

**THE PENNSYLVANIA UTILITY LAW PROJECT
118 LOCUST STREET
HARRISBURG, PA 17101-1414**

**PATRICK CICERO, ESQUIRE
PCICEROPULP@PALEGALAID.NET**

**PHONE: (717) 236-9486, EXT. 202
FAX: (717) 233-4088**

October 22, 2012

Via E-Filing

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re:

**Petition of PPL Electric Utilities Corporation for Approval of its
Default Service Program and Procurement Plan for the Period of
June 1, 2013 through May 21, 2015.**

Docket Nos. P-2012-2302074

Dear Secretary Chiavetta:

Enclosed please find the Reply Brief of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) containing proposed findings of fact and conclusions of law.

Copies have been served according to the attached Certificate of Service.

Respectfully submitted,



Harry S. Geller, Esquire
Patrick M. Cicero, Esquire
Counsel for CAUSE-PA

BEEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation for Approval of its Default Service Program and Procurement Plan for the Period of June 1, 2013 through May 21, 2015 Docket Nos. P-2012-2302074

CERTIFICATE OF SERVICE

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

VIA E-MAIL AND FIRST CLASS MAIL

Hon. Susan D. Colwell
Administrative Law Judge
P.O. Box 3265
Harrisburg PA 17105-3265
scolwell@pa.gov

Steven C. Gray, Esquire
Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, PA 17101
sgray@pa.gov

Michael W. Hassell, Esquire
David P. MacGregor, Esquire
Matthew J. Agen, Esquire
Post & Schell, P.C.
17 North 2nd Street, 12th Floor
Harrisburg, PA 17101-1601
mhassell@postschell.com
dmacgregor@postschell.com
matthewagen@postschell.com

James A. Mullins, Esquire
Erin Gannon, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
jmullins@paoca.org
egannon@paoca.org

Paul E. Russell, Esquire
PPL Electric Utilities Corporation
2 North Ninth Street
Allentown, PA 18101
perussell@pplweb.com

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

Regina L. Matz, Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
PO Box 3265
Harrisburg, PA 17105-3265
rmatz@pa.gov

Daniel Clearfield, Esquire
Deanne M. O'Dell, Esquire
Carl Shultz, Esquire
Eckert Seamans Cherin & Mellot, LLC
213 Market Street - 8th Flr.
Harrisburg, PA 17101
dclearfield@eckertseamans.com
dodell@eckertseamans.com
cshultz@eckertseamans.com

Divesh Gupta, Esquire
Managing Counsel - Regulatory
Constellation Energy
111 Market Place, Suite 500
Baltimore, MD 21202
divesh.gupta@constellation.com

Charles E. Thomas, III, Esquire
Thomas, Long, Niesen & Kinnard
212 Locust St., Ste. 500
P.O. Box 9500
Harrisburg, PA 17108-9500
cet3@thomaslonglaw.com

Amy M. Klodowski, Esquire
FirstEnergy Solutions Corporation
800 Cabin Hill Drive
Greensburg, PA 15601
aklodow@firstenergycorp.com

Brian J. Knipe, Esquire
Buchanan Ingersoll and Rooney PC
409 North Second Street, Suite 500
Harrisburg, PA 17101-1357
brian.knipe@bipc.com

Pamela C. Polacek, Esquire
Adelou Bakare, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
PO Box 1166
Harrisburg, PA 17108-1166
ppolacek@mwn.com
abakare@mwn.com

Stephen L. Huntoon, Esquire
Nextera Energy, Inc.
801 Pennsylvania Ave NW
Suite 220
Washington, DC 20004
shuntoon@nexteraenergy.com

Kenneth L. Mickens, Esquire
316 Yorkshire Drive
Harrisburg, PA 17111
kmickens11@verizon.net

Melanie J. Elatieh, Esquire
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406
ElatiehM@ugicorp.com

Eric J. Epstein
4100 Hillsdale Road
Harrisburg, PA 17112
lechambon@comcast.net

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA



Patrick M. Cicero, Esq., PA ID: 89039
Harry S. Geller, Esq., PA ID: 22415

Date: October 22, 2012

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PPL ELECTRIC UTILITIES :
FOR APPROVAL OF ITS DEFAULT : DOCKET NO. P-2012-2302074
SERVICE PROGRAM AND PROCUREMENT :
PLAN FOR THE PERIOD OF JUNE 1, 2013 :
THROUGH MAY 31, 2015 :**

**REPLY BRIEF OF THE COALITION FOR
AFFORDABLE UTILITY SERVICES AND ENERGY
EFFICIENCY IN PENNSYLVANIA**

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA

Harry S. Geller, Esq., PA ID: 22415
Patrick M. Cicero, Esq., PA ID: 89039
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088
pulp@palegalaid.net

October 22, 2012

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), through its counsel at the Pennsylvania Utility Law Project, files this Reply Brief in the form of Proposed Findings of Fact and Conclusions of Law. Upon submission of the Main Briefs in this proceeding, Administrative Law Judge Colwell communicated a desire for the parties to file proposed Findings of Fact and Conclusions of Law based on the evidence in this proceeding. The Findings of Fact and Conclusions of Law submitted here are based on the evidence presented in this proceeding demonstrating conclusively that low-income customers of PPL – particularly those enrolled in PPL’s Customer Assistance Program (“CAP”) known as OnTrack – are economically vulnerable, merit distinct treatment and require significant protection not offered by or available within PPL’s proposed retail market enhancement proposal. Furthermore, the evidence demonstrates that, as proposed by PPL, low-income customer participation in its proposed retail enhancements does not comport with the requirements of the Electricity Generation Customer Choice and Competition Act (“Choice Act”), Pennsylvania Public Utility Commission (“Commission”) orders and policies.

CAUSE-PA reiterates and incorporates by reference the arguments contained in its Main Brief filed October 5, 2012, and submits these proposed Findings of Fact and Conclusions of Law, attached hereto, in lieu of a formal Reply Brief.

Respectfully submitted,
Counsel for CAUSE-PA



Harry S. Geller, Esq., PA ID: 22415
Patrick M. Cicero, Esq., PA ID: 89039
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
pulp@palegalaid.net

October 22, 2012

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Findings of Fact:

1. The Choice Act requires the Commonwealth “continue the protections, policies and services that now assist customers who are low-income to afford electric service” in the competitive environment. 66 Pa. C.S. § 2802 (10.)
2. The Choice Act defines “universal service and energy conservation” as policies, protections and services that help low-income customers to maintain electric service. 66 Pa. C.S. § 2803.
3. The term “universal service and energy conservation” includes customer assistance programs or CAPs. 66 Pa. C.S. § 2803.
4. Universal Service Programs are subject to the administrative oversight of the Commission which will ensure that the programs are operated in a cost-effective manner. 66 Pa. C.S. § 2804 (9).
5. PPL’s low-income customers are economically vulnerable. (CAUSE-PA Statement No. 1, 3:11; 8:11-12.)
6. The majority of CAP customers being served by an EGS are being charged a higher price than PPL’s price to compare, with the number being as high as 73% at one point in time. (CAUSE-PA Statement No. 1 at 16; Appendix B, PPL Response to CAUSE-PA Interrogatory, Set I, Nos. 5 & 6.)
7. Approximately 12% of PPL’s residential customers have been confirmed by PPL as being low-income. (CAUSE-PA Statement No. 1 at 5: 28-29.)
8. More than 3/4 of PPL’s confirmed low-income customers are not enrolled in CAP and, thus, are not receiving a discounted bill. (CAUSE-PA Statement No.1, 11:9-10.)
9. Households below 150% of the federal poverty guidelines lack sufficient income to pay for all of their essential needs, including utility bills. (CAUSE-PA Statement No. 1, 7:11-12.)
10. Low-income customers experience a higher level of disconnection than the customer population with higher incomes. (CAUSE-PA Statement No. 1, 12:20-21.)
11. PPL’s low-income customers have no room in their monthly budgets for an increase in costs of a service as basic to health and safety as electricity. (CAUSE-PA Statement No. 1, 11:13-14.)

12. PPL's low-income CAP customers would see little to no benefit from their participation in the proposed retail market enhancements and there is the very real possibility that they will be harmed by their participation. (CAUSE-PA Statement No. 1, 14:10-11.)
13. The risks to CAP customers participating in the auction outweigh any benefit they would receive. (CAUSE-PA Statement No. 1, 23:7-8.)
14. PPL's CAP customers bear almost all of the risk of higher costs by participation in PPL's proposed retail market enhancements. (CAUSE-PA Statement No. 1, 3:7.)
15. PPL's CAP participants and the non-CAP residential customers who pay for the universal service programs would share any savings through a CAP customer's participation in the competitive market in a ratio of 40:60, with CAP customers only receiving 40% of the savings. (CAUSE-PA Statement No. 1, 15:11-14.)
16. At best, a CAP customer participating in the standard offer referral program would see only 40% of the 7% savings in the program. (CAUSE-PA Statement No. 1 at 22:19-23:5.)
17. At best, a CAP customer participating in the auction would see only 40% of the 5% savings within the program. (CAUSE-PA Statement No. 1, 15:14-17.)
18. The savings to CAP customers within the auction will occur only if their total consumption bill for any given month were to exceed \$100 (non- electric heating) or \$200 (electric heating). (CAUSE-PA Statement No. 1, 15:14-17.)
19. The PPL CAP shopping process creates only the illusion of 5% or 7% savings for the CAP customer. (CAUSE-PA Statement No. 1, 15:17-18.)
20. If a CAP customer selects a supplier whose price results in a bill that is more than \$5 higher per month for non-electric heating customers and more than \$10 per month for electric heating customers then the CAP customer must pay all of the difference as a part of his or her CAP bill. (CAUSE-PA Statement No. 1, 17:12-15; Appendix B, PPL Response to CAUSE-PA Interrogatory, Set I, No. 10, Attachment 1.)
21. Unlike the scenario in which a CAP customer must share any savings through shopping at a ratio of 40:60 with non-CAP customers in the case of increased rates CAP customers are required to bear the entire increase in costs if and when those costs exceed the monthly thresholds. (CAUSE-PA Statement No. 1, 17:15-18.)
22. PPL cannot succinctly and accurately explain the PPL CAP shopping process to PPL's CAP customers particularly when laid overtop of the presumed savings levels of 5% and 7% within the proposed retail market enhancement programs. (CAUSE-PA Statement No. 1, 15:19-20.)

Conclusions of Law:

1. PPL's proposed market enhancements impermissibly fail to assure that the affordability of electric service for economically vulnerable citizens is not diminished by direct access to the competitive generation market.
2. PPL CAP shopping policies are so complicated as to make an informed and knowledgeable venture into the competitive arena by CAP customers virtually impossible.
3. PPL's CAP customers should not participate in the retail market enhancements until PPL, in consultation with all stakeholders, has designed a CAP program that ensures continued affordability of service when generation service is supplied by an EGS, and one that can be readily explained and understood by CAP program participants.