above. (RESA MB, pp. 20, 21, 23). RESA gives no consideration to the requirement under Act 129 that price stability be considered in reviewing default service proposals. On this basis alone, RESA’s proposed Residential procurement plan should be rejected.

As additional support for its procurement proposal, RESA references the RMI Secretarial Letter of September 27, 2012, which requests comments on a proposal for “end-state” default service that would incorporate the procurement of 3-month fixed-price, full-requirements, load-following contracts for Residential default service suppliers beginning June 1, 2015. (RESA MB, pp. 15, 18).⁶ The RMI Secretarial Letter should not be considered as support for RESA’s

⁶ PPL Electric notes that apparently “end state” does not really mean “end state” to RESA, which envisions an “ultimate ‘end state’” some day in the future. (RESA MB, pp. 1-2, fnt 4).

proposal at this time. RESA presumes that the proposal contained in the RMI Secretarial Letter will be the final outcome of the Commission's end state discussion. It is improper to make such a presumption, where participants in the RMI process have not yet had the opportunity to offer legal, factual or policy responses to the proposal. Based upon the Commission's recent statements in the *Act 129 Final Rulemaking Order* referenced above, it would appear that 3-month term contracts cannot be adopted consistent with Act 129, and that statutory amendments may be necessary before this end state proposal could be implemented. In addition, the end state proposal is intended to become effective June 1, 2015. It should not be placed into effect early, under the guise of a "transition" to the end state. Moreover, a transition should be a process that considers not just the possible future structure of default service procurements, but also the current status of procurements coming out of PPL Electric's DSP I Program. PPL Electric's DSP I Program procurement for Residential customers includes 350 MW of layered block products, 45% (after purchase of block supplies) layered 24-month fixed-price, full-requirements, load-following contracts, 45% (after purchase of block supplies) layered 12-month fixed-price, full-requirements, load-following contracts, and 10% (after purchase of block supplies) spot-market priced, full-requirements, load-following contracts. (PPL Electric Ex. JC-1). PPL Electric's DSP II Program procurement proposal, which eliminates the spot and 24-month contracts in favor of layered 12-month and 9-month fixed-price, full-requirements, load-following contracts and allows block products to decline to 150 MW as layered contracts expire, is a more appropriate transition to any shorter term contracts that may be adopted in an end-state default service, compared to RESA's proposal for 3-month and 12-month contracts as DSP I Program contracts expire. The shift from the degree of price stability offered through 24-month contracts to the degree of price instability provided by 3-month contracts is too extreme. Such

contracts will introduce both volatility resulting both from seasonal pricing differences (summer, winter and shoulder months), as well as volatility resulting from unusual events that are not smoothed out from laddered procurements. RESA's proposal should be rejected.

RESA asserts, in the alternative, that if its proposal to include 3-month fixed-price, full-requirements, load-following contracts is not adopted, then PPL Electric should be directed to include 10% spot market contracts in its Residential procurement portfolio. (RESA MB, pp. 20-21). RESA contends that such approach would reduce hedging costs and allow wholesale suppliers to manage customer migration on and off default service. (RESA MB, p. 21). Such contention is inaccurate. Procurements under PPL Electric's fixed price and spot market priced load-following contracts are made in tranches, or percentage of load. (PPL Electric St. 1, p. 18; PPL Electric Exs. JC-4A, JC-4b; PPL Electric Ex. 1, Appendix A, p. 10). As a result, spot supplies are not the last supplies to be purchased, and as such are not incremental supplies that grow or shrink to match load migration.

RESA's alternate proposal also fails to consider that spot purchases do not achieve RESA's asserted goal of making default prices "more market reflective." As explained in PPL Electric's Main Brief, including spot priced supplies in calculating the PTC will not make the PTC more market reflective. Instead, such spot purchases will contribute to over- and under-collections as actual spot prices vary from projections. (PPL MB, p. 22).

For reasons explained above and in PPL Electric's Main Brief, RESA's Residential procurement proposal should be rejected. (PPL Electric MB, pp. 21-22).

In contrast to RESA's exclusive focus on market reflectivity, FES's entire focus is on greater rate stability, through its proposal for 12- to 24- month fixed-price, full-requirements, load-following contracts. (FES MB, pp. 13-18). FES asserts that a stable PTC for an extended

period will give shoppers more certainty about savings in relation to the PTC, and give EGSs a “better defined default service product” against which to compete. (FES MB, pp. 14-15).

What FES (and for that matter RESA) does not explain is how the various EGS parties in this proceeding can reach such different conclusions about the effects of “market-reflective” vs. “price stable” default service rates upon customer shopping. PPL Electric believes that the proper approach is to balance both market-reflectivity and price stability. (PPL Electric St. 1-R, pp. 9-10). Such a balance achieves both the goal of the Competition Act to encourage customer shopping and the goal of Act 129 to provide protection against significant price volatility. FES’s proposal is weighted too heavily in favor of price stability.

FES asserts that its amended procurement proposal, set forth in surrebuttal testimony, that replaced a portion of its proposed 24-month (and 12-month) contracts with 15-, 18- and 21-month contracts was responsive to criticisms that FES’s proposal was “largely similar” to PPL Electric’s DSP I Program procurements. (FES MB, pp. 16-17). Although PPL Electric will acknowledge that its current DSP I Program procurements do not include 15-, 18- or 21-month contracts,⁷ this does not mean that FES’s amended proposal is meaningfully different from FES’s original proposal. While FES’s amended proposal did reduce the percentage of contracts with 24-month terms from 55% to 21.25%, it also reduced the percentage of contracts with 12-month terms from 45% to 28.125%. (Compare FES Ex. TCB-1 with FES Ex. SLN-1). Thus, whereas 45% of PPL Electric’s DSP I Program load-following contracts (including spot priced load-following contracts) have terms of greater than 12-months, over 70% of FES proposed contracts are for terms greater than 12-months. (Compare PPL Electric Ex. JC-1 to FES Ex. SLN-1).

⁷ PPL Electric notes that the DSP I Program did include initial contracts with terms ranging from 5- to 26-months. (PPL Electric Ex. JC-1).

FES's proposal continues to rely on contracts with terms equivalent to, or longer than, the contract terms contained in PPL Electric's DSP I Program.

FES asserts that PPL Electric's procurement of 24-month products in the DSP I Program has reflected a "high level of supplier participation." (FES MB, p. 15). However, PPL Electric demonstrated that wholesale suppliers' interest in 24-month products has declined through the term of the DSP II Program. The last four completed solicitations experienced far less interest in the 24-month products than in the 12-month products. (PPL Ex. JC-1-R, p. 4). This reinforces PPL Electric's position that 24-month products are becoming less competitive as shopping has increased.

PPL Electric does not believe that contracts with terms greater than 12 months reflect a reasonable balancing of price stability with market-reflective pricing in PPL Electric's service area. For reasons explained above and in PPL Electric's Main Brief, FES's proposal should not be adopted. (PPL Electric MB, pp 20-21).

OCA supports adoption of a market portfolio approach, whereby the Company would target 5% of its purchases from spot products, 20% from block products, and 75% from full-requirements products. The Company would be required to procure block products that would layer on-peak blocks, based upon seasonality, on top of base 24 x 7 blocks. The Company would be expected to "rebalance" its portfolio with each procurement. (OCA MB, p. 16; Tr. 257).

The Commission has previously identified the difficulties with use of a market portfolio approach. In its *Act 129 Final Rulemaking Order*, the Commission observed:

On balance, we are not persuaded that the MP approach is superior to the FR approach in achieving the "least cost to customers" while also achieving the other objectives of "prudent mix" of products and price stability. The MP approach has clear advantages to the retail markets and the retail customer provided the EDC is capable of performing the full range of portfolio management functions.

Based on the uniformity of comments received from those parties that actually perform these functions, the EDCs and electric suppliers, we do not feel confident in expressing a preference for the MP method at this time as the preferred means of default supply procurement. Our principal concerns are that EDCs do not currently possess the requisite expertise and infrastructure to perform these portfolio management duties and the risks to retail customers from EDC inexperience in performing these function is too great. We are also mindful of the fact that the current default supply process, with the EDC acting as the default supplier and distribution entity purchasing its supply from electric suppliers knowledgeable about the workings of the wholesale electric market, is a product of the Competition Act, which created the market structure we now operate within. Requiring DSPs to adopt the role of electric market portfolio manager may be inconsistent with our charge under the Competition Act. Finally, we note here that, after the restructuring of the electric utility industry in Pennsylvania mandated by the competition Act, generation planning and management is no longer a core function of an EDC's business. As such, to impose MP duties would tend to divert management attention from the EDC's core function of providing safe, reliable and adequate *delivery* of electric generation service.

(Order at pp. 55-56).

The Commission's concerns, as expressed above, are directly applicable to OCA's procurement proposal in this proceeding. PPL Electric explained in its Main Brief that it does not have the capabilities to perform a full range of portfolio management functions. (PPL Electric MB, p. 24). OCA responds that it is not proposing an active portfolio management, but just a "mechanical" procedure of adjusting procurement amounts as part of each solicitation. (OCA MB, pp. 15-16). However, OCA provides no evidence that such a "mechanical" procedure, which OCA appears to assert would not include the full range of portfolio management function, would achieve the "least cost over time" for PPL Electric's default service customers, as compared to PPL Electric's proposal to purchase full-requirements, load-following contracts. (PPL Electric St. 2-R, pp. 16-17). OCA also fails to detail how such a purely "mechanical" procedure could be developed that would not require some detailed efforts to make

projections of winter and summer peaks, or analysis of prices available to block products of different term lengths.

OCA further contends that its proposed “mechanical” procedure for determining different block supplies during winter and summer peak seasons “will better follow the actual hourly loads and reduce on-peak purchases.” (OCA MB, p. 15). However, OCA offers no explanation as to how a “mechanical” procurement procedure will successfully follow actual hourly loads. PPL Electric’s witness Cavicchi explained the flaws in OCA’s contention:

Under OCA’s proposal, the Company would have to monitor various energy markets and determine what block products to purchase, in what amounts, for what contract terms and at what times at its sole discretion to hopefully match the shape of default service load with any shortfall or excess made up through purchases or sales in the spot market. In particular, OCA testimony suggests establishing block purchase quantities that vary by season and time of day to accommodate forecasted customer load shapes. Because the block purchase quantities can only vary by peak and off-peak periods, they cannot be easily matched to the load shape forecasts. Thus, the Company will have to true up its purchases through spot market purchases and sales. To the extent the Company procures too much block supply in a particular month or season it may end up selling back excess supply at a loss. Similarly, to the extent the Company does not procure enough block supply in a particular month or season, it will have to buy more power on the spot market which, depending on timing, could be costly. Under the managed portfolio approach the Company’s default service customers bear all the risks associated with the Company’s ability to manage market and load uncertainty.

(PPL Electric St. 2-R, pp. 11-12). OCA’s proposal will not provide assurance of benefits in the form of lower default service costs. Instead, OCA’s proposal is likely to result in increased risk and price uncertainty, as Mr. Cavicchi explained. (PPL Electric St. 2-R, p. 10). The result will be an increase in E-Factor over/undercollection reconciliations as actual default service costs vary from projections, whether developed “mechanically” or through an actively managed portfolio. In contrast, PPL Electric’s reliance on fixed-rate, full-requirements, load-following

contracts will avoid over/undercollections caused by inaccurate spot market projections. OCA's proposed mechanical procurement proposal should be rejected for the reasons explained above and in PPL Electric's Main Brief. (PPL Electric MB, pp. 22-25).

OCA's proposal also will not advance the Commission's goal of encouraging additional shopping. This point was further explained by PPL Electric witness Cavicchi:

To the extent that product portfolios can be simplified to reduce the need for reconciliation, default service prices will better track underlying conditions in energy markets and allow customers to seek supply from competitive retail suppliers on a better-informed basis. By reducing the product portfolios' reliance on block products and spot market products, DSP II eliminates a source of reconciliation. The proposal put forth by OCA goes in the opposition direction.

(PPL Electric St. 2-R, p. 16).

OCA also proposes that the Company not procure further 50 MW blocks in the procurements remaining in the DSP I Program. (OCA MB, p. 16). This proceeding is not the proper forum for modifying the terms of the DSP I Program settlement.⁸ In addition, OCA's proposal would increase the problem of a contractual issue related to certain existing DSP I Program contracts. (PPL St. 2-R, p. 17). As PPL Electric explained in its direct testimony, the term "Block Supply" as originally defined in the DSP I Program Supply Master Agreement ("SMA") identified a total of 350 MW of purchases with no stated reference to potential reductions to block procurements that could occur as block contracts began to expire. When PPL Electric became aware that full-requirements suppliers in the DSP I Program procurements might be expecting the level of block supplies to continue indefinitely, the Company in December 2011 modified the definition of block supply on a going forward basis, and requested that wholesale suppliers with existing contracts also agree to the modified definition. Two existing wholesale

⁸ By the time this proceeding is concluded, there will be only one DSP I Program procurement remaining to be undertaken. (PPL St. 2-R, p. 17).

suppliers, with contract terms extending to November 2013, would not agree to the amendment. The Company will buy a limited amount of spot market supplies during the first six months of the DSP II Program term to resolve the issue with these suppliers. (PPL Electric St. 1, pp. 11-12). However, if OCA's proposal to cancel the last block procurement under the DSP I program were adopted, the Company would have to purchase additional spot market supplies in the DSP I Program to avoid the same legacy contract issue. (PPL Electric St. 2-R, p. 17). OCA's proposal would exacerbate this legacy contract issue and should not be adopted.

PPL Electric's proposed Residential class procurement plan should be approved.

ii. Procurement Schedule

OCA and RESA oppose PPL Electric's proposal to undertake twice yearly procurements. (OCA MB, pp. 18-19; RESA MB, pp. 24-28). FES and DES/IGS support PPL Electric's proposed procurement schedule. (FES MB, pp. 24-25; DES/IGS MB, p. 11). PPL Electric has already responded to OCA's and RESA's objections in its Main Brief, and this response will be limited accordingly. (PPL Electric MB, pp. 26-28).

OCA asserts that the Company must undertake quarterly solicitations as a result of the expiration of contracts under the DSP I Program. (OCA MB, p. 19). However, PPL Electric proposes to undertake simultaneous procurements for 12-month and 9-month contracts, with contracts entered into about one month prior to the start date for delivery under the 12-month contracts and approximately four months prior to the start date for delivery under the 9-month contracts. (PPL St. 1-R, p. 11). Thus, contrary to OCA's assertions, the Company would be able to implement semi-annual procurements from the beginning of the DSP II Program.

RESA challenges PPL Electric's proposal on the basis that, on a per customer basis, the savings produced by reducing procurements from four times per year to twice per year are small.

(RESA MB, p. 27). However, any savings can be made to appear small by dividing the savings by 600,000 default service customers. The fact remains that savings of around \$500,000 per year in default service costs can be achieved by adopting semi-annual procurements. (PPL Electric St. 1-R, p. 10). Moreover, as more customers move to shopping under the Company's proposed market enhancement proposals, the base of default service customers will shrink, and the savings per customer from reduced procurements will increase. Such savings should not be disregarded.

RESA asserts that semi-annual procurements will make default service prices less market reflective. RESA further claims that PPL Electric "insinuates" that quarterly solicitations depress shopping. (RESA MB, p. 25). PPL Electric has made no such claim. PPL Electric instead explained that, with increased shopping and block supplies, and with the amount of laddering that occurs with four solicitations per year, default service prices under the DSP I Program may be less market responsive than initially anticipated:

[T]he reliance on four solicitations each year to obtain supply for residential and small commercial and industrial customers' default service load creates numerous procurements which may increase the costs of default service with little improvement in default service prices' tracking of underlying energy market prices. For example, multiple products and multiple procurements create instances where actual default service suppliers' load obligations, after taking into account shopping and/or block supplies, are so small as to potentially limit interest in supplying particular products or small numbers of tranches of products. Moreover, given the laddering of products in the DSP I's product portfolio, default service prices tend to change slowly over time because each solicitation obtains only a small share of the supplies needed for default service and, even in the event of a substantial price shift, default service prices will not immediately change in a significant manner.

Thus, quarterly solicitations with block supply and products with 12- and 24-month terms have not been as market responsive as originally anticipated given the development of retail competition.

(PPL Electric St. 2, pp. 13-14). PPL Electric believes that, under its circumstances, semi-annual procurements will increase the amount of contracted supplies being “turned over” with each procurement, thereby resulting in PTC price changes that are more market-responsive, not less.⁹

OCA’s and RESA’s objections to PPL Electric’s proposal to undertake semi-annual procurements should be rejected.

iii. Wholesale Supplier Load Cap

OCA and RESA oppose PPL Electric’s proposal to eliminate the current Aggregate Load Cap of 70% for Residential customers. (OCA MB, pp. 19-21; RESA MB, pp. 28-31). FES supports PPL Electric’s proposal. (FES MB, pp. 25-30).

PPL Electric explained in its Main Brief the reasons why OCA’s and RESA’s proposals for a 50% Aggregate Load Cap are unnecessary. (PPL Electric MB, pp. 28-29). Tellingly, neither OCA nor RESA have disputed PPL Electric’s explanation that it relies upon strong Performance Assurance provisions to provide financial protection in the unlikely event of supplier default. Further, neither party has explained how their proposal would not potentially increase default service costs if a lower priced bid were disqualified because of a lower Aggregate Load Cap. (OSBA St. 2, p. 18). OCA’s and RESA’s failure to address these explanations demonstrate the weakness of their contentions.

RESA cites to the recent *FirstEnergy Order* as support for the proposition that a wholesale supplier load cap of 50% is needed to ensure a “healthy level of supplier diversity.” (RESA MB, p. 30). PPL Electric cannot speak to the level of wholesale supplier diversity that exists in the FirstEnergy Companies’ procurements. However, with 22 different suppliers

⁹ RESA relies upon a chart showing shopping percentages for mid-sized non-residential customers in Maryland for the proposition that quarterly procurements improve shopping. (RESA MB, p. 25). However, as the chart shows, there is little to no difference in shopping percentages between semi-annual and quarterly procurements. This supports PPL Electric’s testimony on this point.

providing products to meet PPL Electric's default service requirements under the DSP I Program, it is evident that PPL Electric is experiencing a healthy level of supplier diversity now, and does not need a lower Aggregate Load Cap to support supplier diversity.

OCA's and RESA's proposals with respect to a residential wholesale supplier load cap should be denied.

b. Small C&I - Fixed Rate

i. Product Mixture and Procurement Schedule

As explained in PPL Electric's Main Brief, the Company's proposal is to move to laddered 12-month and 9-month term fixed-price, full-requirements, load-following contracts for the Small C&I customer class. (PPL MB, p. 30). OSBA and DES/IGS support the Company's Small C&I default service procurement plan. (OSBA MB, p. 6, DES/IGS MB, p. 11). FES and RESA oppose PPL Electric's proposal and, like the Residential Class procurements, take diametrically opposed positions.¹⁰ FES seeks to incorporate longer term contracts, up to 24-months in length, in the Small C&I customer class product mix. FES argues that longer-term contracts provide price stability, which will encourage shopping. (FES MB, pp. 31-32). RESA proposes to replace all expiring DSP I Program Small C&I contracts with unladdered 3-month term contracts. RESA contends that this will result in "market reflective" pricing for the class. RESA further asserts that Small C&I customers should look to EGSs to provide customers with price stability. (RESA MB, pp. 32-33). Neither of these parties' proposals provide the proper balancing of price stability and market reflectivity that PPL Electric's procurement proposal offers, and neither proposal should be adopted, for the reasons explained in Section II.A.2 and II.B.1.a. above and PPL Electric's Main Brief. (PPL Electric MB, pp. 12-25, 30-33).

¹⁰ RESA also opposes the Company's proposal to adopt semi-annual procurements, although FES does not oppose semi-annual procurements. (RESA MB, p. 31; FES MB, pp. 34-35)

c. Large C&I - Real-Time Hourly Rate

No party has opposed PPL Electric's proposals for Large C&I – Real Time Hourly Rate procurements.

d. Contract Terms Beyond May 31, 2015

OCA, OSBA and FES propose that the Company extend the term length of its final DSP II Program procurements beyond May 31, 2015. (OCA MB, pp. 22-23; OSBA MB, p. 10; FES MB, p. 36). RESA opposes any extension. (RESA MB, pp. 35-36).

PPL Electric's position on this issue has been set forth in its Main Brief. (PPL Electric MB, pp. 36-38). PPL Electric's procurement proposal complies with the Commission's recommendation in the *December 16 RMI Order* to minimize default service supplies under contract beyond May 31, 2015, as the only contracts that extend beyond May 31, 2015 are block contracts that have been procured for longer terms under the DSP I Program. However, PPL Electric has recommended that its procurement provisions include an option to extend the term of the final DSP II Program contracts by an additional six months if PPL Electric continues as the default service provider and if the Commission's end-state structure supports contracts layered for a term beyond May 31, 2015. PPL Electric's proposal should be adopted.

e. AEPS Procurement

i. Transfer of AECs

Joint Suppliers propose that PPL Electric revise its SMA to provide for the transfer of Alternative Energy Credits ("AECs") on an annual basis, rather than on a monthly basis as is required currently. (Joint Supplier MB, pp. 9-10). Joint Suppliers' proposal should be rejected.

Joint Suppliers contend that they are not aware of a monthly AEC transfer requirement for any other EDC in Pennsylvania and that it is common for wholesale suppliers to reconcile

their AEC delivery requirements once per year. (Joint Supplier MB, p. 10). However, supplier convenience is not a sufficient reason to satisfy Joint Suppliers burden to justify a change to PPL Electric's established requirement for monthly transfer of AECs. PPL Electric, as the default service provider, has a duty to meet the requirements of the Alternative Energy Standards Act¹¹ ("AEPS Act"). Failure to meet those duties will expose PPL Electric to penalties for non-compliance. Joint Suppliers have offered no response to PPL Electric's explanation that a monthly transfer requirement provides greater assurance that the Company will have received AECs before it must transfer the credit obligations to the state, and have adequate time to obtain replacement credits in the market in the event of a supplier default. (PPL Electric St. 1-R, p. 26). PPL Electric has the duty to negotiate favorable contract terms with wholesale suppliers under Act 129, and a contract term that increases the Company's ability to comply with the AEPS Act is a favorable term that should be continued (see 66 Pa. C.S. § 2807(e)(3.7)(i)).

Joint Suppliers' proposal also does not explain why wholesale suppliers should be paid for AECs well in advance of delivery. Wholesale suppliers are paid monthly for delivery of AECs as part of their fixed price payment.¹² Wholesale suppliers should not be permitted to meet that aspect of their full requirements obligation only on a yearly basis.

Joint Suppliers' proposal increases PPL Electric's risk of non-compliance with the AEPS Act and should be denied.

ii. Alternative Compliance Payment

Joint Suppliers have withdrawn their proposal to allow wholesale suppliers to meet their AEPS Act responsibilities by making an alternative compliance payment. (Joint Suppliers MB, pp. 10-11). Thus, there is no remaining issue outstanding.

¹¹ Act of November 30, 2004, P.L. 1672, *as amended*, 73 P.S. §§ 1648.7-1648.8.

¹² AECs are a part of wholesale suppliers' full requirements obligation (PPL Electric Ex. 1, Appendix A, p. 11 - Definition of Full Requirements Service).

f. Administrative Costs and Cash Working Capital

OCA and OSBA oppose the Company Cash Working Capital (“CWC”) claim in this case, although for different reasons. (OCA MB, pp. 23-27; OSBA MB, pp. 11-14). PPL Electric has responded to OCA’s and OSBA’s contentions in its Main Brief, and this response will be limited accordingly. (PPL Electric MB, pp. 42-48).

Initially, PPL Electric notes that neither OCA nor OSBA has disputed PPL Electric’s assertion that if the Commission adopts Joint Suppliers’ proposal to change from a monthly to a weekly schedule for payments to default service suppliers, PPL Electric would incur a new CWC requirement. PPL Electric calculates that CWC requirement to be an incremental revenue requirement of \$8.8 million. (PPL Electric MB, p. 48). PPL Electric further notes that neither OCA nor OSBA has taken a position on Joint Suppliers’ proposal. Therefore, if Joint Suppliers’ proposal is adopted, PPL Electric should be compensated for the resulting increased CWC requirement.¹³

OCA contends that it would be inappropriate to include CWC in a reconciliation mechanism “designed to recover specific identified costs.” (OCA MB, p. 24). It is unclear what OCA is contending. PPL Electric has specifically identified the CWC costs it would incur if (a) it were directed to modify its 1307(e) reconciliation procedures for GSC-1 costs, and/or (b) it were directed to modify its monthly payment schedule to a weekly payment schedule for default suppliers. OCA has not offered a basis for denying PPL Electric recovery of CWC costs.

OCA continues to contend that any CWC requirement should be based upon a short-term cost of debt. (OCA MB, p. 26). However, OCA has offered no basis to contend that an ongoing CWC requirement would be financed by short-term debt. The Commission has never used short-

¹³ PPL Electric is opposing Joint Suppliers’ proposed change to payment terms. (PPL Electric MB, pp. 98-99).

term debt to compute CWC for base rate expenses, and OCA has presented no reason why a different result is appropriate here. (PPL Electric St. 5-R, p. 17).

OCA asserts that if all customer classes were to pay their bills by the due date, PPL Electric would have no CWC requirement. (OCA MB, p. 27). However, OCA's hypothetical bears no relationship to reality. The facts are that on a weighted average basis, customers do not pay their bills by the due date. This is conclusively demonstrated by the Company's revenue lag analysis, which uses the standard and well accepted accounts revenue lag analysis to determine customer payment lags. (PPL Electric St. 5-R, p. 17). Regardless of the reasons,¹⁴ the evidence is clear that customers' payments lag PPL Electric's payments to default suppliers, creating a CWC need.

OCA further asserts that PPL Electric "ignores" late payment fees from customers. (OCA MB, p. 28). In a related argument, OSBA asserts that the portion of any late payment fees "related to generation service, either default service or billing for EGS, should serve as an offset to CWC costs." (OSBA MB, p. 14). Such assertions also are contrary to the record. PPL Electric explained that the Company has included all late payment fees received in its pending base rate case. (PPL Electric St. 5-R, p. 18; PPL Electric MB, p. 18). Therefore, it would be a double count to include such fees as a reduction to revenue requirement in the base rate case and to assert that such late payment fees offset any CWC requirement associated with the provision of default service. Furthermore, OSBA has offered no proposal that would identify¹⁵ and strip out of the base rate case late payment fees associated with generation charges that would then be applied as a credit against CWC costs in this proceeding.

¹⁴ OCA disregards situations such as budget billing, payment agreements and other situations that can result in payments on customer bills being received later than the date when payments are made to suppliers.

¹⁵ OSBA witness Knecht acknowledges that late payment charges apply to the entire bill, but has offered no methodology for defining what portion of any late payment fees apply to unpaid generation charges. (OSBA St. 1, p. 14).

For reasons explained above and in PPL Electric's Main Brief, OCA's and OSBA's objections to the Company's provisional CWC claim should be rejected. The ALJ should rule on the CWC issues presented in this case, because: (a) the Commission may revise the Company's current GSC-1 reconciliation methodology, which would deprive PPL Electric of any CWC compensation received through the current reconciliation method, and (b) Joint Suppliers seek to accelerate the date that the payments are made to default service wholesale suppliers, which would create an additional CWC need.

2. Rate Design

a. Residential and Small C&I Customer Classes - Fixed Rate Option

i. Frequency of Rate Changes

RESA and DES/IGS¹⁶ opposed PPL Electric's proposal to adopt semi-annual PTC price changes.

RESA argues that price stability should not be a basis for moving to semi-annual PTC changes. RESA contends that price stability should not be a goal of any default service plan, and that price stability can be obtained through the competitive retail market. (RESA MB, p. 39). PPL Electric encourages the competitive retail market to provide pricing options that are tailored to what customers desire, and nothing in PPL Electric's proposal to adopt semi-annual price changes inhibits the ability of competitive markets to provide such options.¹⁷ However, with respect to RESA's contentions that price stability is not a factor to be considered in setting default service rates, PPL Electric has explained in Sections II A.2 and II B.1.a.i of this Reply

¹⁶ DES/IGS's opposition principally relates to the frequency of reconciliation adjustments, and PPL Electric responds to these arguments in Section II B.2.b of this RB.

¹⁷ The Company notes that at least one EGS in this proceeding, FES, believes that competitive markets more likely will develop successful long-term products if the default supplier purchases longer term contracts, which would change default rates less frequently. (FES MB, pp. 14-15).

Brief that the Commission's recent *Act 129 Final Rulemaking Order* has rejected RESA's arguments.

Furthermore, as explained in PPL Electric's Main Brief, there are additional reasons that support PPL Electric's proposal to adopt semi-annual PTC changes. The proposal should be considered in the context of the entire proposed DSP II Program, including twice yearly procurements, reconciliation of GSC-1 costs, and the proposed timing and contract terms for the Opt-In and Standard Offer Program. (PPL Electric MB, p. 50). For all of these reasons, PPL Electric's proposal to adopt semi-annual PTC price changes should be adopted

ii. Hourly Priced Default Service for Small C&I Customers with Load Over 100 kW

RESA has stated that to the extent PPL Electric is able to provide hourly priced service to customers with load between 100 kW and 50 kW before May 31, 2015, it should do so. (RESA MB, p. 40). As explained in PPL Electric's Main Brief, the Commission recently denied PPL Electric's request to implement real-time default service pricing for Small C&I customers over 100 kW as part of its Smart Meter Technology Procurement and Installation Plan. (PPL Electric MB, pp. 51-52). That decision encouraged PPL Electric to propose a mechanism for implementing such real-time pricing in a future default service filing. *Petition of PPL Electric Utilities Corporation for Approval to Modify Its Smart Meter Technology Procurement and Installation Plan and to Extend Its Grace Period*, Docket No. P-2012-2303075, 2012 Pa. PUC LEXIS 1232 (August 2, 2012). PPL Electric will make a proposal in this regard in a future default service filing. PPL Electric notes that its contracts with DSP I Program wholesale suppliers specifically define the Small C&I Customer Class to include all customers smaller than 500 kW. The last of these contracts would not expire until March 2015. To avoid disrupting such contracts by changing a critical definition, PPL Electric would not intend to implement any

change to the definition of the Small C&I class for default service purposes until after such contracts have expired.

b. Residential and Small C&I – Reconciliation

RESA and DES/IGS object to PPL Electric’s proposal to reconcile GSC-1 over/undercollections based upon a rolling 12-month average of projected sales. (RESA MB, pp. 41-44; DES/IGS MB, pp. 12-13). OCA and OSBA support PPL Electric’s reconciliation proposal. (OCA MB, pp. 28-29; OSBA MB, pp. 14-16). RESA’s and DES/IGS’s objections should be denied.

RESA argues, at many points in its MB, that it supports market-reflective pricing for default service. (RESA MB, pp. 20, 21, 23, 26, 34, 41, 41). RESA expresses a desire to eliminate “boom-bust” cycles in default service prices (RESA MB, p. 26), as well as a desire that default service prices “more closely ‘mirror’ actual prices.” (RESA MB, p. 34). RESA further states its concern that default service rates not become “out of market.” (RESA MB, p. 42). Yet despite these desires and concerns, RESA objects to PPL Electric’s reconciliation proposal, which the record demonstrates would be an effective response to “boom-bust” cycles caused by E-Factor swings due to over/undercollections, and would reduce distortions to the current cost of default service pricing caused by prior period reconciliations. (OSBA St. 1, p. 4; PPL Electric MB, pp. 54-55).

The evidence shows conclusively that, in PPL Electric’s case, shorter term reconciliation is producing less, not more, market reflective rates, as differences between prior period revenues and costs are alternately decreasing and increasing default service rates by a factor of 20% or more. (OSBA St. 1, p. 4). PPL Electric’s 12-month rolling average reconciliation will substantially smooth these swings, which are unrelated to current market prices, and this will

result in rates that more closely mirror the current cost of default service. (PPL Electric MB, pp. 54-55). Thus, PPL Electric's proposal will contribute toward RESA's and DES/IGS's asserted goals of having more market reflective rates, and reducing boom and bust cycles of customer interest created by E-Factors that overstate and then understate current prices. PPL Electric's reconciliation proposal should be adopted for the reasons explained above and in PPL Electric's MB. (PPL Electric MB, pp. 52-57).

c. Large C&I Customer Class – Rates

No party has raised an issue concerning PPL Electric's proposed Large C&I Customer class rates, which continue the procedure used in the DSP I Program.

d. Large C&I Customer Class – Reconciliation

No party has raised an issue concerning PPL Electric's proposed Large C&I Customer Class reconciliation, which continue the procedure used in the DSP I Program.

e. The Green Power Program

PPL Electric, RESA and SEF appear now to be in agreement that the PPL Electric Green Power Program should be allowed to expire. These parties appear to agree that prior to the May 31, 2013 expiration date of the Green Power Program, PPL Electric will send a letter to each participating Green Power Customer,¹⁸ advising them that the Green Power Program will be ending and that green power rate options may be available from EGSs. At the election of EGSs and at their expense, PPL Electric will send a second letter to participating Green Power Customers containing alternative green products offered by EGSs.

f. Optional Monthly Pricing Service

No party has objected to the elimination of this optional service.

¹⁸ Current customer participation in the Program is less than 200, and has never exceeded several hundred customers at any time. (PPL Electric St. 4, p. 34; SEF St. 1, p. 4)

g. Price to Compare Calculation Date

RESA proposes that PPL Electric undertake all procurements 60 days in advance of delivery, and that PPL Electric publish a new PTC 45 days in advance of the effective date. (RESA MB, pp. 46-48). PPL Electric has previously responded to RESA's contentions and will limit its response herein. (PPL Electric MB, pp. 61-63).

RESA contends that PPL Electric's current procedure of publishing a final PTC 15 days prior to the effective date provides limited time for customers and EGSs to react to the new price. (RESA MB, p. 47). However, RESA fails to even reference the fact that PPL Electric provides a preliminary PTC calculation about 90 days in advance. (Tr. 157). This advance estimate provides adequate time for customers and EGSs to react to upcoming PTC changes. There is no evidence that would suggest that shopping on PPL Electric's system has been inhibited by the current procedure.

RESA also responds to PPL Electric's explanation that finalizing the PTC 45 days in advance of the effective date will adversely affect reconciliation. (RESA MB, p. 47). RESA discounts PPL Electric's arguments, contending that reconciliation is still needed regardless of when a PTC is set. However, more current data allows better accuracy in calculating prior period over/undercollection and projected sales. (Tr. 157). PPL Electric seeks to reduce the effect of over/under collections on the PTC, and opposes proposals that can create even greater swings in the E-Factor.

RESA's proposal to publish a final PTC price 45 days in advance of the PTC effective date should be denied.

h. Recovery of Transmission and Other Related Charges

In testimony, Constellation and OSBA proposed that the Transmission Service Charge (“TSC”) be revised to apply to all distribution customers, shopping and non-shopping, on a non-bypassable basis. (OSBA St. 1, p. 8; Constellation St. 1, p. 23). However, both parties appear to have now withdrawn this proposal. (OSBA MB, pp. 18-19; Joint Suppliers MB, p. 11).

OSBA continues to argue in favor of an alternative proposal that would eliminate the TSC as a charge to default service customers and require wholesale suppliers to bear all TSC costs. (OSBA MB, p. 19). Constellation indicated in testimony that it did not support this alternative proposal. (Constellation St. 1-R, p. 7). OSBA’s Main Brief provides no substantive argument in favor of its proposal to change the current form of the TSC.¹⁹ PPL Electric has explained the numerous difficulties with OSBA’s alternative proposal. (PPL Electric MB, pp. 67-68). OSBA’s alternative proposal should be rejected.

OSBA also contends that PPL Electric’s reconciliation of the TSC has caused problems because the Company does not update demand cost allocators to reflect actual class demands. (OSBA MB, pp. 17-18). OSBA asserts that assigning transmission costs to default service wholesale suppliers would “mitigate” these problems. (OSBA MB, p. 19). However, there is a better solution, which was suggested by OSBA witness Knecht in direct testimony and endorsed by PPL Electric witness Kleha in rebuttal. (OSBA St. 1, pp. 6-7; PPL Electric St. 5-R, pp. 13-15). Under that approach, customer class allocation factors for demand-related transmission costs would be adjusted monthly. The result would be that the demand-related costs assigned to each TS default service class would change monthly to account for increases and decreases in assigned peak load responsibility based on each class’ actual share of default service load. (PPL

¹⁹ As the party seeking to change this mechanism, OSBA should bear the burden to support its change.

Electric MB, p. 69). It is this modification to the TSC reconciliation procedures, which no party challenged in surrebuttal, and not OSBA's proposal to shift TSC charges to wholesale default service suppliers, that appropriately resolves OSBA's concerns.

Finally, OSBA contends that the Company should revise its TSC rate structure to move Small C&I Customers under Rate Schedule GSC-3 with a peak demand of 500 kW or greater to the Large C&I Primary Class, and to move Large C&I Primary Customers under Rate Schedule LP-4 with a peak demand below 500 kW to the Small C&I Class. (OSBA MB, pp. 20-21).

OSBA notes the following testimony of its witness Knecht:

If PPL Electric presents credible evidence that a material amount of cost shifting [among customer classes] would occur under my proposal in its rejoinder testimony, I will recommend to the OSBA that it not argue in support of this recommendation in its briefs in this proceeding.

(OSBA St. 3, p. 4). In rejoinder, PPL Electric responded to Mr. Knecht's invitation and specified the substantial cost shifting that would occur under OSBA's proposal. (PPL Electric St. 5-RJ, pp. 1-2; PPL Electric MB, pp. 64-65). Surprisingly, OSBA does not even reference such rejoinder testimony in its MB, and asserts that PPL Electric submitted no "hard evidence" of cost shifting. (OSBA MB, p. 20). OSBA's position is without merit. OSBA's proposal would result in several hundred thousand dollars in costs being shifted, just from moving 110 customers between TSC rate classes. OSBA's proposal should be rejected.

3. Time of Use Rate Option

In its Main Brief, PPL Electric first summarized the legal, factual and policy background surrounding TOU rates in the Commonwealth and the history of PPL Electric's TOU rate offerings. (PPL Electric MB, pp. 70-75). This summary included a description of the requirements of Act 129, discussed in more detail below, and the various difficulties and

controversial issues that have arisen regarding the implementation of TOU service in Pennsylvania. (*Id.*).

The Company then presented and fully supported its as-filed TOU proposal. (PPL Electric MB, pp. 75-78). In summary, the Company's proposed TOU rate program establishes a separate default service rate option for Residential and Small C&I customers. Under the TOU rate option, the Company has selected on-peak and off-peak periods that remain constant throughout the year and prices that are based on the underlying fixed-price default service rate.

Under the proposed TOU program for Residential customers, the Company is proposing an on-peak period from 12:00 p.m. to 7:00 p.m. year-round, excluding weekends and PJM holidays. (PPL Electric St. 3, p. 6). The on-peak period for Small C&I customers is from 7:00 a.m. to 7:00 p.m., also on a year-round basis, excluding week-ends and PJM holidays. All other hours would be considered off-peak. (PPL Electric St. 3, p. 7).

The rates for Residential and Small C&I TOU customers will be fixed for a 6-month period, corresponding with each proposed fixed-price default service PTC period, *i.e.*, June - November and December - May supply periods. The rates will reflect the generation cost component of the respective Customer Class GSC-1 rates adjusted by an adder for the on-peak period and a discount for the off-peak period, plus the Customer Classes' respective portions of Company administrative costs and the E-Factor. (PPL Electric St. 3, p. 7). The on-peak adder and off-peak discount will be determined based on an analysis of the prior three calendar years of energy prices and load. (PPL Electric St. 3, pp. 8-9).

TOU over/undercollections will be reconciled across all default service customers by rate class, *i.e.*, Residential TOU over/undercollections will be reconciled over all Residential default

service load and Small C&I over/undercollections will be reconciled over all Small C&I default service load.

In addition to supporting its primary TOU proposal, summarized above, the Company also presented an alternative TOU proposal, *i.e.*, the summer only TOU program (“Summer TOU”). (PPL Electric MB, pp. 88-91). The Summer TOU proposal is based directly on the Easy TOU proposal presented by SEF in this proceeding with minor changes to the on-peak period and the basis for customer billing, both of which were fully explained on the record.²⁰ The Summer TOU program, *inter alia*, consists of on-peak and off-peak rates for the billing months of June, July and August, with an on-peak period from 3:00 p.m. to 6:00 p.m., excluding weekends and PJM holidays. During the remainder of the year, Summer TOU customers would receive the same rates as the standard default service customers, and would be included in load to be met by fixed rate default service suppliers. The same on-peak and off-peak periods would apply to Residential and Small C&I customers. The default service Summer TOU load would be bid out separately from fixed-price supply, but at the same time as the fixed-price default service load. The Company would issue an RFP requesting bidders to provide both an on-peak price and off-peak price and the TOU RFP would seek to procure products to meet the default service load of TOU customers for the summer period only. The Company would evaluate the bids based on the prices that would result in the greatest economic benefit, *i.e.*, the least overall cost to the TOU customer using the existing rate class profiles.

FES, OCA, OSBA, RESA and SEF addressed the Company’s primary TOU proposal in their main briefs.²¹ FES, RESA and SEF object to the Company’s primary proposal and offer

²⁰ See SEF St. 1, p. 14-15; SEF St. 1-SR, p. 9; PPL Electric St. 1-R, pp.10 and 11.

²¹ The SEF proposal, on which the Summer TOU proposal was based, was presented in the testimony submitted in this proceeding (SEF St. 1, p. 14-15) and at the hearing (see Tr. 278). OCA responded to the SEF proposal in its main brief. (OCA MB, pp. 31-32).

alternative TOU proposals. OSBA stated in its main brief, as it did in its testimony filed in this proceeding, that “on practical grounds” it does not object to PPL Electric’s proposed TOU service and procurement for Small C&I customers, as OSBA does not anticipate many customers electing the TOU default service rate. (OSBA MB, p. 21; OSBA St. 1, pp. 10-11).²² OCA states that the general design of PPL Electric’s primary TOU program proposal is reasonable and should not be modified as proposed by other parties in this proceeding. (OCA MB, p. 33). OCA does endorse separate summer and non-summer on-peak and off-peak periods.

a. The Company’s Proposal to Derive Default Service TOU Rates from Fixed-Price Default Service Rates is Reasonable.

Several parties criticize PPL Electric’s as-filed proposal because it establishes TOU rates as a premium above and a discount below the fixed price default service rate. In addition, the Commission, in its recent PPL Electric Time of Use Rate Order, criticized this proposal. As discussed in PPL Electric’s Main Brief (pp. 78-81), despite these criticisms, PPL Electric believes that it is reasonable and appropriate to determine the on-peak and off-peak rates in relation to the fixed-price default service rates. First, the TOU service is a default service and the Company believes that its two default service rate options, *i.e.*, fixed-price and TOU, should be established and designed on a consistent basis. Second, establishing the two default service rate options on a consistent basis will promote retail competition. If PPL Electric offers two different default service rates determined on two completely different bases, this can make price comparisons more difficult and could inhibit the development of TOU type rates in the competitive market. Third, history has provided a clear lesson as to the dangers of detaching

²² In its main brief OSBA maintains that there is “no economic basis for the Company’s proposal.” (OSBA MB, p. 21). Furthermore, while OSBA argues that default service fixed rate customers may be asked to absorb the risks associated with customers who take TOU service and this can be perceived as inequitable to fixed rate default service customers, OSBA concludes that it does not object to its inclusion in the Small C&I procurement. (OSBA MB, p. 22).

TOU rates from fixed default service rates. Under PPL Electric's 2011 TOU program, the futures price used to establish the TOU price was lower than the PPL Electric fixed-price default service price, which was based on multiple contracts over three years. (PPL Electric St. 3-RJ, pp. 4-5). As a result, the TOU price was well below the fixed-price default service rate and customers flocked to the rate. However, spot market prices then jumped and increased the acquisition cost for TOU supply resulting in a large undercollection of TOU costs and a large reconciliation adjustment in June of 2011. This jump caused customers to flee the TOU rate which resulted in a further increase in the undercollection factor. By linking TOU and fixed-price rates, disruptions of this kind would not occur in the future.

b. SEF's Recommendation That PPL Electric Should Establish Two Different TOU Rates Should Be Rejected.

As an alternative to PPL Electric's primary TOU proposal, SEF first recommends that the Company establish two different TOU rates: an Easy TOU rate and a "traditional TOU rate." SEF's Easy TOU program would be available to both Residential and Small C&I ratepayers for June, July and August, with an "on-peak" periods are from 3:30 p.m. to 6:30 p.m. Monday through Friday, excluding holidays. The "on-peak" and "off-peak" rates will be fixed for the period from June 1 through August 31. (SEF MB, p. 15). The "traditional TOU" proposed by SEF would be available to both Residential and Small C&I ratepayers in the winter from December 1 through February 28 and in the summer from June 1 through August 31. (SEF MB, p. 16). The winter "on-peak" hours are 6:00 a.m. to 9:00 p.m. and 5:00 p.m. to 8:00 p.m., while the summer "on-peak" hours are from 12 Noon to 7:00 p.m. Monday through Friday excluding holidays. (SEF MB, p. 16). During the remaining "shoulder" months, TOU customers would receive the same rates as standard default service customers. (SEF MB, p. 16).

PPL Electric, in its Main Brief, fully responded to the two SEF proposals and it will not reiterate its previous statements in full. (PPL Electric MB, pp. 80-82). In summary, SEF's traditional TOU proposal should not be adopted, and a modified version of the Easy TOU proposal should only be adopted as an alternative to PPL Electric's primary TOU proposal.

SEF's Easy TOU rate option, as initially presented by SEF, is not feasible for several billing related reasons. (PPL Electric St. 1-R, p.10). First, as explained on the record in PPL Electric's rebuttal testimony, the majority of PPL Electric's meters record full clock hour interval data. (*Id.*) The Company currently cannot record 30-minute data, making the proposed on-peak period of 3:30 p.m. to 6:30 p.m. not feasible.²³ (*Id.*) Second, as explained in PPL Electric's rebuttal testimony PPL Electric's existing billing system cannot bill on 30-minute intervals without extensive re-programming. (*Id.*; *see also* PPL Electric MB, p. 81). Third, the Easy TOU rate option is determined on a calendar-month basis, while PPL Electric's customer billing periods include portions of two calendar months. To implement such a proposal PPL Electric would be required to make modifications to its systems to accommodate the change. (PPL Electric St. 1-R, p.11). Furthermore, since PPL Electric does not have a calendar-month meter read schedule, it would have to manually calculate potentially thousands of TOU customer meter reads monthly. (PPL Electric St. 3-RJ, p. 5; *see also* PPL Electric MB, p. 83).²⁴ This is not a reasonable or cost effective approach.

Regarding the "traditional TOU rate" proposed by SEF, with its varying peak periods based on winter and summer seasons and no TOU differentiation in shoulder months, it is not consistent with a program that is easy to remember, does not require the resetting of timers on appliances or other devices, and does not require customers to change usage patterns on a

²³ SEF also stated that an alternative period would be acceptable. (SEF St. 1-SR, p. 9).

²⁴ As discussed below and in PPL Electric's Main Brief, these issues with the Easy TOU proposal have been addressed or overcome in the Company's Summer Only TOU alternative.

seasonal basis. (PPL Electric St. 3-R, p. 6). The shifting of the on-peak period renders SEF's proposal unduly complicated with the on-peak period not easily remembered. (PPL Electric MB, p. 82). As with the Easy TOU proposal, the "traditional TOU rate" proposed by SEF, is determined on a calendar-month basis, while customer billing periods include portions of two calendar months. As discussed above, to implement such a proposal, would require PPL Electric to make modifications to its systems to accommodate the change and would require manually calculating TOU customer meter reads monthly.

SEF has also not provided evidence that suppliers would be willing to participate in an RFP to supply load for its proposal when, for certain months, the supplier will be paid the same as the fixed price default service providers. For example, during the "shoulder" months under the "traditional TOU" proposal, TOU customers would receive the same rates as standard default service customers. Therefore, if "traditional TOU" suppliers are to provide supplies for the entire year, such suppliers must be willing to provide service at the same rate as the fixed-price default service providers. (*See* SEF MB, p. 16). There is no evidence in the record that suppliers would be willing to bid on such a service, where the service that they provide would be charged to customers at the same level as the fixed-price default service but the "traditional TOU" suppliers would not be a part of the fixed-price procurement process.

The OCA also opposes the adoption of two different TOU proposals. (OCA MB, p. 32). OCA notes that two TOU rate programs could be confusing to potential participants and that it would be unnecessarily complex to have TOU rate customers switch back and forth between TOU rates and regular default service rates several times per year. (*Id.*). The Company has previously explained that one of its primary goals in implementing the proposed the TOU program is to present a simple program for customers. (PPL Electric MB, p. 80; PPL Electric St.

3-R, pp. 5-6). Requiring PPL Electric to implement two different TOU proposals would be confusing to customers and inconsistent with the Company's goal to implement a simple program for customers.

c. The Proposals by SEF and RESA that PPL Electric Assign the TOU Program to a Third Party Should be Rejected.

As an alternative to SEF's Easy TOU and the "traditional TOU rate," SEF maintains that the Commission should order PPL Electric to hire, through an RFP approved by the Commission, a third party EGS, a Conservation Service Provider or a Wholesale Default Service Provider to develop and offer a TOU program. (SEF MB, p. 17). Similarly, RESA also recommends (as its secondary proposal) that the Commission adopt an "EGS bid-out" approach. (RESA MB, p. 51). RESA argues that nothing in Act 129 prohibits RESA's recommended approach, stating that "Act 129 imposes the obligation to ensure the TOU rates are available." (RESA MB, p. 52). Based on this incomplete and patently erroneous interpretation of Act 129, RESA concludes that the default service provider is free to bid out the TOU service (or, as discussed below, simply "certify" that such services are being provided by EGSs). (RESA MB, p. 52). RESA also supports its proposal by referencing *Petition of PECO Energy Company for Expedited Approval of its Dynamic Pricing Plan Vendor Selection and Dynamic Pricing Plan Supplement*, Docket No. P-2012-2297304, 2012 Pa. P.U.C. LEXIS 1525 (September 26, 2012) ("PECO Dynamic Pricing Order"), in which the Commission approved the EGS vendor selected by PECO to provide TOU rates. Notably, SEF, RESA and the PECO Dynamic Pricing Order do not address the statutory issues raised by PPL Electric in its Main Brief. (PPL Electric MB, pp. 84-88).

PPL Electric explained in detail in its Main Brief that it opposes bidding out the TOU service on both legal and policy grounds. (PPL Electric MB, p. 84-88). As a legal matter, a “default service provider” is:

An electric distribution company within its certified service territory or an alternative supplier approved by the commission that provides generation service to retail electric 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 electric generation supplier.

66 Pa. C.S. § 2803. PPL Electric, as the EDC for its customers in its certificated service territory, is the default service provider as defined in section 2803.

A specific obligation of a default service provider is to offer one or more TOU or real time rates:

. . . 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

66 Pa. C.S. § 2807(f)(5)(emphasis added). The statute requires the default service provider (not an EGS or any other entity) to submit time of use rates to the Commission and requires the default service provider (not an EGS or any other entity) to “offer” time of use rates. Moreover, in *Pa. P.U.C. v. PPL Electric Utilities Corporation*, Docket No. R-2011-2264771 at p. 23, 2012 Pa. P.U.C. LEXIS 1383 (August 30, 2012), the Commission held that the TOU program is a form of default service. Therefore, pursuant to the plain language of 66 Pa. C.S. § 2807(f)(5), PPL Electric, as the default service provider, is required by Act 129 to offer a TOU rate option to its default service customers.

The “EGS bid out” proposal ignores the requirement that the “default service provider shall offer the time-of-use rates and real-time price plan to all customers...” 66 Pa. C.S. § 2807(f)(5)(emphasis added). If PPL Electric were to bid out the TOU service to an EGS, then the EGS, by definition, would be providing this service and the Company would not be meeting its statutory obligation. Such a result would violate section 2807(f)(5) because PPL Electric, the statutory default service provider, would not be “offering” a TOU rate to its customers. Moreover, the TOU service would be offered by an EGS, which again, by definition, is not a default service provider. This also violates the plain language of the statute because the obligation to offer TOU rates lies with the default service provider. PPL Electric is the default service provider and, therefore, must offer TOU default service. If the Company “bids out” the TOU service, it is no longer offering the service, in violation of the statute.

As noted above, RESA maintains that “Act 129 imposes the obligation to ensure the TOU rates are available,” and that this obligation can be fulfilled by the default service provider bidding out the service. (RESA MB, p. 52). Furthermore, RESA notes that the “intent behind this section of Act 129 was to ensure that such options were available to customers with smart meters to ensure that this substantial upgrade in infrastructure would be used and useful.” (RESA MB, p. 53). RESA’s argument, however, simply ignores the statutory provisions discussed above, particularly the portion that says “default service provider shall offer the time-of-use rates and real-time price plan to all customers...” 66 Pa. C.S. § 2807(f)(5). RESA may hope that by ignoring the relevant statutory language that it will simply “go away.” The ALJ and the Commission should not be misled by this approach and should apply the statute as written and conclude that the plain language of the statute requires that the default service provider provide a default service TOU rate option.

PPL Electric, as the EDC for its customers in its certificated service territory, is the default service provider as defined in section 2803 and must remain the default supplier unless and until it is replaced by a new entity after Commission approval. (*See* 52 Pa. Code § 54.183). At this time, no alternate supplier has been approved by the Commission to provide default service to retail electric customers in PPL Electric's certificated service territory. No party in this proceeding has requested that PPL Electric be replaced as the default service provider in its service territory, and no petition to do the same is pending before the Commission.²⁵ Clearly, the process required to replace PPL Electric as the default service provider has not been followed and, therefore, any such proposals presented in this proceeding must be rejected.

The PECO Dynamic Pricing proceeding is distinguishable from this default service proceeding. In the PECO Dynamic Pricing proceeding, PECO sought approval of its selection of an EGS as a vendor to provide TOU service for PECO's Dynamic Pricing Plan. PECO petitioned for approval to supplement its existing Dynamic Pricing Plan, solely to facilitate the provision of TOU service by an EGS. More specifically, PECO requested that the Commission, *inter alia*, approve the EGS vendor selected by PECO to provide the TOU service and the separate vendor selected to provide management for the Dynamic Pricing Plan program. (PECO Dynamic Pricing Order, p. 1).

PECO selected an EGS as the TOU Supply Vendor for the program by conducting a RFP process. (PECO Dynamic Pricing Order, p. 6). The RFP was comprised of two parts. The first part concerned the provision of the TOU Supply, including establishing the rate structure, providing the commodity, performing bill calculations, providing bill-ready data, and all

²⁵ *See* 52 Pa. Code § 54.183. This section provides, *inter alia*, that the default service provider shall be the incumbent EDC in each certificated service territory. The default service provider may be changed by one of the following processes: (1) An EDC may petition to be relieved of the default service obligation; (2) An EGS may petition to be assigned the default service role for a particular EDC service territory; or (3) The Commission may propose that an EDC be relieved of the default service obligation.

associated reporting and administrative tasks and costs. The second part of the RFP concerned implementation and management of the pilot program (Program Management) including marketing, customer service, customer education, equipment installation, call center support and project management. PECO received three bids for TOU Supply and four bids for Program Management. (PECO Dynamic Pricing Order, p. 7).

Notably the processes undertaken by PECO with regard to the TOU rate option was a voluntary process initiated by PECO. PPL Electric, in contrast, has not initiated or advocated instituting a similar process in this case, because as noted above, there are several legal issues concerning such a proposal. Importantly, the legality of bidding out the TOU rate option was not addressed in the PECO Dynamic Pricing Order. Therefore, the PECO Dynamic Pricing Order has no precedential value.

Furthermore, the facts of the PECO Dynamic Pricing proceeding are distinguishable from this proceeding. The PECO Dynamic Pricing proceeding concerned a pilot program that will only run for a one-year period. (PECO Dynamic Pricing Order, p. 8). The PECO Dynamic Pricing proceeding concerns solely issues related to implementing the Commission's recommendation that EDCs contract with EGSs to implement their dynamic rate obligations. (PECO Dynamic Pricing Order, p. 12). PECO also discussed its TOU pricing option with EGSs and stakeholders. (PECO Dynamic Pricing Order, p. 12). PPL Electric's TOU program, which is part of its DSP II Program is to be in place for two years, not one as proposed by PECO. Also, in contrast with the PECO Dynamic Pricing proceeding, this proceeding concerns a broader set of interrelated default service issues, such as the procurement of supply and instituting other market enhancement measures. Furthermore, RESA and the Company have not discussed this option with EGSs and other stakeholders, as PECO was able to do. Therefore, since this

proceeding is substantially different from the PECO Dynamic Pricing proceeding, the results of the PECO proceeding are not directly applicable here.

Assuming, *arguendo*, that it was lawful to require PPL Electric to “bid out” its TOU default service obligation, the parties offering this proposal bear the burden of proof. A party that offers a proposal not included in the applicant’s filing bears the burden of proof for such proposal.²⁶ PPL Electric has not proposed to “bid out” or assign to a third party its TOU responsibility, and it does not bear the burden to support such a proposal. That burden falls to SEF and RESA, and said parties have failed support their proposals.

Specifically, as discussed in PPL Electric’s Main Brief, the record is entirely unclear as to what “bidding out” the TOU program clearly means or entails. (PPL Electric MB, p. 87). Furthermore, the proposals have become even less clear in the briefing phase. In its main brief, SEF argues that “the Commission should order PPL Electric to hire, through an RFP approved by the Commission, a third party (EGS Conservation Service Provider or Wholesale Default Service Provider).”

A “Electric generation supplier” is defined in 66 Pa.C.S. § 2803 as:

A person or corporation, including municipal corporations which choose to provide service outside their municipal limits except to the extent provided prior to the effective date of this chapter, brokers and marketers, aggregators or any other entities, that sells to end-use customers electricity or related services utilizing the jurisdictional transmission or distribution facilities of an electric distribution company or that purchases, brokers, arranges or markets electricity or related services for sale to end-use customers utilizing the jurisdictional transmission and distribution facilities of an electric distribution company. The term excludes building or facility owner/operators that manage the internal distribution system serving such building or facility and that supply electric power and other related power services to occupants of the building or facility. The term excludes electric cooperative corporations except as provided in 15 Pa.C.S. Ch. 74 (relating to generation choice for customers of electric cooperatives).

²⁶ See, e.g., *Pa.P.U.C. v. Philadelphia Gas Works*, Docket No. R-00061931, 2007 Pa. P.U.C. LEXIS 45 at *165-68 (September 28, 2007); *Pa. P.U.C. v. Metropolitan Edison Company*, Docket No. R-00061366, 2007 Pa. P.U.C. LEXIS 5 at *111-12 (January 11, 2007).

A “Conservation service provider” is defined in 66 Pa.C.S. § 2806.1(m) as:

An entity that provides information and technical assistance on measures to enable a person to increase energy efficiency or reduce energy consumption and that has no direct or indirect ownership, partnership or other affiliated interest with an electric distribution company.

SEF, with its proposal to bid out the TOU service in its main brief, has named three different types of entities (EGS, Conservation Service Provider or Wholesale Default Service Provider) that should take over the Company’s default service TOU rate option. The three entities suggested by SEF are, for the most part, defined differently by statute and the definitions embody different roles in the electric industry/market. An EGS is, *inter alia*, an entity that sells to end-use customers electricity or related services utilizing the jurisdictional transmission or distribution facilities of an electric distribution company. Notably, the definition of an EGS does not include a wholesale supplier, because an EGS is a retail supplier. Similarly, a Conservation Service Provider is an entity that provides information and technical assistance on, *inter alia*, measures to enable a person to increase energy efficiency, and the definition of a Conservation Service Provider does not include an EGS. The term “Wholesale Default Service Provider” as used by SEF, is not statutorily defined nor is it defined by SEF in its main brief. SEF has not explained how or if it is legally permissible for the Company to assign the default service TOU rate option to the three entities it suggests. Since SEF has not legally supported or adequately explained how it would be permissible for an EGS, Conservation Service Provider or Wholesale Default Service Provider to become the TOU default service provider it has failed to satisfy its burden of proof.

Furthermore, the Company believes that bidding out the TOU rate option would result in customer confusion. Bidding out the TOU rate option, would in effect, split the default service function into two or more pieces. PPL Electric, in essence, has two default service rate options, the regular default service rate option and the TOU default service rate option. In the event that the TOU default service rate option is somehow provided by another entity, customers may be confused by the presence of two default service providers in the same service territory providing the same default service at different rates. In addition, the overall cost of service will clearly increase. RESA and SEF have not adequately justified their proposal for two different entities providing different rate options for the same underlying default service in the same service territory. RESA and SEF have simply ignored the potential impact bifurcating default service will have on customers and their understanding of the default service rate options.

d. RESA's Proposal to Simply Certify that an EGSs Offers a TOU Rate Should Not be Accepted.

RESA's primary recommendation is that PPL Electric be permitted to meet its TOU obligation by "certifying" that one or more EGSs have agreed to offer a TOU rate to residential customers in its service territories. (RESA MB, p. 50). According to RESA, to comply with the Act 129 requirements PPL Electric would survey EGSs and determine whether they are or intend to offer a time-differentiated rate and whether the EGS intends to offer the product for at least 12-months. (RESA MB, p.50). If the Company finds one or more EGSs offering such rates, it would post that information on a clearinghouse website and certify this information to the Commission. After the end of the year, PPL would submit a report on the number of EGSs actually providing the service. (*Id.*)

RESA's primary recommendation is not consistent with 66 Pa.C.S. § 2807. The analysis presented above and in the Company's Main Brief, regarding bidding out the TOU rate option, is

equally applicable to the proposal by RESA to simply certify that an EGSs provides a TOU service. As it has with regard to the bid out proposal, RESA ignores the statutory requirement that default service provider shall offer the time-of-use rates customers. 66 Pa. C.S. § 2807(f)(5).

As explained above, the statute requires that:

. . . 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

66 Pa. C.S. § 2807(f)(5)(emphasis added). As the quote illustrates, it is a statutory requirement that the default service provider, in this case PPL Electric, actually “offer” a TOU rate. The certification proposal fails to satisfy the statutory requirements outlined in section 2807. If PPL Electric were to simply “certify” that someone else is providing some type of TOU service, then the Company clearly would not be meeting its statutory obligation to offer the service. This result would violate section 2807(f)(5) because PPL Electric, the statutory default service provider, would not be “offering” a TOU rate to its customers as required by section 2807. Moreover, the TOU service would be offered by an EGS, which is not a default service provider. This violates the language of the statute because the obligation to offer TOU rates is the default service provider’s responsibility. PPL Electric is the default service provider, and it must offer TOU default service. If the Company just certifies that a TOU rate is offered by an EGS, it is no longer offering the service, in violation of the statute.

RESA has failed to explain how its proposal would satisfy section 2807(f)(5) and, therefore, it should be rejected. RESA has failed to explain how under the certification proposal, where the rate option would be offered by an EGS, the Company is satisfying its default service provider responsibilities under the statute.

Furthermore, as discussed in PPL Electric’s Main Brief with regard to the bid out proposals, the certification proposal presents a long list of issues not addressed by RESA. (PPL Electric MB, p. 88). These open issues include: what backstop responsibility would PPL Electric have to provide TOU service; how the universal service requirements would be satisfied; and how the least cost procurement requirements of Act 129 would be satisfied. RESA has failed to address these issues and, therefore, it has failed to satisfy its burden of proof.

e. SEF’s Claim that PPL Electric has Not Acted in Good Faith is Without Merit.

SEF maintains that PPL Electric has failed to “exercise a ‘good faith’ effort to design and administer TOU programs to effectuate the intent of Act 129 to provide the least cost of electricity over time for an EDC’s captive customers.”²⁷ (SEF MB, p. 10). Careful examination of this argument, however, reveals that SEF is simply upset because PPL Electric has not in the past agreed with SEF’s proposals regarding time of use rates. An objective review of the historic record demonstrates that PPL Electric has made a bona fide and reasonable effort to balance a number of competing and conflicting policy and legal issues and implement a TOU rate option as required by Act 129. While reasonable people can disagree about the merits of an issue, it is not reasonable or appropriate for one party to attack another party’s motives, where there is absolutely no evidence to support such an attack. Such an approach does not advance reasonable decision making, goes beyond the bounds of zealous advocacy and should not be sanctioned by the ALJ or this Commission. The development of TOU rates has been a difficult issue for all EDCs and this Commission, and PPL Electric has admittedly had some difficulties in developing a program that satisfies the various and conflicting statutory requirements and policy goals

²⁷ PPL Electric notes that since the implementation of retail choice in Pennsylvania, there are no captive customers in the Commonwealth. Furthermore, SEF has not defined the term “captive customers” or explained how it is relevant to this proceeding.

regarding time of use rates. This provides no basis, however, for attacking PPL Electric's motives.

SEF's argument appears to be primarily based on its contention that PPL Electric has not accumulated sufficient data to analyze its TOU program. SEF references the fact that the Commission's 2011 TOU Order²⁸ noted that the demand and energy reduction goals of Act 129 should be better studied. (SEF MB, p. 10, n.22) SEF maintains that that this information and any related analyses was not included in the filing in this proceeding and, therefore, PPL Electric has not made a "good faith" effort to create and administer an effective TOU rate. (SEF MB, pp. 10-11; SEF St. 1, p. 23).

SEF is simply wrong in its assertion that the Company has not presented TOU data or analysis. The Company did analyze the relevant data points and this analysis is part of the record in this proceeding. SEF and PPL Electric have a difference of opinion on TOU issues; however, that does not lead to the conclusion that the Company has not acted in good faith. As explained in PPL Electric's Main Brief and by witness Woodruff, the Company has offered TOU rates for many years designed in accordance with all prior Commission Orders, and more recently as a requirement of Act 129. (PPL Electric MB, p. 80; PPL Electric St. 3-R, pp. 12-13). PPL Electric filed its Petition in this proceeding on May 1, 2012 and submitted direct testimony on May 16, 2012, in support of its Petition, including the TOU proposal. On July 18, 2012, PPL Electric filed, with the Commission pursuant to 66 Pa.C.S. §2807(e)(5), a Time of Use Report that assesses the impact of PPL Electric TOU program offered to its Residential and Small C&I customer classes on load shifting, energy prices and consumption. This report was submitted with the rebuttal testimony of Mr. Woodruff in this proceeding as Exhibit DRW-4, and was

²⁸ *Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation*, Docket No. R-2009-2122718, 2010 Pa. P.U.C. LEXIS 461 (March 9, 2010) ("2011 TOU Order"), at p. 37.

admitted into the record on September 10, 2012. (Tr. 197). Furthermore, SEF witness Costlow commented on Exhibit DRW-4 in SEF's surrebuttal testimony. (SEF St. 1-SR, p. 8). Exhibit DRW-4 contains a review and analysis of: the influence of shopping on TOU participation; price effect on TOU participation; analysis of load shift; and impact on market prices. Furthermore, testimony of PPL Electric's witness Woodruff amply supports the primary TOU program proposed by the Company. Therefore, any contention that PPL Electric has not offered a bona fide proposal in this proceeding is without merit. Furthermore, the proposal is designed to produce reasonable rates and deliver demand and consumption reductions.

f. SEF's Objections Regarding PPL Electric's "On-peak" Periods Should be Rejected.

SEF maintains that PPL Electric's program includes the creation of "on-peak" periods that do not send appropriate market-based pricing signals to ratepayers. (SEF MB, p. 14). Furthermore, SEF argues that PPL Electric's program includes the creation of artificial "on-peak" and "off-peak" periods that rely on historical data and may not reflect current market conditions. (SEF MB, p. 14). These arguments are without merit and should be rejected.

As previously explained in this proceeding, the actual load shape for the applicable customer class was used to determine the hourly percentage variance from the annual average for all possible combinations of on-peak and off-peak periods. (PPL Electric St. 3, p. 6; PPL MB, p. 76). The on-peak period was evaluated based on several criteria including: the premium and discount that would encourage shifting of load and/or conservation; a reasonable time period to encourage participation; and on and off peak periods that included the typical summer and winter peak load times. (PPL Electric St. 3, pp. 6-7; PPL MB, p. 76). Furthermore, PPL Electric is using a form of market price to price TOU service. (PPL Electric St. 3-RJ, p. 2). Specifically, in this case the Company is using a historical analysis of the prior three calendar years of energy

prices and load to determine the on-peak adder and off-peak discount. (PPL Electric St. 3, pp. 8-9). In other words, it is using the historic market price differential as a representation of the current market. PPL Electric's TOU pricing methodology simply looks at the historical relationship between hourly spot prices and the average price to determine the average on-peak premium and off-peak discount relative to the average price over the same period. (PPL Electric St. 3-RJ, p. 4). This analysis will include a review of the Customer Class hourly load, the hourly PJM LMP, the hourly spot market energy dollars, the on-peak and off-peak \$/MWh averages, and the generation cost factor of the GSC-1 rate for the respective Customer Class. (*Id.*). The Company is not proposing a real-time spot price for TOU rate option because, unlike the true spot market, the TOU supply is procured and the price set months in advance of the delivery date. (*See* PPL Electric St. 3-RJ, p. 4). Therefore, it is appropriate to set the "on-peak" and "off-peak" rates based on historical data, in order to represent the market price within the confines of practical considerations of implementing a default service program.

In addition, SEF's proposed on-peak and off-peak hours are based entirely upon analysis of PJM on-peak and off-peak periods, and do not in any way consider whether TOU rates based upon these hours would be acceptable to customers and whether any customers would enroll in a voluntary TOU program with these hours. PPL Electric, in contrast, carefully considered both PJM on-peak and off-peak hours and customer acceptance issues in order to provide a balanced and workable plan.

g. FES's Proposal to Bid the TOU Separately or to Continue Certain Spot Market Purchases to Cover TOU Load Should be Rejected.

FES disagrees with PPL Electric's proposed approach to procuring TOU supply. (FES MB, p. 39). FES argues that TOU load should be bid separately from fixed-price load because the TOU and fixed-price loads are different wholesale products, with different risk profiles.

(FES MB, p. 39). Combining the products, according to FES, complicates the bid design, and will likely result in higher bids than would be obtained on just the fixed-price full requirements portion of the combined products. (FES MB, p. 39). FES also recommends, due to the Company's position to not "bid out" the TOU rate option, that PPL Electric continue procuring TOU default supply from wholesale suppliers that currently supply PPL Electric's default service spot market energy needs. (FES MB, p. 39).²⁹

As an alternative, FES maintains that the proposal offered by Constellation (Constellation St. 1, p. 39) to allocate a *pro rata* percentage share of TOU customer load to each tranche, including those awarded in DSP I Programs RFPs, rather than revising the price paid to default suppliers under their contracts is reasonable. (FES MB, p. 41).

Regarding the proposal by FES that PPL Electric bid out the TOU load separately, this issue was fully addressed in the Company's Main Brief. (PPL Electric MB, p. 83). As the Company has previously explained, the goal in combining the fixed price and TOU procurements is to ensure that it is able to obtain adequate supply to provide a TOU rate option. (PPL Electric MB, p. 83; PPL Electric St. 1-R, p. 18). On a conceptual basis, the Company does not object to a separate TOU procurement. The Company's concern is that it will not receive adequate bids if the TOU product is bid separately. (*Id.*). The aggregate amount of TOU supply is anticipated to be small, and the amount of load will not be known at the time of procurement because the TOU rate option is voluntary and customers may come and go at any time. (*See* PPL Electric St. 3, p. 4). These factors increase the risks to the suppliers and, due to these risks suppliers may not bid to provide TOU supply. For this reason, the Company does not believe that the TOU product should be bid separately as part of its primary proposal. The Company made the decision to not

²⁹ FES, in its main brief, also summarizes the proposal of SEF and RESA to "bid out" the TOU service, however, FES does not appear to take a specific position on this recommendation. Notably, this issue is discussed in detail above.

separately bid the TOU default service option to guarantee, with its primary TOU proposal, that the TOU product would be bid on by suppliers and not take the risk that the Company would be left in a position of not having TOU supply to offer as part of its TOU default service option. (PPL Electric St. 1-R, p. 18).³⁰

Concerning the proposal to continue procuring TOU default supply from wholesale suppliers that currently supply PPL Electric's default service spot market energy needs, such a proposal is not feasible. PPL Electric will procure a small portion of spot supply (approximately 3 MW) of load to cover legacy block issues from the Company's DSP I Program. Also, the Company will procure this spot supply for Residential customers only, and the Company will procure spot supply for no more than 6 months (June 2013 through November 2013), with November 2013 being the time when those Residential legacy contracts expire. (PPL Electric St. RJ-1, p.4). No other spot purchases are contemplated under DSP II Program for Residential or Small C&I customers. The TOU program is a default service rate option that will be made available to all Residential and Small C&I customers for the duration of the DSP II Program (2 years). (PPL Electric St. RJ-1, p.4). Therefore, the proposed procurement of spot supply will not be in effect long enough to cover the entire DSP II Program period and therefore not long enough in duration to cover the TOU rate option proposed for the DSP II Program. (PPL Electric St. RJ-1, p.4).

FES's final alternative concerns the recommendation by Constellation that the Company allocate a *pro rata* percentage share of TOU customer load to each tranche. (Constellation St. 1, pp. 39-40). Constellation also recommends the Company include in this *pro rata* allocation those suppliers awarded in prior default service program's RFPs and not revise the price paid to

³⁰ As discussed below, and in its Main Brief (at pp. 88-91), PPL Electric has proposed a Summer TOU program as an alternative to its primary proposal. One element of the alternative is that the default service Summer TOU load would be bid out separately from fixed-price supply, but at the same time as the fixed-price default service load.

suppliers under their contracts. (*Id.*). As previous explained, the Company would not oppose this proposal offered by Constellation. (PPL Electric MB, p. 84; *see* PPL Electric St. 1-R, p. 19).

h. OCA's Limited Criticisms of the Proposed Peak Period Definition and the Discount Factors Should be Rejected.

As noted above, OCA “submits that the general design of [PPL Electric’s] proposed TOU program is reasonable and should not be modified as proposed by SEF and/or [Exelon and Constellation].” While concluding that the Company’s proposal is reasonable, OCA, however, does criticize certain elements of the proposal. OCA states that the proposed design of the summer peak period allows the TOU rate program to achieve the objectives of reducing peak loads, lowering the cost to supply, and lowering customers’ bills. (OCA MB, p. 30; OCA St. No. 1, p. 24). However, OCA submits that PPL Electric should have a different definition of peak period for summer and non-summer months, and that different on-peak premium and off-peak discount factors should be used for the summer and non-summer months. (OCA MB, pp. 30 - 31).

The Company appreciates OCA determination that its proposal is reasonable and that the definitions of the peak period as proposed by the Company are reasonable and should be maintained. However, a separate on-peak premium and the off-peak discount factors for summer and non-summer months, as proposed by OCA, would not be appropriate. As explained in the Company’s Main Brief, one of its primary goals in proposing the TOU program is to present a simple program for customers, particularly with respect to the on- and off-peak periods. (PPL Electric MB, p. 80; PPL Electric 3-R, pp. 5-6). A simple program design makes it easier for customers to compare options, including options offered in the competitive market. As PPL Electric witness Woodruff explained, a year-round, consistent time period simplifies the proposed TOU program’s implementation because the consistent year-round period is easy for

customers to remember; it does not require the resetting of customers' devices; and it does not require changes to usage patterns on a seasonal basis. (PPL Electric 3-R, p. 6). The changes advocated by OCA (differing definitions of peak period for summer and non-summer months, and different on-peak premium and off-peak discount factors) would run contrary to the Company's goal of implementing a TOU program with a simple design that is easy for customers to evaluate in order to compare it to other options. Therefore, the changes proposed by OCA should not be implemented.³¹

i. The Alternative Summer TOU Proposal Present By PPL Electric Resolves Certain Issues Raised in the Briefs.

As summarized above, in its Main Brief PPL Electric proposed an alternative Summer TOU proposal, which address many of the issues raised by other parties in their main briefs. The Summer TOU proposal is modeled after the Easy TOU rate proposal presented by SEF with the two limited changes, both of which were fully explained on the record. (SEF St. 1, pp. 14-15; SEF St. 1-SR, p. 9; PPL Electric St. 1-R, pp.10 and 11; PPL Electric 3-RJ, p. 5). The Summer TOU proposal has a slightly different on peak period, which is intended to target the highest peak periods during the summer months, and the TOU customers will be billed on their normal billing cycles rather than on a calendar month basis. (*Id.*).

This alternative addresses, at least in part, many of the concerns and criticisms raised by the other parties. As discussed above, FES asserts that TOU supply should be bid out separately from fixed-price default service load. PPL Electric's alternative proposal adopts this approach. Furthermore, PPL Electric's alternative proposal separates the determination of TOU rates from fixed-price default service rates. RESA and SEF, as noted above, contend that TOU rate option

³¹ OCA also notes that PPL Electric should use the PJM holiday schedule. (OCA MB, p. 31). The Company has proposed to use the six North American Electric Reliability Counsel holidays recognized by PJM. (PPL Electric St. 3-R, pp. 4-5). These holidays are referred to in PJM Manual 35 and are used in the definitions, contained therein, for "on-peak" and off-peak." (PPL Electric St. 3-R, p. 5).

should be more market based. By separately procuring the TOU supply, the market will provide the supply for the TOU customers and the rate will be set by this market process. SEF contends that the same on peak and off peak periods should be used for Residential and Small C&I customers. (SEF MB, p. 14). PPL Electric's alternative proposal adopts this approach. Therefore, the Summer TOU presents a reasonable alternative to the Company's primary TOU proposal.

4. Other Default Service Program Issues

a. Supply Master Agreement and RFP Process and Rules

i. Revisions to the Supply Master Agreement

In its Main Brief, PPL Electric responded to the following proposals from Constellation to revise the SMA:

1. Unsecured Credit
2. Definition of Default
3. Failure to Comply
4. Definition of Guarantor
5. Monthly vs. Weekly Payment
6. Letter of Credit – 3 Business Day Replacement
7. Letter of Credit – Replacement of Issuer
8. Letter of Credit – Review of Performance Assurance

(PPL MB, pp. 94-100).

The Joint Suppliers' Main Brief addresses only three of the foregoing issues: Unsecured Credit, Monthly vs. Weekly Payment, and Letter of Credit – 3 Business Day Replacement. All remaining proposals, not included in Joint Suppliers' Main Brief, should be considered

withdrawn. In addition, with respect to Constellation’s Letter of Credit – 3 Business Day Replacement proposal, PPL Electric and Joint Suppliers are in agreement with respect to the proposed modification. Therefore, the only remaining issues are the amount of unsecured credit to be granted under the SMA, and whether the SMA should be revised to provide for weekly payments to wholesale suppliers or should continue to provide for monthly payments as currently occurs under the DSP I Program SMA.

Unsecured Credit. Constellation proposes to increase the amount of unsecured credit provided to wholesale suppliers. The differences between PPL Electric’s proposal and Constellation’s two alternative proposals are shown in the following table:

(all amounts in millions (M) of dollars)

PPL ELECTRIC SMA		PPL ELECTRIC 2011-13 SMA		WEST PENN SMA	
<u>Supplier/Guarantor</u>	<u>Credit Limit</u>	<u>Supplier/Guarantor</u>	<u>Credit Limit</u>	<u>Supplier/Guarantor</u>	<u>Credit Limit</u>
	\$50M	A/A2/A and above	\$75M	A/A2/A and above	\$125M
A-/A3/A- and above	\$50M	A-/A3/A-	\$75M	A-/A3/A-	\$100M
BBB+/Baa1/BBB+	\$35M	BBB+/Baa1/BBB+	\$50M	BBB+/Baa1/BBB+	\$75M
BBB/Baa2/BBB	\$25M	BBB/Baa2/BBB	\$35M	BBB/Baa2/BBB	\$50M
BBB-/Baa3/BBB-	\$15M	BBB-/Baa3/BBB-	\$20M	BBB-/Baa3/BBB-	\$25M
Below BBB-/Baa3/BBB-	\$0	BB+/Ba1/BB+	\$0M	BB+/Ba1/BB+	\$15M
	\$0	BB/Ba2/BB	\$0M	BB/Ba2/BB	\$10M
	\$0	BB-/Ba3/BB-	\$0M	BB-/Ba3/BB-	\$5M
	\$0	Below BB-/Ba3/BB-	\$0	Below BB-/Ba3/BB-	\$0

Joint Suppliers assert that PPL Electric must bring its unsecured credit amounts in line with the unsecured credit amounts in the West Penn SMA. Joint Suppliers assert that this is necessary in order to comply with Act 129’s requirement to obtain least cost generation supply contracts, and to encourage greater supplier competition in bidding for default service contracts. (Joint Supplier MB, p. 16).

However, Joint Suppliers exclusive focus on whether SMA terms will increase supplier participation in default service procurements overlooks Act 129’s further directives that

wholesale suppliers’ contracts assure adequate and reliable service and that procurements include prudent steps to negotiate favorable contract terms. (66 Pa.C.S. §§ 2807(e)(3.4), (3.7)(i)). Unsecured credit provisions are vitally important to ensuring that default service customers receive the benefit of the winning contract price. Higher unsecured credit limits mean that default service customers are at increased risk that, in the event of default, the Company will have to purchase replacement power at prices above the contract price without assurance, in the form of security, that the defaulting supplier will pay for any increase in replacement power costs. (PPL Electric St. 1-R, p. 21). If the defaulting supplier, because of bankruptcy or other reasons, is unable or unwilling to pay for replacement power, any resulting increased costs will have to be passed through to default service customers in the form of increased rates. PPL Electric believes a more prudent approach is to provide for lower unsecured credit limits, to reduce the risks to default service customers.

Joint Suppliers also challenge PPL Electric’s assertion that its proposed unsecured credit limits are consistent with various other EDC’s unsecured credit limits, including Constellation’s affiliate PECO Energy Company. The following table confirms that PPL Electric’s proposed limits are well in line with the unsecured credit limits used by others, and that these limits are well below those proposed by Joint Suppliers:

(all amounts in millions (M) of dollars)

	Proposed PPL Electric	PECO	NSTAR	Duke Ohio	NJ BGS	WP
Highest allowed credit ³²	\$50 M	\$60M	\$40 M	\$60 M	\$60 M	\$125 M
Lowest allowed credit ³³	\$15 M	\$15 M	\$5 M	\$2.5 M	\$15 M	\$5 M

³² For suppliers rated A-A3/A- and above for all companies except NSTAR (AA-/Aa3/BBB+) and West Penn (A/A2/A). West Penn provides \$100 million unsecured credit for A-/A3/A-.

³³ For suppliers rated BBB-/Baa3/BBB- for all companies except Duke Ohio (BB/Ba2/BB) and West Penn (BB-/Ba3/BB-).

PPL Electric’s proposed credit limits are reasonable and provide appropriate protections for customers. Joint Suppliers proposed unsecured credit limits should be rejected, for the reasons explained herein and in PPL Electric’s Main Brief. (PPL Electric MB, pp. 94-95).

Monthly vs. Weekly Payment. Joint Suppliers assert that a change from monthly to weekly payments to wholesale suppliers will encourage more competitive pricing “to the ultimate benefit of consumers.” (Joint Suppliers MB, p. 17). Joint Suppliers provided no evidence to support this contention. As PPL Electric conclusively demonstrated, a change to a weekly settlement process will decrease wholesale suppliers CWC needs but increase PPL Electric’s CWC needs. Thus, Joint Suppliers have failed to prove there will be any net benefit to customers from this proposed change. For reasons explained above and in PPL Electric’s Main Brief, Joint Suppliers’ proposal is without merit and should be rejected. (PPL Electric MB, pp. 98-99).

- b. Third-Party Manager**
- c. RTO Compliance and Consistency**
- d. Contingency Planning**

No parties have raised issues on any of these subjects.

- e. Additional Information to Wholesale Suppliers Regarding Shopping and Procurements**

Joint Suppliers have accepted the information that PPL Electric has agreed to provide on this subject. (PPL Electric MB, pp. 103-105; Joint Suppliers MB, pp. 18-19). As a result, there is no remaining issue in dispute.

C. RETAIL MARKET ENHANCEMENTS AND CUSTOMER REFERRAL PROGRAMS

Although PPL Electric does not need to “kick-start” retail competition in its service territory, with dozens of EGSs competing for customers and the highest level of shopping for a

major EDC in Pennsylvania, PPL Electric does strongly support the Commission's retail market enhancement efforts and wants them to be successful. However, PPL Electric respectfully submits that its proposed market enhancement timetable and program structure will be the most effective way to further advance retail competition under the Company's specific circumstances. The comparatively large number of customers shopping in PPL Electric's service area suggests that PPL Electric's customers are more knowledgeable about shopping basics than customers in other service areas. This supports an approach that gives attention to careful education and careful program design that avoids confusion and dissatisfaction with the products being offered in the retail market enhancements. (PPL Electric St. 4-R, p. 15).

1. New and Moving Customer Program

PPL Electric did not provide details of its New/Moving Customer Program in this filing because the Program is expected to be in operation, under the auspices of the Commission's Office of Competitive Markets Oversight ("OCMO"), well before a Commission decision in this case. (PPL Electric St. 4, p. 13; Tr. 86). Nevertheless, RESA criticizes PPL Electric's compliance with the Commission's New/Moving Customer Program directives. (RESA MB, pp. 55-58). RESA's criticisms are without merit.

RESA suggests that PPL Electric should concentrate on implementing the Standard Offer Referral Program and the Opt-In Program rather than the New/Moving Customer Program. (RESA MB, p. 56). PPL Electric does not endorse this suggestion. In its *FirstEnergy Order*, the Commission strongly rejected RESA's and the FirstEnergy Companies' proposal to forego a New/Moving Customer Program:

As indicated in our [*RMI IWP Final Order*] we "determined that the New/Moving Customer Referral Program will be restricted to those customers calling to initiate service or calling to move service within an EDC's service territory." *IWPF Order* at 17. In that Order, we further

explained our expectation that the EDCs would be able to provide general information about Pennsylvania's retail electric market and could do something as simple as refer a customer to PAPowerSwitch.com or complete a "hot transfer" to an EGS if the customer knew which EGS they would like to select. *Id.* at 18-19. Although we directed EDCs to merge or consolidate the New/Moving Customer Referral Program with the Standard Offer Customer Referral Program in their next default service plans, we made it clear that "the New/Moving Customer Referral Program can be implemented on its own in a relatively short period of time with a minimum amount of effort." *Id.* at 20.

With these facts in mind, it was disconcerting that RESA and the Companies suggested "dropping" the New/Moving Customer Referral Program entirely, and instead, focusing its resources solely on the Standard Offer Customer Referral Program. We find it significant that the Companies "currently offer information on retail shopping to customers when they call to initiate service or change their service location" as well as the Companies' claim that "the earliest they could implement any proposed modifications to their existing program is ... [by] December 2012." R.D. at 131.

If anything, these facts clearly support our position that the New/Moving Customer Referral Program can be implemented in a relatively short period of time with minimal effort on the part of an EDC.

(*FirstEnergy Order*, pp. 54-55 (footnote omitted)). PPL Electric witness Krall confirmed PPL Electric's intent to follow the Commission's direction on how the New/Moving Customer Referral Program would operate:

The way I would expect it to go would be more, "Are you aware of shopping? Do you have an interest -- are you aware of a particular EGS that you would like to contact?" If not, we provide the Power Switch link and information about others.

But if the indication was that, "Yes, Aunt Freida is with Dominion. She likes them. I'd like to talk to Dominion," then we would arrange a transfer to Dominion.

(Tr. 87). The New/Moving Customer Program is a simple process that PPL Electric is implementing. RESA's contention that the program not be undertaken if it somehow could impede implementation of other market enhancements is wrong.

RESA also is fixated on the notion that a New/Moving Customer Program should not involve a “hot transfer” to an EGS,³⁴ but should implement a “day one switch,” whereby the customer is signed up with an EGS by PPL Electric’s Customer Service Representative without a transfer to an EGS. (RESA MB, pp. 56-57). RESA fails to consider that a hot transfer is envisioned by the Commission for the New/Moving Customer Program, as indicated in the foregoing quote from the *FirstEnergy Order*. In addition, RESA overlooks the testimony of PPL Electric witness Krall, who explained that a “day one switch” capability is planned for the future under a Standard Offer Referral Program, and not as part of the New/Moving Customer Program:

In the new and moving program, we wouldn’t be signing up the individual directly with Dominion, but the anticipation is that in the standard offer referral program, the Commission kind of views the one morphing in time into the other; that the day-one switch would be possible.

(Tr. 87-88).

There are two reasons why RESA’s “day one switch” cannot be implemented immediately or as part of a New/Moving Customer Program. The first reason is uniformity. The Company cannot sign up customers directly for EGS service absent a standard offer. EGSs can offer customers various products with different price terms and different contract lengths. (RESA MB, p. 24; FES Ex. TCB-4). PPL Electric cannot serve as a clearinghouse or advisor to customers with respect to multiple EGS pricing options, which could change daily. (Tr. 92). Therefore, only in the context of a Standard Offer Referral Program can the Company effectively undertake any “day one switch” procedure.

³⁴ The term “hot transfer” refers to a PPL Electric Customer Service Representative transferring a customer directly to an EGS customer service representative when the customer requests generation service from a specific EGS. (Tr. 90).

The second reason why a “day one switch” procedure must await PPL Electric’s roll-out of the Standard Offer Referral Program is systems operation capability. Various programming changes, and changes in communications with EGSs, must be made to accomplish a “day one switch,” as PPL Electric witness Krall explained:

From an enrollment perspective, the Company must develop and be able to process an outbound 814 enrollment transaction which will allow the Company to enroll participating customers with an EGS and inform the EGS of this new customer relationship. The Company will also have to create service representative, web, and IVR functionality to enroll customers, assign an EGS (if none is chosen), and create the outbound 814.

(PPL Electric St. 4, p. 31). PPL Electric has stated that it intends to offer a day one switch procedure when necessary technology modifications have been made, but that this will take time and investment, which is envisioned to be undertaken as part of the Standard Offer Referral Program. (Tr. 91-92).

Finally, RESA asserts that PPL Electric’s proposed New/Moving Customer Program does not track the Commission’s directives in the *RMI-IWP Final Order* regarding such a Program. (RESA MB, p. 55). However, RESA has identified no specific program component not being provided by PPL Electric. RESA’s unsupported assertion should be rejected.

RESA’s criticisms of PPL Electric’s intentions to comply with the Commission’s directives regarding a New and Moving Customer Program are without merit and should be rejected.

2. Customer Referral Mailing

No party appears to oppose the structure of PPL Electric’s Customer Referral Mailing, which includes the following components:

- Mailing merged with the FAQ Mailing to be made as part of the Commission’s Customer Education Efforts.

- Separate mailings for Residential and Small CI& Customers.
- EGSs to provide, in electronic format, a standard 5” x 8” size offering.
- PPL Electric to include a letter with the offers that describes the content of the mailing.
- EGSs to pay the cost of their inserts, and any incremental postage costs.

The only issue that appears to remain is whether the mailing will be undertaken if the Commission accelerates the date for implementation of the Opt-In Program or Standard Offer Referral Program. It remains PPL Electric’s position that this proposal for an additional market enhancement program should be pursued only if the Opt-In and Standard Offer Programs do not begin in the Summer of 2013. Otherwise, PPL Electric is concerned that this program may result in customer criticism about too many offers, with different terms and conditions, being made simultaneously. The Company wants each of these market enhancement efforts to be successful in encouraging more customers to shop, and does not want overlapping efforts to create a negative impression. (PPL Electric St. 4-R, p. 17).

For reasons explained above, and in PPL Electric’s Main Brief, the Company supports the modified Customer Mailing proposal in the context of its proposed timing for other market enhancements. (PPL MB, pp. 108-111).

3. Opt-In Auction/Aggregation Program Design

PPL Electric has described in detail in its Main Brief both its Opt-In Auction Program design and an alternative Opt-In Aggregation Program design if the Commission decides, consistent with its *FirstEnergy Order* and *PECO DSP II Order*, to adopt a fixed 5% discount and \$50 bonus without an auction. PPL Electric also has anticipated and responded to most of the

contentions of other parties, and will limit its responses accordingly. (PPL Electric MB, pp. 111-122).

PPL Electric also acknowledges that the Commission's *FirstEnergy Order* and the *PECO DSP II Order* provide for an Opt-In Program contract term of 12 months, with the price for the first 4 months set at a 5% discount off the PTC, and an unidentified price for the remaining 8-month term. PPL Electric respectfully recommends that the Commission reconsider this approach in PPL Electric's case. PPL Electric believes that its Opt-In Aggregation Program proposal, which provides for a six-month contract term, a 5% discount, and a \$50 bonus is reasonable, avoids uncertainty and questions of transparency concerning the price for the remaining contract term (DES/IGS MB, p. 18),³⁵ eliminates concerns expressed by some that customers might perceive changes in price terms to be a "bait and switch" offer (FES MB, p. 45), and otherwise avoids contentions that customers were disadvantaged if they are randomly assigned to an EGS that has a higher 8-month price than other participating EGSs. (PPL Electric MB, p. 112). PPL Electric's basic structure for the Opt-In Aggregation Program has been endorsed by several parties, including RESA and OCA. (RESA MB, p. 61; OCA MB, p. 41). PPL Electric asks that the Commission further consider this alternative.

OCA contends that the Opt-In customer participation cap be reduced to 20%, and that the Company concurrently "hold back" 20% of its default supply procurements. OCA asserts this will prevent "harm" to default service customers. (OCA MB, p. 47). OCA has provided no response to the Company's testimony that any "hold back" of default procurements creates issues, as it could increase the amount of supplies purchased at spot prices and creates confusion

³⁵ DES/IGS's proposal to require all EGSs to post their 8-month follow-on price on the PowerSwitch website reinforces PPL Electric's concern that if the Opt In Program prices are not uniform for the contract term, customers will discover that they may have been randomly assigned to an EGS with higher rates, leading to complaints and negative impressions of the Opt In Program. (PPL Electric St. 4-SR, p. 11).

and uncertainty regarding the percentage of supply to be provided under full-requirements load following contracts. (PPL Electric MB, pp. 24-25; Tr. 254-55). OCA's hold back proposal has a number of problems and should be rejected.

OCA proposes that PPL Electric provide further "education" to customers participating in the Opt-In Program by providing a third notice, in addition to the two notices required from EGSs, prior to the end of the Opt-In contract term. (OCA MB, p. 49). OCA has not identified who would be responsible for the cost of this notice. If this is "education" then arguably customers should pay this cost, but in no event should PPL Electric bear this cost. PPL Electric is concerned that the more "education," "notices," mailings, promotions and other requirements layered upon the market enhancement programs, the more expensive they become. (PPL Electric St. 4-R, pp. 29-30). PPL Electric does not support additional program requirements not envisioned by the *RMI-IWP Final Order*.

DES/IGS asserts that a 6-month contract term is too short, as it gives suppliers little time to recover their \$50 bonus payment. (DES/IGS MB, p. 17). However, many EGSs currently offer discounts in excess of 5% off the PTC (see FES Ex. TCB-4), and must obtain customers through their own advertising efforts. The Opt-In Program will provide an opportunity for EGSs to sign up large numbers of customers without advertising. DES/IGS has provided no evidence that a 5% discount and \$50 bonus payment, even for a 6-month term, would result in financial loss. DES/IGS has failed to provide sufficient evidence to support this asserted reason for longer contract terms.

DES/IGS also proposes that EGSs participating in the Opt In Program should post a cash deposit or bond to secure the \$50 bonus payment. (DES/IGS MB, p. 6). The *RMI-IWP Final Order* did not mandate any security for the bonus payment. PPL Electric opposes any such

requirement if the Company is to hold the security. The Company believes that its involvement in the relationship between an EGS and its customers should be kept to a minimum. (Tr. 77-78).

FES asserts that a 12-month contract term for the Opt-In Program will extend “the availability of a favorable program price to 12 months.” (FES MB, p. 46). The difficulty with FES’ contention is in defining a “favorable program price.” PPL Electric’s proposal, with a 5% discount off the PTC for a 6-month term that overlaps PPL Electric’s semi-annual PTC changes, definitely provides participating customers with a favorable price vs. the PTC. However, a 5% discount off the current PTC is not necessarily a favorable price if market prices or the PTC falls after 6 months. PPL Electric believes its shorter term contract, as originally envisioned by the *RMI-IWP Final Order*, provides better assurance of favorable pricing. For this reasons, PPL Electric encourages adoption of its proposed Opt In Program term.

FES raises a question regarding how customers would be allocated to EGSs absent a bidding process. (FES MB, p. 47). PPL Electric notes that in its Opt-In Aggregation Program proposal, it has provided that customers would be allocated equally among all EGSs participating in the program. (PPL Electric MB, p. 115).

FES continues to support a Declining Clock Auction process in the event an auction is used. PPL Electric supports a sealed bid process, as explained in its Main Brief. (PPL Electric MB, p. 121).

RESA proposes, for the first time in briefs, that if the Opt-In process generates less than a 10% response rate, then PPL Electric should undertake a second enrollment process. (RESA MB, p. 64). PPL Electric disagrees. The Commission should not set an arbitrary floor for success at this time, or direct at this time what should occur in the event an Opt-In Program is deemed insufficiently successful. PPL Electric emphasizes that the cost of mailings is

substantial, and repeating the process may not be an efficient use of financial resources, whether it is EGSs or customers who must bear that cost.³⁶ PPL Electric further notes that the Commission will be provided a report following the conclusion of the Opt-In process. (*RMI-IWP Final Order*, p. 83). At that time, the Commission can decide, based upon a review of results from PPL Electric's program and similar programs throughout the state, whether the program has been successful or whether something else should be done.³⁷ RESA's proposal to trigger a second Opt-In Program mailing based upon an arbitrary participation rate should be rejected.

RESA continues to argue that current shopping customers should be absolutely prohibited from participating in the Opt-In Program. (RESA MB, pp. 66-67). PPL Electric disagrees, for reasons explained in its Main Brief. (PPL Electric MB, pp. 117-118). PPL Electric provides one further response. RESA contends that participation by shopping customers would foreclose participation by non-shopping customers. (RESA MB, p. 67). This is incorrect. PPL Electric's program specifically provides for a cap of 50% on non-shopping customers only. If any shopping customers make an affirmative request to be included in the Opt-In Program, they will not impact the non-shopping customer cap. (PPL Electric St. 4, p. 21).

RESA argues that "small business" customers should be included in the Opt-In Program. RESA defines "small business" to include non-residential customers with load of 25 kW and below. (RESA MB, pp. 69-70). Alternatively, RESA proposes that the class be defined by PPL Electric's "smallest existing rate class." PPL Electric does not support RESA's proposal for reasons explained in its Main Brief. (PPL Electric MB, pp. 119-120). PPL Electric notes that its

³⁶ PPL Electric estimates \$1 per mailing piece. (PPL Electric MB, pp. 132-33).

³⁷ PPL Electric's high level of shopping to date also should be considered in measuring the success of the Opt In Program.

rate schedules are not defined by kW demand and, thus, a definition of small commercial and industrial customers of 25 kW and below would cross over various rate schedules.³⁸

In support of its proposal to include “small business” customers, RESA makes unsupported assertions that small business customers are not shopping on the PPL Electric system. RESA speculates that there are very small business customers who are not shopping and are “sticky” and that PPL Electric’s statistics on small business customer shopping is distorted by larger small business customers who are shopping and are not “sticky.” (RESA MB, p. 68). There is no evidence for these contentions. The facts of record are that over 64% of the peak load capacity of non-residential customers under 25 kW is served by EGSs. (Tr. 320-21). Small business customers are shopping on the PPL Electric system.

PPL Electric is aware that in the *FirstEnergy Order* and the *PECO DSP II Order*, the Commission included small business customers in the Opt-In Program. This decision appears to have been based substantially upon the relatively low amount of shopping by the small business customers in those service areas. For PPL Electric, nearly 90% of all commercial load is shopping, whereas only about 60%-65% of commercial load is shopping on the FirstEnergy and PECO systems. (OSBA Ex. IEC-S1). PPL Electric’s small business customers are much more active shoppers. Therefore, PPL Electric continues to believe that the additional cost of expanding the Opt-In Program to include small business customers is not necessary.

In conclusion, PPL Electric recommends that the Commission adopt the program design of either its Opt-In Auction Program or its Opt-In Aggregation Program.

³⁸ PPL Electric’s Rate Schedule GS-1 is for single phase non-residential service at secondary voltage, although there may be customers with demand over 25 kW on this rate schedule.

4. Standard Offer Program Design

PPL Electric's Standard Offer Program Design conforms to the Commission's recommendations in the Commission's *RMI-IWP Final Order*. Various parties propose modifications to that design. PPL Electric has responded to these modifications in its Main Brief and will limit its responses here. (PPL Electric MB, pp. 122-28).

OCA argues for a price savings guarantee. Under OCA proposal, if the PTC changes during the term of the customer's contract,³⁹ then the customer's contract price would change to preserve a 7% discount off the PTC. (OCA MB, p. 53). PPL Electric does not endorse this proposal, as it is contrary to the *RMI-IWP Final Order*. (Order at p. 31). However, the Company's proposal for a 6-month Standard Offer Referral Contract, combined with semi-annual PTC changes, gives some measure of the protection sought by OCA, as customers would experience no more than one PTC price change during the term of their contract. (PPL Electric MB, pp. 124-25).

OCA also argues that at the end of the term of a Standard Offer Contract, a customer should return to default service unless the customer affirmatively elects to stay with an EGS. (OCA MB, p. 54). For reasons explained above with respect to the Opt-In Program, the Company does not endorse the addition of new requirements or conditions for these contracts that are different from the requirements associated with other contracts between EGSs and their customers. In particular, PPL Electric does not support proposals that would require it to "police" EGS contracts, and return customers to default service without an affirmative request to do so.

³⁹ OCA argued in favor of a 4-month contract term in testimony, but now appears to take no position on term length. (OCA MB, p. 53).

DES/IGS argues in favor of a one-year term contract for the Standard Offer Referral Program, but without any price guarantee as proposed by OCA. DES/IGS asserts that a shorter term increases EGS costs at the end of the program and increases the risk of migration. (DES/IGS MB, p. 19). DES/IGS has offered no support for such assertions. It is difficult to understand why there is any greater risk of migration based upon contract term. There also is no explanation as to what costs are increased by a 6-month contract term vs. a 12-month term.

FES also supports a 12-month contract term for the Standard Offer Program. FES asserts this will provide increased savings to customers. (FES MB, p. 54). However, as explained previously with respect to the Opt-In Program, whether customers will actually achieve savings depends upon whether market prices change during the term of the contract. A longer term increases the possibility that actual savings do not materialize. A 6-month Standard Offer contract term, combined with PPL Electric's proposed semi-annual PTC changes, will increase the customer's perception of real savings, and contribute to a more positive shopping experience.

FES argues that Small C&I customers should be included in the Standard Offer Program. (FES MB, p. 55), and RESA concurs (RESA MB, p. 77). As explained in Section II C.3 above with respect to the proposal to include small business customers in the Opt-In Program, PPL Electric believes such a proposal adds unnecessary program costs, given the high level of Small C&I customer shopping in its service area.

RESA argues that the Standard Offer Program should have a 12-month term, but with a 7% discount for only the first four months. (RESA MB, p. 74). This defeats the entire purpose of a "Standard" Offer Program. The Standard Offer Referral Program should provide customers assurance that no matter what EGS PPL Electric assigns the customer to, they will receive the exact same offer. Without the certainty of a standard offer, customers may demand that PPL

Electric advise them of every offer of EGSs, and specify all differences. This is a nightmare scenario that should not exist, and as explained previously would negatively affect the Company's ability to offer a "day one switch" capability. If RESA only endorses a 4-month time limit for a 7% discount, then 4 months should be the contract term.

RESA also offers, for the first time in briefs, that the discount under the Standard Offer Program should be reduced to 5%, but without a \$50 bonus, to "coordinate" with the Opt-In Program. (RESA MB, p. 74). RESA argues that such consistency is needed to avoid the potential that a customer might at some point switch from the Opt-In Program to a Standard Offer Program.

PPL Electric believed that RESA endorsed customer rights to choose and switch when a better offer became available. Apparently, that is not always the case. PPL Electric believes that it has offered a much more reasonable, and customer-friendly, proposal by staggering the start dates of the Opt-In and Standard Offer proposals by about 6 months, in order that customers can achieve real savings under the Opt-In Program for six months, and then become active shoppers who, by their willingness to examine other offers, force EGSs to sharpen their pencils and make competitive proposals. RESA's proposals to weaken the discount offered under the Standard Offer Program should be rejected.

5. Timing of the Retail Market Enhancements and Customer Referral Programs

PPL Electric explained in its Main Brief that its proposals to undertake the Opt-In Program in December 2013 and the Standard Offer Referral Program in mid-2014 are based upon four factors (PPL Electric MB, pp. 128-131):

- Avoid affecting several fixed-price full-requirements load-following contracts, which expire in November 2013, that were executed under the DSP I Program prior to the initiation of the Commission's Retail Markets Investigation;
- Allow a group of block contracts executed under the DSP I Program to expire to avoid having to sell excess power at a loss;
- Minimize potential customer confusion by not overlapping the two programs; and
- Enable the Company to make programming changes that would enhance customer information and billing systems to allow "day-one" switching and avoid customer confusion about the Standard Offer Program.

To offset the delayed start of the two Programs, PPL Electric offered to undertake a Customer Referral Mailing in June 2013 to continue to advance the high level of shopping already occurring in the Company's service area. (PPL Electric MB, p. 108).

FES, RESA and DES/IGS object to various aspects of the Company's proposed timing. DES/IGS and RESA do not believe the Company has offered a sufficient basis to delay the Opt-In Program to December 2013. (DES/IGS MB, p. 20; RESA MB, pp. 80-82). PPL Electric disagrees.

RESA contends that the amount of contracted load that could be affected is small, and that in any event, all suppliers will continue to have load to supply. (RESA MB, p. 81). However, RESA's contention fails to take into account the substantial reduction to load that has already occurred due to shopping on PPL Electric's system. The unrefuted evidence of record in this case demonstrates that, even without the further movement of default service customers to EGSs anticipated by the market enhancement programs, minimum default service load exceeded the current 350 MW of block supply by only 41 MW. (PPL Electric St. 2-R, p. 8). In addition,

default service load was less than double the 350 MW of block supplies for nearly 2500 hours in a recent 15-month period. (PPL Electric St. 2-R, pp. 7-8, n. 17). Thus, if, as desired, substantial numbers of customers do take advantage of the discounts under the Opt-In and Customer Referral Programs, it is a certainty that during many hours, default load would drop below 350 MW. During these hours, suppliers with full-requirements load-following contracts will have no load to supply, and block supplies will need to be sold. Because such sales would be made under low load conditions, the potential for such sales to be made at a loss is high. Such losses will be passed through to a substantially smaller default service customer base. This is a potentially large effect, contrary to RESA's contention.

RESA contends that PPL Electric's proposal to delay implementing its Opt In Program enhancement programs is intended to keep customers on a default service, and that this reflects an improper notion that PPL Electric "owns" its default service customers. (RESA MB, p. 82). Such contentions are flat-out wrong, and devoid of any evidentiary support. Reasonable parties can disagree as to the proper elements of a DSP plan, but it is highly inappropriate, in PPL Electric's view, for a party such as RESA to engage in completely unsupported and totally erroneous speculation as to PPL Electric's motives. No major EDC has been more successful in getting customers to shop than PPL Electric, and PPL Electric was diligent in following the Commission's *RMI-IWP Final Order* in designing its market enhancements in this case. PPL Electric has not proposed to delay the start of its Opt-In Program out of any intention to "own" default service customers, but only with the intent to not disrupt existing contracts entered into prior to the RMI.⁴⁰ RESA's unsupported distortion of PPL Electric's effort to avoid disrupting certain wholesale supplier contracts into an objection against customer migration should be

⁴⁰ As further evidence of PPL Electric's good faith efforts in this regard, PPL Electric affirmatively advised bidders in late 2011 about the possibility of market enhancements being adopted in the RMI, in order that such bidders were fully informed about this risk before bidding. (PPL Electric St. 4-R, p. 14).

summarily rejected, and the Commission should advise RESA to limit its arguments to the facts and to refrain from unsupported speculation.⁴¹

RESA and FES recommend that the Standard Offer Referral Program begin in mid-2013. FES makes its recommendation without any consideration of the system modifications needed to run an efficient Standard Offer Program. (FES MB, p. 56). RESA briefly acknowledges the proposed system modifications, but asserts that the Company seeks perfection rather than just “good.” (RESA MB, p. 83). RESA discounts the work that is needed to implement a Standard Offer Program that avoids marketing to shopping customers, allows “day one switching” and otherwise allows Customer Service Representatives to properly present the Program to customers that call in, as this discussion during cross-examination of Mr. Krall illustrates:

- A. We have indicated in testimony we need to do some additional system work so that that information pops up to a CSR when the -- CSR is customer service representative -- when the Caller ID triggers that customer's account.

Right now, not all of that information pops up, and we figure that's an important step to facilitate the conversation and it does allow us to then not, quote, “market” unquote, to somebody who's already shopping.

- Q. All right. So, just to be clear, if a shopping customer calls and inquires about some aspect of their bill, the CSR won't offer the standard offer unless the customer himself or herself says, “I heard about this standard offer. Can I have that It?”

- A. That's the way we anticipate it would work.

(Tr. 84)

* * *

- Q. Is PPL willing to consider moving to a day-one transfer in which the entire transaction would be accomplished by the PPL CSR,

⁴¹ In response to RESA's assertion that PPL Electric has implemented other programs to encourage shopping that have not disrupted existing contracts, PPL Electric simply notes that such programs are distinguishable from an active program to directly encourage large numbers of customers to shop. (RESA MB, p. 82).

customer service representative, i.e., the customer would actually start service on day one of an EGS that he or she indicated was his or her choice?

- A. The mechanics associated with that I think are essential to implementing the standard offer referral program. We could get a new customer to the service territory, offer them the program, and then the intent is that we would be able to enroll them in the program immediately.

We need to work with EDEWG to develop the final form of the transactions, but what we envision would be actually preparing the 814 enrollment ourselves, kind of sending it to ourselves, but using the 814 confirmation that would go back to the EGS as the vehicle by which the EGS would be informed, "You now have a customer. You need to send them the terms and conditions," et cetera, et cetera.

- Q. So, it that a yes, you are willing to do that?

- A. Yes. Yes. In order to implement the standard offer program, we have to do that.

(Tr. 91-92)

Proper system modifications are needed to implement a Standard Offer Referral Program, and the Company does not favor the implementation of a program before there is sufficient system support in place. Without such support, there can be confusion and errors, which would detract from shopping, not advance it. (PPL Electric MB, p. 130).

Finally, RESA contends that the Opt-In Program and Standard Offer Referral Program can operate simultaneously because the programs "are directed at different subsets of default customers, with the former focused on existing default customers and the latter directed at new and moving customers." (RESA MB, p. 85). PPL Electric disagrees. The Commission has not said that the Standard Offer Referral Program is to be limited to only new and moving customers; it is to be open to all customers who call in, and is to be directed at non-shopping customers. (*RMI-IWP Final Order* at p. 31). RESA's contention that there is no risk of

confusion because the two programs target different customers is incorrect and should not be considered as a reason to operate the two programs simultaneously.

6. Cost Recovery for the Retail Market Enhancements and Customer Referral Programs

The issue of cost recovery is primarily a dispute between parties representing customer interests (OCA, OSBA, PPLICA, CAUSE) and parties representing EGS interests (RESA, FES, DES/IGS). PPL Electric's proposals for cost recovery are rooted in the Commission's *RMI-IWP Final Order*, which directed that costs generally be recovered from EGSs. The specifics of PPL Electric's cost recovery proposals, and its responses to other parties' arguments, are set forth in PPL Electric's Main Brief and will not be repeated here. (PPL MB, pp. 131-137).

PPL Electric emphasizes that its primary interest is that the Company be fully and promptly compensated for all costs incurred to implement the market enhancement programs. If costs are not, or cannot be, recovered from EGSs, PPL Electric must be compensated by customers. To do otherwise would be contrary to law. *See Columbia Gas of Pennsylvania, Inc. v. Pa. PUC*, 613 A.2d 74 (Pa. Cmwlth. 1992). This includes any costs that may be incurred to implement the Opt In Program and the Standard Offer Referral Program in the event no EGSs participate in such programs. (OCA MB, p. 63). This also includes FES's proposal, set forth for the first time in briefs, that any cost recoveries from EGSs be based upon defined or capped per customer payments. (FES MB, p. 61). Such a mechanism could result in large unrecovered costs if the number of customers electing either of the market enhancement programs does not meet expectations used to develop any per customer payment amount. If a per customer payment approach is adopted, it must include a provision that costs not recovered from EGSs will be recovered from customers through base rates or through the Competitive Enhancement Rider ("CER") if the CER is approved in the Company's pending base rate case.

RESA asserts that PPL Electric has failed to demonstrate that it has proposed a cost allocation mechanism that seeks to balance EGS and customer interests. (RESA MB, p. 89). PPL Electric disagrees. PPL Electric's proposal would make EGSs primarily responsible for Opt In Aggregation Program and Standard Offer Program costs, which are estimated to be around \$1 million each. (PPL Electric MB, pp. 132-33; Exhibit TCB-5, p. 2). Customers would be responsible for the estimated \$3 million computer system upgrade, which will be used by Customer Service Representatives as part of the Standard Offer Program and to otherwise improve the Company's relationship with its customers. (PPL Electric St. 4-R, p. 45). PPL Electric believes this is a reasonably balanced approach.

7. CAP Customer Participation in the Retail Market Enhancements

PPL Electric supports shopping as an option for OnTrack customers. At the same time, PPL Electric is concerned that OnTrack customers' shopping choices may be increasing costs to non-CAP residential customers who pay the cost of the program. PPL Electric is also concerned that OnTrack customers may be making shopping decisions that ultimately make it harder for them to remain in the OnTrack Program. This is harmful to them and, through non-payment, ultimately may increase costs borne by non-CAP customers. (PPL Electric MB, p. 137).

Various parties (CAUSE, OCA, RESA) have addressed this issue and have offered proposals such as prohibiting OnTrack shopping, imposing special provisions related to shopping, and redesigning the OnTrack Program to provide "portable" benefits. (CAUSE MB, p. 17-23; OCA MB, p. 66-67; RESA MB, p. 95). Respectfully, PPL Electric does not believe this is the proper forum to consider these issues. PPL Electric recommends that such matters be examined in the context of the Company's next Universal Service Plan filing, or in the Commission's RMI Working Group on CAP customer shopping. In these contexts, a more full

investigation can be undertaken, with appropriate participation of Commission Staff who are experienced in CAP issues, to develop a proper solution.

CAUSE also contends that PPL Electric's billing protocols for changing OnTrack customers' required payments prevent OnTrack customers from making informed shopping decisions. (CAUSE MB, p. 18). PPL Electric does not agree. Initially, it must be emphasized that the OnTrack customer's required bill payment is set with the goal of providing an affordable bill. The difference between this affordable bill and the full bill is the CAP shortfall, and is paid by non-CAP customers through the reconciled Universal Services Rider. PPL Electric's billing protocols are designed to protect the interests of non-CAP customers who pay CAP shortfalls, and to encourage effective shopping. PPL Electric's billing protocols establish a "deadband" under which the OnTrack customer's required payment does not change in the event shopping produces small increases or decreases in the customer's full bill. This procedure minimizes administrative expenses that would occur if the customer's required bill payment had to change with every small change in the full bill. But if shopping produces savings, or increases the full bill, by more than \$5/month for non-heating electric customers or more than \$10/month for heating electric customers, OnTrack customers will share in any savings and will pay any increased costs. This process incentivizes OnTrack customers to shop effectively to avoid larger increases and to share in larger savings from shopping. This process also protects the interests of non-CAP customers, who are protected from increases in universal service costs in the event of higher full bills to shopping OnTrack customers, and share in reduced universal service costs in the event of savings from shopping. PPL Electric believes its billing protocols are an appropriate protection for customers who pay the cost of the OnTrack Program. PPL Electric further believes that the design of its billing protocols should not be examined in this case, but in the

context of a separate proceeding, as explained above. Pending such proceeding, PPL Electric proposes to retain its existing billing protocols for OnTrack customer shopping and allow OnTrack customers to participate in the market enhancements, but not market those programs to OnTrack customers. (PPL MB, pp. 137-143).

D. ADDITIONAL ISSUES

1. Issues for CAP Customers Currently Served by EGSs

PPL Electric's position on this issue is explained in its Main Brief. (PPL Electric MB, pp. 141-143). In summary, PPL Electric supports allowing OnTrack customers to continue to shop, and the Commission should investigate these matters further in a separate proceeding.

2. Proposed 5 mils/kWh Charge Added to Default Service Rates

RESA continues to support its proposal to add a new 5 mil/kWh charge to default service rates, despite the fact that the proposal has twice been rejected by the Commission. (*FirstEnergy Order*, p. 62; *PECO DSP II Order*, p. 76). PPL Electric has explained its opposition to the proposal in its Main Brief and will add just a few further responses here. (PPL Electric MB, pp. 144-145).

RESA asserts that there has been no full unbundling of PPL Electric's generation, transmission and distribution charges. (RESA MB, p. 98). However, RESA has identified no costs that remain bundled, and PPL Electric witness Yeager testified that there are no remaining unbundled costs. (PPL Electric St. 1-R, p. 14). RESA cannot support its proposed charge based upon a claim of fictitious unbundled costs in base rates.

RESA also asserts that its proposal to require default customers to pay the charge, while crediting funds back to distribution customers, assures that a newly shopping customer will not be deprived of a return of their credit. (RESA MB, p. 99). However, such assertion ignores the

admission by RESA witness Kallaher that a default service customer switching to shopping will only receive back about half of the charge, since the set of customers receiving a credit is about twice the size of the subset of customers paying the charge. (Tr. 294).

RESA asserts that PPL Electric is improperly concerned about keeping customers on default service. (RESA MB, p. 100). PPL Electric never expressed such a concern.⁴² PPL Electric's concern is that RESA proposed to use the adder to recover market enhancement costs, and that such an approach could deprive the Company of full recovery of such costs, as PPL Electric witness Krall explained:

[M]r. Kallaher proposes an adder to the default service price to recover, among other costs, the costs associated with implementing and maintaining the Opt-In Auction and Referral Program. The fundamental problem with Mr. Kallaher's proposal is that, if successful, the programs will reduce the number of customers taking default service and, thereby, reduce the number of customers from whom the cost can be recovered. In addition, not only does the proposed adder act as an additional incentive for customers to shop, the mechanics of reconciliation will magnify the adder over a decreasing number of customers.

(PPL Electric St. 4-R, pp. 46-47). PPL Electric's concern is about full cost recovery and not about keeping customers on default service.

RESA also disputes Mr. Krall's assertion, quoted above, that reconciliation could magnify the effect of the charge. (RESA MB, p. 101). RESA again fails to understand that this testimony relates to the recovery of market enhancement costs solely from default service customers. If rates are developed to recover those costs from over 600,000 default service customers, but half of the customers shop, the Company will underrecover its costs and would need to recover the underrecovered portion through reconciliation.

Finally, RESA argues that even if there are no costs to be recovered, the change would still provide an incentive for shopping. However, RESA offers no explanation as to how such a

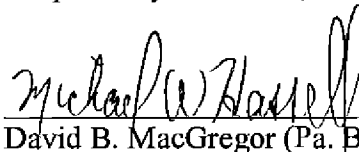
⁴² RESA cites to its own testimony, and not PPL Electric's for such purported concern. (RESA MB, p. 100, n 468).

charge complies with Act 129 or with the principle that charges be aligned with the cost to serve. *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 (Pa. Cmwlth. Ct. 2006), *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007). RESA's proposal to shift cost recovery by increasing default charges and decreasing distribution charges is illegal and cannot be adopted. RESA's proposal should be rejected.

III. CONCLUSION

For the reasons set forth above and in PPL Electric's Main Brief, PPL Electric's DSP II Program should be approved.

Respectfully submitted,



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

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

Matthew J. Agen
Post & Schell, P.C.
607 14th St. N.W.
Washington, DC 20005-2006
Phone: 202-661-6952
Fax: 202-661-6953
E-mail: matthewagen@postschell.com

Michael W. Hassell (Pa. Bar I.D. # 34851)
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Phone: 717-612-6029
Fax: 717-731-1985
E-mail: mhassell@postschell.com

Of Counsel:

Post & Schell, P.C.

Dated: October 22, 2012

Attorneys for PPL Electric Utilities Corporation

Appendix A

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

**Appendix A
Proposed Findings of Fact**

PPL Electric Utility Company (“PPL Electric” or the “Company”) proposes the following findings of fact:

1. PPL Electric’s proposed DSP II Program contains the following major default service components:

- Residential and Small Commercial and Industrial (“Small C&I”) Customer Class default service supplies will be separately acquired through a series of fixed-price, full-requirements, load-following contracts;
- The fixed-price, full-requirements, load-following supply will be obtained through semi-annual solicitations beginning in April 2013 and continuing through October of 2014;
- PPL Electric will obtain fixed percentages of default service load through 12- and 9-month contracts replacing expiring contracts under the DSP I Program, in order to position itself for procurements to be made under laddered yearly contracts procured every six months;
- The October 2014 procurement will procure 6- and 3-month contracts, so that no fixed-price load-following, full-requirements contracts extend beyond May 31, 2015, consistent with the Commission’s *December 16 RMI Order*;
- The Company will cease procuring spot supply for the Residential and Small C&I Customer Classes;
- The Company will not procure additional block supplies and will allow block supplies procured for the Residential Customer Class under the DSP I Program to expire as scheduled, with the result that the Company will have only 150 MW of block supply under contract at May 31, 2015, pursuant to existing 5- and 10- year contracts procured under DSP I Program;
- The Company proposes that certain winning suppliers under the default service procurements for the Residential and Small C&I Customer Classes also would be responsible to provide supply to serve default service time-of-use (“TOU”) load under separately established payment terms.

- Regarding the Large C&I Customer Class, the Company proposes to continue to procure default service supply with energy priced to the PJM real-time spot market, through annual solicitations to obtain competitive offers from wholesale suppliers.

(PPL Electric St. 1, pp. 8, 13; PPL Electric St. 2, pp. 14-23)

2. PPL Electric's proposed DSP II Program also includes proposals to establish new retail market enhancement initiatives. These initiatives include:

- A Customer Referral Mailing prior to undertaking the Opt-In Auction Program;
- An Opt-In Auction Program with a minimum 5% discount off the PTC, a \$50 bonus, and a 6-month contract term; and
- A Standard Offer Referral Program with a 7% discount off the PTC and a 6-month contract term.

(PPL Electric St. 4, pp. 19-29).

3. PPL Electric proposes to eliminate 24-month fixed-price, full-requirements, load-following contracts for Residential and Small C&I customers that are currently acquired under the Company's DSP I Program. As these contracts expire, they will be replaced with fixed-price, full-requirements, load-following products with contract terms that are no greater than 12 months. (PPL Electric St. 2, p. 5; PPL Electric St. 1-R, p. 6).

4. PPL Electric proposes to eliminate the purchase of spot market full-requirements load-following supplies for the Residential and Small C&I classes and replace these products with fixed-price, full-requirements, load-following products with terms no greater than 12 months. (PPL Electric St. 2, p. 5; PPL Electric St. 1-R, p. 6).

5. PPL Electric proposes to eliminate the procurement of additional block supply for the Residential Customer class and allow a gradual phase down in the amount of block supply procured for the Residential Class as block supply contracts executed during the DSP I Program expire during the DSP II Program. (PPL Electric St. 2, p. 5; PPL Electric St. 1-R, p. 6).

6. PPL Electric has the highest current percentage of customer shopping of all major EDCs in Pennsylvania, and as of July 1, 2012, over 46% of residential customer load was being served by an alternative supplier. (OSBA Ex. IEC-S1; PPL Electric St. 2, pp. 17-20).

7. There is less supplier interest in bidding on a 24-month product as compared to the 12-month product. (PPL Electric St. 2-R, p. 25; PPL Electric Ex. JC-1-R).

8. The use of spot market priced products has contributed to the need for reconciliation adjustments, as spot market projections included in the price to compare vary from actual spot market prices. (PPL Electric St. 2, p. 19).

9. Increased shopping has increased the proportion of default service load that is being provided by block supply. PPL Electric's current reliance on block supply has risen to almost 40% of total annual residential default service load. (PPL Electric St. 2, p. 12).

10. Allowing existing block purchases to expire without replacement will reduce PPL Electric's reliance on block products to approximately 15-20% of its residential default service supply during the term of the DSP II Program. (PPL Electric St. 2, p. 20).

11. Past experience demonstrates that one-year fixed-price, full-requirements, load-following products can be competitively procured by PPL Electric. (PPL Electric St. 2, p. 29).

12. The use of fixed-price, full-requirements, load-following products has resulted in reasonable prices for customers while encouraging retail competition. Default service pricing based on the auction procurement of fixed-price, full-requirements, load-following products has been competitive and consistent with market conditions. (PPL Electric St. 2, p. 31).

13. PPL Electric's proposal to eliminate additional spot supplies and reduce block supplies will help to reduce reconciliation differences caused by uncertainty in projecting supply mix with increased shopping load. (PPL Electric St. 2, pp. 12-13).

14. By obtaining default service supplies through competitive solicitations, undertaken in the form of an auction, PPL Electric is always able to obtain default supplies at the lowest possible cost for the product being procured at that time. (PPL Electric St. 2, p. 38).

15. PPL Electric proposes to reduce the frequency of procurements from a quarterly basis to a semi-annual basis. (PPL Electric St. 2, p. 16; PPL Electric St. 1-R, p. 6). The Company proposes to purchase 12- and 9-month products semi-annually. (PPL Electric St. 2, p. 16; PPL Electric Exhibit JC-4A). The one exception to this procurement schedule is that the October 2014 procurement will obtain supplies under 6- and 3-month fixed-price, full-requirements, load-following contracts, so that no fixed-price load-following contracts would extend beyond May 31, 2015. (PPL Electric St. 1-R, pp. 6-7).

16. The semi-annual procurements will procure a relatively larger percentage of supply for shorter durations than under the DSP I Program. (PPL Electric St. 1, p. 8).

17. PPL Electric's goal is to move to a procurement schedule where half of default service supplies turn over every six months. (PPL Electric St. 2, p. 17).

18. Multiple procurements create instances where actual default supplier load obligations can be very small, due to shopping and block supplies. Less frequent laddered procurements can allow for increased product size. (PPL Electric St. 2, p. 13).

19. Quarterly laddered solicitations obtain a smaller share of supplies needed for default service than semi-annual solicitations, with the result that default service prices will tend to change more slowly. (PPL Electric St. 2, pp. 13-14).

20. By eliminating two-year contracts in the DSP II Program, PPL Electric is shortening the time between procurement and the final month of delivery under its contracts. (PPL Electric St. 1-R, pp. 10-11).

21. The cost to undertake quarterly default service solicitations is approximately \$225,000-\$275,000. By changing from quarterly to semi-annual procurements, the Company can reduce procurement costs by roughly \$500,000 per year. (PPL Electric Ex. 1, p. 36; (PPL Electric St. 1-RJ, p. 2).

22. PPL Electric's current DSP I Program currently has two load caps that limit the amount of supply that may be won by any wholesale supplier. (PPL Electric St. 1, p. 22; PPL Electric St. 1-R, p. 19). There is a Solicitation Load Cap of 85% that is applicable to each of the three customer solicitation groups (Residential, Small C&I and Large C&I). In addition, there is an aggregate load cap of 70% applied to wholesale suppliers providing supply to the Residential customer class and 65% applied to wholesale suppliers providing supply to the Small C&I class. (PPL Electric St. 1-R, p. 19).

23. Under these load caps, PPL Electric (through its independent procurement manager NERA) must monitor and disallow bids if a single supplier exceeds the procurement load cap or aggregate supplier load cap of the class. (OCA St. 1, p. 16).

24. There are currently 22 different suppliers providing products to meet PPL Electric's default service requirements. (PPL Electric St. 1-R, p. 20).

25. As of August 8, 2012, nearly 50% of Small C&I customers representing over 88% of load were shopping. (PPL Electric St. 1-R, p. 4).

26. PPL Electric proposes to continue the strategy used in the DSP I Program to satisfy its Large C&I Customer Class Default Service obligation, *i.e.*, it will acquire supply via the spot market. (PPL Electric St. 2, p. 15, 22-23).

27. The Company will provide Default Service through one-year term products procured from wholesale suppliers through competitive procurements. (PPL Electric St. 1, p. 7,

PPL Electric St. 2, p. 9). The first solicitation will take place in April 2013 and the second in April 2014 for the subsequent PJM planning period beginning June 1, 2013 and June 1, 2014, respectively. (PPL Electric St. 1, p. 7, PPL Electric St. 2, p. 22).

28. Each winning supplier is paid the hourly real-time spot market energy price for the PPL Zone, PJM's capacity charge for the PPL Zone, and the price it bid to cover all other components of the full-requirements, load-following service. (PPL Electric Ex. 1, Appendix B, p. 8).

29. The vast majority of PPL Electric's large commercial and industrial customers are purchasing power supplies from competitive retail suppliers and can be expected to continue to seek supplies from competitive retail suppliers. (PPL Electric St. 2, p. 24).

30. The Company proposes to procure certain AEC credits to meet its obligation under the AEPS Act as a component of its fixed-price and spot-market Default Service supply contracts. This process is unchanged from that used in the DSP I Program. (PPL Electric St. 1, pp. 15-16).

31. The Company separately has entered into contracts to procure AECs for certain of its residential block contracts. However, PPL Electric must still acquire Tier I non-solar and Tier II AECs to cover the period from June 1, 2013 through May 31, 2015 for the 10-year long-term product obligation during the DSP II Program Period. (PPL Electric St. 1, p. 15).

32. Because PPL Electric only needs to acquire additional AECs to cover a 50 MW obligation, PPL Electric proposes to solicit at least 3 pricing offers from AEC brokers in both June of 2013 and June of 2014 for Tier I non-solar and Tier II credits required to cover this long-term contract obligation. (PPL Electric St. 1, p. 15).

33. A competitive RFP solicitation for these few AEC credits would be unnecessarily expensive given the small number of credits required and could result in poor participation. Furthermore, by obtaining multiple pricing offers from AEC brokers, a competitive offer is still obtained and AEPS obligations are met in a less complicated and more cost-effective manner. (PPL Electric St. 1, p. 16).

34. Based on current market conditions, the Company estimates the total costs for Tier I Non-Solar and Tier II AECs to be procured through the separate solicitation to be approximately \$79,000. PPL Electric proposes to recover the costs of these AECs using the same mechanism currently used for AEC costs, *i.e.*, through the GSC-1. (PPL Electric St. 1, p. 16; PPL Electric Ex. No. JMK-1).

35. PPL Electric requires monthly transfers of AECs under the DSP I Program, and proposes to continue this under the DSP II Program. If during a reporting year a supplier defaults on its transfer obligation, PPL Electric can take actions to acquire necessary AECs prior to the end of the year when the Company must transfer its credit obligations to the state. (PPL Electric St. 1-R, p. 26).

36. The Company has included a provisional claim for cash working capital (“CWC”) in this case as an administrative expense. Depending upon whether Constellation’s proposal to require weekly payments to wholesale suppliers is adopted,¹ PPL Electric’s CWC claim is either \$7.5 million or \$16.7 million. (PPL Electric St. 5, p. 10; PPL Electric St. 5-R, p. 16).

37. PPL Electric’s calculation of its CWC requirement associated with default service costs follows the standard process for computing CWC that it has used in calculating CWC for base rate costs. (PPL Electric St. 5-R, p. 17; PPL Electric Ex. JMK-4).

¹ Constellation has proposed that PPL Electric advance the period for payments to EGSs from monthly to weekly payments. Such proposal would create a new CWC requirement.

38. Short-term debt is used to finance construction projects and is a component of an electric utility's calculation of its monthly allowance for funds used during construction ("AFUDC") rate. (PPL Electric St. 5-R, p. 17).

39. The payment lag days of 63 days used to compute the revenue lag from 20-day due date customers is based upon a calculation that uses the same methodology used in PPL Electric's rate case to determine payment lag. (PPL Electric St. 5-R, p. 17).

40. The Company credits pro forma revenues for all late payment fees received in its base rate case. (PPL Electric St. 5-R, p. 18).

41. If PPL Electric accelerates its payments to wholesale suppliers from a monthly to a weekly basis, payments of generation supply bills will have an approximately 30 day shorter lag time than the current calculation, resulting in a net increase in the lag between receipt of revenues and the payment of bills. The result would be to more than double the CWC requirement associated with the lead/lag of payments of generation supply bills and the receipt of revenues from customers. (PPL Electric St. 5-R, p. 16).

42. As greater and greater numbers of Residential and Small C&I customers continue to move off of default service and to EGSs, a semi-annual procurement and price change mechanism will simplify the default service process. (PPL Electric St. 2, p. 16; PPL Electric St. 1-R, p. 6; PPL Electric Exhibit JC 4A).

43. Semi-annual changes in default service prices align with the Company's proposals for six month contract terms for the Opt-In and Standard Offer Referral Programs. (PPL Electric St. 4, pp. 22-23, 25-27).

44. The Company currently provides real time hourly default service pricing to its large C&I customer class. (PPL Electric Ex. JMK-2).

45. PPL Electric estimated that it would cost over \$360,000 to implement real-time default service pricing for all default service customers larger than 100 kW. (PPL Electric St. 1-R, p. 31).

46. Quarterly reconciliation has produced substantial variances and swings in the E-Factor rate of the GSC-1. (PPL Electric Ex. No. JMK-5).

47. For the Residential class, the Company has experienced swings from a .68 cent/kWh recoupment to a .36 cent/kWh refund in the E-factor by quarter. (PPL Electric Ex. JMK-5). These variances have been even more pronounced for the Small C&I customer class, where the E-factor has varied from a 4.15 cent/kWh charge to a 1.53 cent/kWh refund. (PPL Electric Ex. JMK-5).

48. Large swings in over/under collections can distort, and have distorted, the PTC. (Tr. 211; OSBA St. No. 1, p. 4).

49. Use of a short-term quarterly reconciliation process contributes to these E-factor variances. (PPL Electric St. 5-R, p. 7).

50. A rolling 12-month average reconciliation methodology will smooth E-Factor rate adjustments and allow C-factor rate adjustments, which reflect the changes in market prices resulting from default service procurements, to more accurately reflect default service rates over time. (PPL Electric Exs. JMK-5 and JMK-6).

51. The overall impact on customer bills from interest is negligible and will not have a substantial effect on the E-Factor calculations or on customer shopping decisions. (PPL Electric St. 5-R, p. 9).

52. A 12-month rolling average will incorporate periods of overcollection and undercollection, with the net effect that interest calculated and due to the Company on monthly

undercollection balances may be offset by interest owed to customers on monthly overcollection balances. (PPL Electric Ex. JMK-5).

53. The DSP II GSC-1 reconciliation calculations will include the remaining over/under collection balances for both the fixed price and TOU price rate options as of May 31, 2013 under the DSP I Program for the separate Residential and Small C&I customer classes. (PPL Electric St. 5-RJ, p. 2).

54. PPL Electric is proposing in this proceeding not to extend the PPL Electric Green Power Program, which became effective on August 11, 2009 and is scheduled to terminate on May 31, 2013. (PPL Electric St. 4, p. 34).

55. Customer participation in the Green Power Program varies from month to month, but has never exceeded a few hundred customers. (PPL Electric St. 4, p. 34).

56. The contract between Community Energy, Inc. (the supplier of the AECs in this program) and PPL Electric will terminate on May 31, 2013. (PPL Electric St. 4, p. 34)

57. There are now many green options available to customers and they are easily found on PaPowerSwitch. (PPL Electric St. 4-R, p. 50).

58. The Company proposes in this proceeding to eliminate procurements for the Optional Monthly Pricing Service (“OMPS”) and to eliminate this rate option for the Large C&I Customer Class. (PPL Electric St. 1, p. 10).

59. The provision of OMPS was contingent upon PPL Electric receiving bids from wholesale suppliers to provide the service. In every procurement to date under the DSP I Program, no supplier has bid to provide OMPS service, and the service has never been available. (PPL Electric St. 1, p. 10).

60. PPL Electric publishes a final Price to Compare (“PTC”) rate about 10-15 days prior to the rate effective date. (PPL Electric St. 1-R, p. 14).

61. PPL Electric also provides a preliminary PTC rate approximately 90 days in advance of the final PTC rate. (Tr. 157).

62. The Company’s regulatory accounting department does not finalize its calculation of the E-factor component of the PTC until about 15 days prior to the effective date of new GSC rates. (PPL Electric St. 1-R, p. 14).

63. The Company seeks to have the most recent available over/under collection data, calculated through the end of the month prior to the new PTC date, in order to minimize the potential distortion, and resulting increased reconciliation, that would result from having less current actual data. (Tr. 157).

64. The Company receives updated forecasts of default service load on a monthly basis. By waiting for the beginning of the month in which the PTC is calculated, the Company is able to use a more current forecast of projected sales to calculate the PTC. Current forecasts of projected default service sales also reduce reconciliation distortions. (PPL Electric St. 1-R, p. 14).

65. The Company imposes a Transmission Service Charge (“TSC”) on all default service customers to recover the cost of acquiring transmission service for such customers. (PPL Electric St. 5, p. 10).

66. Pursuant to PPL Electric’s tariff, the TSC is separately computed and applied to four customer classes: Residential, Small C&I, Large C&I Primary and Large C&I Transmission. For TSC purposes, the Large C&I – Primary customers take service at 12 kV primary voltage level and are served under Rate Schedules LP-4 and IS-P(R). Large C&I –

Transmission customers take service at the 69 kV or higher transmission voltage level. Residential and Small C&I customers are served at a secondary voltage level. (PPL Electric St. 5-R, p. 10).

67. A change in the class assignment of certain customers will result in adverse affects on such customers and cost shifting among the different customer classes. (PPL Electric St. 5-R, p. 12; PPL Electric St. 5-RJ, pp. 1-2).

68. The amount of any costs to be billed under the new economic load response (“ELR”) charges are for demand response resources, which are generation-related costs. (PPL Electric St. 1-R, p. 28).

69. To revise the TSC to apply to all distribution customers, shopping and non-shopping, on a non-bypassable basis would require that transmission-related costs currently billed by PJM to EGSs be reassigned to PPL Electric, which would then need to develop new class cost allocators. (Constellation St. 1-SR, p. 2). This process would need to account for all customers’ load, peak load and costs. (PPL Electric St. 5-R, p. 13).

70. A change to a non-bypassable charge applied to all distribution customers would deprive customers of the opportunity to seek alternative arrangements for payment of transmission-related costs. (Constellation St. 1-SR, p. 6).

71. Current contracts with wholesale suppliers under the DSP I Program do not provide for suppliers to be responsible for these transmission-related charges, and several of these will not expire until March of 2015. (PPL Electric St. 1-R, p. 30; PPL Electric Ex. JC-4A; PPL Electric Ex. JC-4B). As such, it is not possible to require these suppliers to bear such transmission-related costs. (PPL Electric St. 1-R, p. 30; OSBA St. 3, p. 2).

72. PPL Electric's current TSC cost allocation and reconciliation procedure among the customer classes is based on each transmission customer class's percentage contribution to the five highest coincident peaks used by PJM to bill PPL Electric for default service transmission costs. (PPL Electric St. 5-R, pp. 13-14).

73. Maintaining the same customer class allocation factors can distort the class's responsibility for demand related costs due to customers moving to and from default service. Therefore, the customer class allocation factors for the demand related transmission costs should be adjusted on a monthly basis. (PPL Electric St. 5-R, p. 15).

74. The proposed monthly adjustment to the customer class allocation factors would be reflected in the annual reconciliation of TSC demand-related costs. (PPL Electric St. 5-R, p. 15).

75. Under the TOU rate option, the Company has selected on-peak and off-peak periods that remain constant throughout the year and prices that are based on the underlying fixed-price default service rate, *i.e.*, customers will pay a premium above the fixed rate during on-peak periods and will pay a discount below the fixed rate during off-peak periods. (PPL Electric St. 3-R, p. 2).

76. Under PPL Electric's proposed TOU program for Residential customers, the Company is proposing an on-peak period from 12:00 p.m. to 7:00 p.m. year-round, excluding weekends and PJM holidays. All other hours would be considered off-peak. (PPL Electric St. 3, p. 6).

77. The on-peak period for Small C&I customers is from 7:00 a.m. to 7:00 p.m., also on a year-round basis, excluding week-ends and PJM holidays. All other hours would be considered off-peak. (PPL Electric St. 3, p. 7).

78. This consistent year-round time period will simplify TOU program implementation for customers because it will: (1) be easier for customers to remember, (2) not require them to reset timers on appliances or other devices, and (3) not require them to change usage patterns on a seasonal basis. (PPL Electric St. 3, p. 6).

79. Under PPL Electric's 2011 TOU program, the futures market as of December 2010 was used to establish the TOU price for the first 5 months of 2011. At that time, the TOU price was well below the fixed-price default service rate and customers flocked to the rate. (PPL Electric St. 3-RJ, pp. 4-5). However, unanticipated disruptions in foreign oil markets caused a jump in spot market prices and increased the acquisition cost for TOU supply. This resulted in a large undercollection of TOU costs and a large reconciliation adjustment in June of 2011. (See PPL Electric St. 3, p. 3).

80. The PJM Energy Market uses the same on-peak period and off-peak period for the entire year. (PPL Electric 3-R, p. 5; and Exhibit DRW-2).

81. PPL Electric currently has no way to record 30-minute data because the existing meters (with the exception of larger customers with MV90 meters that record 15-minute intervals) record full clock hour interval data because the PJM market is an hourly market. PPL Electric's existing billing system cannot bill on 30-minute intervals without extensive re-programming. (PPL Electric St. 1-R, p.10).

82. Implementing a calendar-month meter read schedule would require manually calculating potentially thousands of TOU customer meter reads monthly, and would require changes to the existing billing system to add a calendar-month billing control. (PPL Electric 3-RJ, p. 5).

83. As part of the fixed-price solicitations, the Company proposes that winning bidders of the 6- and 12-month fixed-price load following product procurements also provide supply to meet the default service load of TOU customers for a 6-month period beginning each June and December. These winning suppliers will be proportionally responsible for a portion of all loads of supply required to all loads of customers on the TOU rate option. (PPL Electric St. 1, p. 13).

84. This approach will streamline the bidding process and the evaluation process. Additionally, this approach helps ensure that the Company will be able to successfully offer the TOU product as compared to a separate procurement for TOU. (PPL Electric St. 1, p. 13).

85. In order to reduce reconciliation issues related to over/under collections, PPL Electric will compensate suppliers based on the amount that PPL Electric bills to the assigned TOU customers for generation costs, exclusive of gross receipts tax, company administrative costs and E-Factor amounts, on a *pro rata* basis for all TOU billings. (PPL Electric St. 1, p. 13).

86. Bidding out the TOU rate option to an EGS would split the default service function into two or more pieces. (PPL Electric St. 1, pp. 12-13).

87. PPL Electric will implement the DSP II Program by holding solicitations pursuant to a Request for Proposal (“RFP”) process to obtain the Default Service products from competitive wholesale power suppliers. All winning suppliers will be required to execute a standard Supply Master Agreement (“SMA”). PPL Electric Ex. 1, pp. 33-35).

88. The RFP and the SMA are based upon documents previously used in the DSP I Program, and the prior CBP Program, and incorporate considerable experience obtained in these other procurement proceedings. (PPL Electric Ex. 1, pp. 33-35).

89. Unsecured credit represents a risk to default service customers in the event of supplier default, because in the event the supplier refuses or is unable to pay in the event of default, any additional cost to obtain supply would be charged in the default service price to customers. (PPL Electric St. 1-R, p. 21; PPL Electric Ex. RGY-1R).

90. Section 12 of the SMA includes a provision that default occurs only if the failure to comply has not been rectified within 3 business days after written notice. If a violation is minor, it will not become a ground for default until after PPL Electric becomes aware of the violation, notifies the supplier, and gives the supplier three days to correct. (PPL Electric St. 1-R, p. 22).

91. Any breach by PPL Electric of any duties under Section 14 (or other sections of the SMA) would be covered by the failure to perform provisions of Section 12.1(f) of the SMA. (See PPL Electric St. 1-R, p. 22).

92. PPL Electric currently pays suppliers on a monthly basis, and proposes to continue that payment process in the DSP II Program. (PPL Electric St. 1-R, p. 25).

93. PPL Electric has held twelve successful DSP I Program solicitations, which included monthly settlement provisions. Throughout that period of time, PJM has invoiced suppliers on a weekly basis. There is no evidence that implementation of a monthly settlement process in the SMA has negatively impacted participation or the success of any solicitation. (PPL Electric St. 1-R, p. 25).

94. A change to a weekly settlement process will shift the Cash Working Capital responsibility from being borne by suppliers and included in their bid prices to being borne by PPL Electric and being charged to customers as an additional cost in Default Service rates. (PPL Electric 5-R, p. 15-16).

95. A Letter of Credit is a form of Performance Assurance given as security against default. (PPL Electric Ex. 1, Appendix A, page 15 – definition of Performance Assurance).

96. PPL Electric has retained NERA as the independent third-party to administer each procurement, analyze the results of the solicitations for each customer class, select the supplier(s) that will provide services at the lowest cost and submit all necessary reports to the Commission. (PPL Electric St. 1, p. 23).

97. NERA has successfully administered the DSP I Program procurements to date, and based on this track record, the Company proposes to continue to retain NERA to administer the DSP II Program.² (PPL Electric St. 1, p. 23).

98. The SMA and the RFP Rules require that both PPL Electric and any bidder in the procurement process must be in compliance with PJM requirements. (PPL Electric Ex. 1, Appendix A, p. 33; PPL Electric Ex. 1, Appendix B, pp. 21, 44).

99. In the event a supplier defaults, PPL Electric will offer full requirements supply assignment to other winning bidders for the same product consistent with the step-up process described in the Default Service SMA. (PPL Electric Ex. 1, Appendix A, pp. 24-25). If this assignment is not successful, PPL Electric will offer full requirements supply assignment to all Default Service suppliers consistent with the Default Service SMA, even if a Default Service supplier does not serve tranches for that product. These assignments will be offered at the original bid price in the event of default(s), or at the average price from the last successful bid for that product in the event of insufficient bids. (PPL Electric Ex. 1, Appendix A, pp. 24-25).

100. PPL Electric developed the following timeline for the five foregoing retail market enhancement initiatives:

² In addition NERA is the administrator for other Default Service programs in Pennsylvania and elsewhere, and has substantial expertise in this arena.

1. Undertake the customer education mailing in late 2012-early 2013, as directed by the Commission.
2. Implement the New/Moving Customer program scripts and New Customer Welcome Package in late 2012, as directed by the Commission.
3. Undertake the added Customer Referral Mailing in the second or third quarter of 2013.
4. Undertake the Opt-In Auction in late November/early December 2013.
5. Initiate the ongoing Standard Offer Referral Program in mid-2014.

(PPL Electric St. 4, pp. 12-13).

101. The Commission's New/Moving Customer program working group has developed strict objectives, and the Company anticipates that it would start the New/Moving Customer referral program by the end of September 2012. (Tr. 86).

102. System modifications are needed to include a "day-one switch" capability envisioned by RESA, that would allow the customer to initiate service with an EGS directly through the Company's Customer Service Representative ("CSR"), without a transfer to an EGS representative. (Tr. 92). These modifications are anticipated in support of the Company's Standard Offer Referral Program. (Tr. 92).

103. As part of the New/Moving Customer Program, the Company will transfer a requesting customer to an EGS's customer service center to initiate service from the EGS. (Tr. 90).

104. Because the New/Moving Customer Program does not involve standardized EGS offers, the Company's CSR could not place a new/moving customer on EGS service, but must instead refer customers to an EGS or to the Commission's PowerSwitch website, as the terms of service would be unknown. (Tr. 92).

105. Customer confusion and negative views of customer choice can be created by presenting multiple different offers to customers in overlapping contexts. (PPL Electric St. 4-R, p. 21).

106. With small modifications, the Company's basic structure of a retail Opt-In Auction Program could be modified to a retail Opt-In Aggregation Program as adopted by the Commission in the *FirstEnergy Order*. (PPL Electric St. 4-SR, pp. 6-11).

107. EGS parties have indicated unwillingness to offer a 12-month term under an Opt In Program or Standard Offer Program if they must guarantee savings. (PPL Electric Ex. DAK-1R; PPL Electric St. 4-R, p. 26).

108. The Company's proposal for a 6-month term, coupled with its proposed schedule for implementing the auction and changing the PTC on a semi-annual basis, would effectively assure that participants would achieve five months of certain savings off the PTC. (PPL Electric St. 4-R, p. 25).

109. An opt-in program that does not have standardized price terms among all participating EGS for the length of the contract may result in customer confusion and dissatisfaction and, ultimately, be harmful to shopping. (PPL Electric St. 4-SR, p. 11).

110. An aggregation approach that establishes a 6-month term with a stated discount of 5% would produce a more positive shopping experience than a 5% discount for 4 months followed by a non-standard price among EGSs for a remaining 8-month period. (PPL Electric St. 4-SR, p. 11).

111. Adding additional notice requirements, or adding a requirement that the Company separately track low-income customers under the program and determine whether such

customers have made an affirmative election to continue to shop, will add costs to the program. (PPL Electric St. 4-R, pp. 29-30).

112. There is much more robust shopping by small business customers in PPL Electric's service territory than in FirstEnergy's service territory. (OSBA Ex. 1Ec-S1; RESA Ex. CHK-4; Tr. 320).

113. Adding a requirement of a minimum of four winning bidders complicates the process of selecting winning bidders through an auction process and may result in a lesser percentage discount being provided to customers. (PPL Electric St. 4-R, p. 31; PPL Electric Ex. DAK-1R).

114. A sealed bid approach is less complex, less costly and more consistent with the processes that the Company routinely uses to acquire full requirements default service than a declining clock auction. (PPL Electric St. 4-R, pp. 31-32).

115. A separate process for tracking and changing low income customers back to default service at the end of a standard offer contract term would add costs. (PPL Electric St. 4-R, pp. 41-42).

116. PPL Electric has entered into several contracts under its DSP I Program that would be affected by a June 1, 2013 start date for the Opt In Program and the Standard Offer Program. (PPL Electric St. 4-R, p. 14; PPL Electric St. 1-R, p. 30; PPL Electric St. 2-R, p. 8).

117. The Company proposes to begin the Standard Offer Referral Program in mid-2014 in order to provide sufficient time to make appropriate enhancements to its customer information and billing systems. (PPL Electric St. 4, p. 31; PPL Electric St. 4-R, p. 18; Tr. 91-92).

118. Any proposal to limit recovery of market enhancement program costs to default service customers could result in difficulties in PPL Electric fully recovering the costs of the Program. (PPL Electric St. 4-R, p. 47).

119. An aggregation approach would eliminate the need for a pre-auction mailing and the auction itself, and thus, would substantially reduce the cost of the Program. (PPL Electric St. 4-SR, p. 9).

120. Recovering costs only from winning EGSs in the Opt In Auction Program could increase the risk that PPL Electric could bill no EGSs for the costs of an auction and result in the need for substantial cost recovery from the Company's customers in the event of a failed auction. (PPL Electric St. 4-R, p. 48).

121. By requiring EGSs to pay for pre-auction costs up front, the Company can determine whether EGSs are committed to participate in an auction, and avoid unwanted costs. (PPL Electric St. 4-R, p. 48).

122. Without a true up process that charges remaining pre-auction costs to winning EGSs, PPL Electric could potentially be left with unrecovered program costs that it would have to charge to customers. (PPL Electric St. 4-R, p. 48).

123. PPL Electric identified two categories of costs that could be viewed as associated with the Standard Offer Referral Program that would not be recovered from participating EGSs. The first of these would be service representative call time, which costs PPL Electric cannot separately identify and, therefore, would be reflected as part of operating expenses in a future rate case. (PPL Electric St. 4, p. 29; PPL Electric St. 4-R, p. 44). The second category of costs that would not be billed to EGSs are capital costs associated with the modifications to the Company's customer information and billing systems, and that can provide other customer

relationship functions. These costs are estimated at \$3 million, and would be recovered in a future base rate case. (PPL Electric St. 4, p. 29).

124. Non-CAP residential customers pay the CAP shortfall, which is the difference between the full bill and the CAP customer's unique required payment. If OnTrack customers' full bill responsibility increases, the CAP shortfall increases. (PPL Electric St. 4-SR, pp. 11-15; CAUSE St. 1, p. 13).

125. If CAP customers receive benefits that are not reflected in the determination of their required payment, non-CAP customer cost responsibility would be higher than necessary to provide an affordable bill payment for CAP customers. (Tr. 106).

126. If OnTrack customers' required payments are unaffordable, they will default and likely face service termination. (PPL Electric St. 4-SR, pp. 13-14).

127. OnTrack customers have been eligible to shop since the beginning of customer choice in the PPL Electric service territory. (PPL Electric St. 4-R, p. 7).

128. The Company has put in place billing protocols that provide for a sharing of the costs and benefits of shopping by OnTrack participants. These protocols are designed to encourage efficient shopping by OnTrack customers by increasing their required payment if they take more expensive service from an EGS while allowing them to receive a share of savings from shopping, while providing a share of shopping savings to the non-CAP residential customers that pay the CAP shortfall. (PPL Electric St. 4-R, p. 8).

129. 73% of OnTrack customers that are currently taking service from an EGS are paying a price greater than the PTC. (CAUSE St. 1, pp. 19-20). The 73% figure is based on a single point in time, and therefore cannot be used to conclusively determine that these customers

were paying a higher price for the entire term of their contract with EGSs or that they have not or will not obtain savings over the life of the term of their contract. (PPL Electric St. 4-R, pp. 8-9).

130. A standardized statewide program with portable benefits may on the one hand, result in unaffordable CAP customer payments or, on the other hand, may provide too large a benefit and thereby increase the CAP shortfall borne by other non-CAP residential customers. (PPL Electric St. 4-SR, p. 14).

131. All of PPL Electric's costs of providing default service have been unbundled. (PPL Electric St. 1-R, p. 14).

132. If an affiliate supplier is the successful bidder for one or more tranches of Default Service supply, PPL Electric would enter into a SMA with that affiliate. It would not be practical or efficient, in light of the procurement schedule, for the Commission to review the SMA under 66 Pa. C.S. § 2102 at that time. Moreover, rejection or significant modification of the agreement after a solicitation has concluded, and winning suppliers have been selected, could significantly disrupt the Company's Default Service procurement process.

133. The rate schedule designations in PPL Electric's tariff are primarily based upon the nature of the service (*e.g.*, residential or commercial) and the voltage at which that service is provided. The Company's tariffs, with limited exceptions, are not based on registered peak demand.

134. A requirement to divide all customers by maximum registered peak demand for Default Service purposes would create several problems for the Company and potentially its customers. First, such an approach would create a situation where two customers served under the same rate schedule would be classified differently for purposes of purchasing Default Service supply. Second, as a customer's peak load changes, that customer may have to be re-assigned to

a different customer class for Default Service purposes. Both circumstances could create customer confusion and dissatisfaction, particularly because a customer assigned to the Large C&I Customer Class could only purchase Default Service supply on an hourly basis.

135. PPL Electric proposes to use its current rate schedule designations as a basis for identifying customer classes in the DSP II Program. The Company currently is using that approach in the DSP I Program, and it is working well. (PPL Electric St. 1, pp. 6-7; PPL Electric Ex. 1, p. 47).

Appendix B

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

**Appendix B
Proposed Conclusions of Law**

PPL Electric Utility Company (“PPL Electric” or the “Company”) proposes the following conclusions of law:

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa. C.S. §§ 501, *et seq.*

2. PPL Electric, as the Petitioner, has the burden of proof with respect to its proposals in this proceeding. 66 Pa. C.S. § 332(a).

3. The burden of proof means a duty to establish a fact by a preponderance of the evidence. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950); *Morrissey v. Commonwealth of Pennsylvania*, 424 Pa. 87, 225 A.2d 895 (1986); *Burleson v. Pa. P.U.C.*, 501 Pa. 433, 436, 641 A.2d 1234, 1236 (1983); *V.J.R. Bar Corp. v. P.L.C.B.*, 480 Pa. 322, 390 A.2d 163 (1978); *Milkie v. Pa. P.U.C.*, 768 A.2d 1217, 1220 (Pa. Cmwlth. 2001)..

4. A party that makes a proposal that is not included in a public utility’s case bears the burden of proof as to its proposal. *See, e.g., Pa.P.U.C. v. Philadelphia Gas Works*, Docket No. R-00061931, 2007 Pa. P.U.C. LEXIS 45 at *165-68 (Sept. 28, 2007); *Pa. P.U.C. v. Metropolitan Edison Company*, Docket No. R-00061366, 2007 Pa. P.U.C. LEXIS 5 at *111-12 (Jan. 11, 2007).

5. As a Default Service Provider (“DSP”), PPL Electric’s default service obligations are set forth in Act 129 of 2008, Oct. 15, P.L. 1592, No. 129 (“Act 129”), codified in Chapter 28

of the Public Utility Code, 66 Pa.C.S. Ch. 28. Sections 2807(e)(3.1), (3.2), (3.4) and 2807(f) of the Public Utility Code provide among other things, that:

- The Default Service provider shall provide electric generation supply service to customers pursuant to a Commission-approved competitive procurement plan.
- The electric power acquired shall be procured through competitive procurement processes and shall include one or more of the following: (i) auctions; (ii) requests for proposal; and (iii) bilateral agreements.
- The electric power procured shall include a prudent mix of the following: (i) spot market purchases; (ii) short-term contracts; and (iii) long-term purchase contracts, entered into as a result of an auction, request for proposal or bilateral contract.
- The prudent mix of contracts shall be designed to ensure: (i) adequate and reliable service; (ii) the least cost to customers over time; and (iii) compliance with the requirements of Section 2807(e)(3.1).
- The Default Service service provider shall offer a time-of-use rate plan to all customers that have been provided smart meter technology.

6. The “least cost over time” standard should not have, as its singular focus, the achievement of the absolute lowest cost over the default service plan timeframe, but rather a cost for power that is both relatively stable and also economical relative to other options. The “least cost over time” standard should not be viewed as synonymous with maximizing market time and benefits at the expense of price stability and economy. *Final Rulemaking Order, Implementation of Act 129 of 2008*, Docket No. L-2009-2095604, 2011 Pa. PUC LEXIS 114 (Oct. 4, 2011) (“*Default Service Final Rulemaking Order*”).

7. PPL Electric’s DSP II Program, SMA, and RFP Process and Rules (“RFP Rules”) meet all of the requirements of Act 129.

8. PPL Electric’s DSP II Program will procure all default supplies through competitive procurement processes.

9. PPL Electric has proposed a prudent mix of contracts for customers that will provide least cost to customers over time, while taking into account the benefits of price stability for customers.

10. Pursuant to 52 Pa. Code §§ 54.185(d)(1)-(6), a Default Service program must include, among other things, the following elements:

- (1) A procurement plan identifying the default service provider's electric generation supply acquisition strategy for the period of service. The procurement plan should identify the means of satisfying the minimum portfolio requirements of the Alternative Energy Portfolio Standards Act (73 P.S. §§ 1648.1 – 1648.8) for the period of service.
- (2) An implementation plan identifying the schedules and technical requirements of competitive bid solicitations and spot market energy purchases, consistent with § 54.186 (relating to default service procurement and implementation plans).
- (3) A rate design plan recovering all reasonable costs of default service, including a schedule of rates, rules and conditions of default service in the form of proposed revisions to its tariff.
- (4) Documentation that the program is consistent with the legal and technical requirements pertaining to the generation, sale and transmission of electricity of the RTO or other entity in whose control area the default service provider is providing service. The default service procurement plan's period of service must align with the planning period of that RTO or other entity.
- (5) Contingency plans to ensure the reliable provision of default service when a wholesale generation supplier fails to meet its contractual obligations.
- (6) Copies of agreements or forms to be used in the procurement of electric generation supply for default service customers. This includes all documents used as part of the implementation plan, including supply master agreements, request for proposals documents, credit documents and confidentiality agreements. When applicable, the default service provider shall use standardized forms and agreements that have been approved by the Commission.

11. PPL Electric's DSP II Program, SMA, and RFP Process and Rules ("RFP Rules") meet all of the requirements of the Commission's default service regulations.

12. PPL Electric's DSP II Program fully meets the requirement of 52 Pa. Code § 54.185(d)(4) that Default Service plans to include documentation that the program is consistent

with the requirements regarding the generation, sale and transmission of electricity of the RTO in the control area where the Default Service provider is providing service.

13. The DSP II Program meets the requirements of 52 Pa. Code § 54.185(d)(5) that Default Service plans include contingency plans to ensure the reliable provision of Default Service if a wholesale generation supplier fails to meet its contractual obligations.

14. PPL Electric's DSP II Program filing complies with the Commission's final orders in its Retail Markets Investigation. See *Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952, 2011 Pa. PUC LEXIS 617 (Dec. 16, 2011) ("December 16 RMI Order") and the Commission's *Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952, 2012 Pa. PUC LEXIS 324 (March 2, 2012) ("RMI-IWP Final Order").

15. The Alternative Energy Portfolio Standards Act ("AEPS Act") requires that EDCs and EGSs obtain AECs in an amount equal to certain percentages of electric energy sold to retail customers in this Commonwealth. See 52 Pa. § Code 54.182.

16. PPL Electric's proposal to procure certain alternative energy credits as component of its fixed-price and spot-market Default Service supply contracts satisfies the Company's obligation under the AEPS Act.

17. The alternative compliance payment under the AEPS Act is a penalty for non-compliance. *Implementation of the Alternative Energy Portfolio Standards Act of 2004*, at Docket No. M-00051865, 2005 Pa. PUC LEXIS 45 (July 18, 2005) ("Implementation Order IP"); 73 P.S. §1648.3(f)(2).

18. PPL Electric, as the EDC for its customers in its certified service territory, is the default service provider and must remain the default supplier unless and until it is replaced by a

new entity after Commission approval. 66 Pa.C.S. § 2803. No alternate supplier has been approved by the Commission to provide default service to retail electric customers in PPL Electric's certified service territory.

19. Pursuant to 66 Pa. C.S. § 2807(f)(5), as the default service provider, PPL Electric is required by Act 129 to offer a time of use ("TOU") rate option to its default service customers.

20. The TOU program is a form of default service. *Pa. P.U.C. v. PPL Electric Utilities Corporation*, Docket No. R-2011-2264771 at 23, 2012 Pa. P.U.C. LEXIS 1383 (August 30, 2012).

21. The Company cannot be directed to undertake retail market enhancements and bear the risk of non-recovery either because it incurred costs in anticipation of EGS participation that did not occur or because EGSs failed, for whatever reason, to pay their full share of costs. *See Columbia Gas of Pennsylvania v. Pa. PUC*, 613 A.2d 74 (Pa. Cmwlth. 1992) (holding that a utility could not be directed to undertake a program and then be denied recovery of the costs of such program).

22. Increasing default service charges to provide decreases to distribution charges would be contrary to ratemaking principles that charges be aligned with the cost to serve. *Lloyd v. Pa. PUC*, 904 A.2d 1010 (Pa. Cmwlth. 2006), *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007).

23. Under 52 Pa. Code § 54.186(b)(5), an affiliated supplier may participate in a Default Service provider's competitive bid solicitations for generation service.

24. PPL Electric's SMA should be approved as an affiliated interest agreement under 66 Pa.C.S. § 2102.

25. Pursuant to 52 Pa. Code § 54.185(f), PPL Electric's requested a waiver of a limited number of the Commission's regulations should be approved.

26. PPL Electric has met its burden of proof in this matter with respect to its proposed DSP II Program, TOU proposal, SMA, RFP Process and Rules, retail market initiatives, affiliate interest agreement, and request for a limited waiver.