



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

April 1, 2014

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

Re: Petition of PPL Electric Utilities Corporation for Authorization to Defer,
For Accounting and Financial Reporting Purposes, Certain Substantial
Unanticipated Non-Recurring, and Extraordinary Meter Inspection and
Replacement Expenses

Docket No. P-2014-2410164

Dear Secretary Chiavetta:

Enclosed please find a signed original of the **Answer of the Bureau of Investigation and Enforcement in Opposition to the Granting of the Petition for Deferred Accounting** at the above-captioned docket.

Copies of this Answer are being served per the attached certificate of service. If you have any questions, please contact me at (717) 783-6151.

Sincerely,

Charles Daniel Shields
Senior Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. No. 29363

Enclosure
CDS/snc

cc: Parties of Record
Robert F. Powelson, Chairman
John F. Coleman, Jr., Vice Chairman
James H. Cawley, Commissioner
Pamela A. Witmer, Commissioner
Gladys M. Brown, Commissioner
Chief Counsel Pankiw, Law Bureau
Director Cheryl Walker Davis, OSA

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities :
Corporation for Authorization to Defer, :
For Accounting and Financial Reporting :
Purposes, Certain Substantial : Docket No. P-2014-2410164
Unanticipated Non-Recurring, and :
Extraordinary Meter Inspection and :
Replacement Expenses :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Answer of the Bureau of Investigation and Enforcement in Opposition to the Granting of the Petition for Deferred Accounting** dated April 1, 2014 either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Paul E. Russell, Esquire
Associate General Counsel
PPL Services Corporation
Office of General Counsel
Two North Ninth Street
Allentown, PA 18106

Tanya J. McCloskey, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor Forum Place
Harrisburg, PA 17101-1923

David B. MacGregor, Esquire
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808



Anthony D. Kanagy, Esquire
Devin T. Ryan, Esquire
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601

Charles Daniel Shields, Senior Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. No. 29363

John Evans
Office of Small Business Advocate
300 North Second Street
Suite 1102
Harrisburg, PA 17101

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :
for Authorization to Defer, for Accounting and :
Financial Reporting Purposes, Certain Substantial : Docket No. P-2014-2410164
Unanticipated Non-Recurring, and Extraordinary :
Meter Inspection and Replacement Expenses :

**ANSWER OF THE BUREAU OF
INVESTIGATION AND ENFORCEMENT
IN OPPOSITION TO THE GRANTING OF THE
PETITION FOR DEFERRED ACCOUNTING**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), pursuant to at 52 Pa. Code §5.61, entitled “*Answers to complaints, petitions, motions and preliminary objections,*” hereby timely submits the following Answer in Opposition to the Granting of the Petition of PPL Electric Utilities Corporation for Authorization to Defer, for Accounting and Financial Reporting Purposes, Certain Substantial, Unanticipated Non-Recurring, and Extraordinary Meter Inspection and Replacement Expenses.¹

A. Introduction

For the reasons stated herein, I&E recommends denial of the petition, as it describes circumstances that do not meet the Commission's established standards for

¹ Note that the I&E use of the above caption, the nature which is derived from the title of the petition, in no way represents acknowledgement that the subject costs are appropriate for deferral accounting treatment. It can readily be agreed that the costs proposed to be incurred by PPL Electric are not to be construed as being extraordinary, unanticipated, non-recurring and substantial simply because the title of the petition identifies them as such.

appropriate deferred accounting treatment. In support of this position, I&E respectfully contends as follows:

1. The Petition filed on March 13, 2014, by PPL Electric Utilities Corporation ("PPL Electric" or "Company") seeks authority from the Commission to defer, for accounting and financial reporting purposes, certain claimed "incremental" operation and maintenance ("O&M") costs² that the Company proposes to incur to escalate inspection and replacement, if necessary, of certain of the Company's meters and customer-owned meter bases.

2. The petition claims that "a small percentage" of the new digital meters with polycarbonate resin back plates ("PRBP Meters") that the Company has been installing since 2008 have shown discoloration or have been damaged. Petition, p. 3, ¶ 4. The petition further claims the discoloration or damage "... appears to have been caused by heat generated from older deteriorated customer-owned meter bases."³

(footnote in petition omitted) Petition, p. 3, ¶ 4.

² It is reasonable to presume that the described "incremental" nature of the costs relates to PPL Electric's budgeted level of O&M specifically for its meter inspection and replacement. As the Company is between rate cases, it may very well be that certain other O&M or other levels of expenses approved by the Commission in the Company's last base rate case are actually less than the authorized amounts.

³ A described situation that immediately begs at least two questions: "Why has PPL Electric allowed the customer-owned bases to become old and deteriorated without providing them notice, perhaps years ago, that their meter bases were likely in such an aged state and that the customer should have their base examined and replaced if necessary?" and "Why isn't each individual customer who PPL has determined needs to have their meter base replaced simply charged on their distribution bill for the costs of the base and for PPL performing that work for the customer?" It is not to be considered largess on the Company's part to do the work for certain customers if they intend to seek recovery of such costs from all customers as an allowable O&M cost in their next base rate proceeding.

3. The Petition also references that, "... since completing its investigation of the issue, the Company has stopped installing this type of PRBP meter" and now installs meters with 200 amp residential meter's back plate. Petition, p. 3, ¶ 5.

Presumably, the referenced investigation was initiated and conducted after the installment of the BRPB meters, and not prior to such installation to properly determine whether those types of meters were suitable for installation on "older deteriorated customer-owned meter bases." If in fact such pre-installation inspection or studies were not conducted to ensure the safety and suitability of the BRPB meters to attach to PPL Electric customer bases, and there is no assertion in the petition that they were, it may be decisively premature for the Commission to presently grant the petition and thereby essentially also determine that the situation was "unanticipated" by the Company. Rather, it may be appropriate now to determine whether the Company exercised the appropriate due diligence to confirm the compatibility of the BRPB meters with the reasonably anticipated state of many of the customer-owned meter bases. For these reasons, a Commission instituted investigation of that possibility may be appropriately warranted, with the results analyzed and a decision rendered prior to any consideration of the instant deferred accounting petition, given that any present granting of the petition would likely fasten in stone the issue of "unanticipation," thereby perhaps precipitously and inadvertently relieving the

Company of any accountability that may exist for the current situation described in the Petition.⁴

B. Standards for Review of Deferred Accounting Petitions

4. The precise standard of review for consideration of such deferred accounting petitions was very recently reiterated by the Commission in its Opinion and Order entered April 17, 2013, where it denied a deferred accounting petition filed by another EDC, at *Petition of Duquesne Light Company for Authorization to Defer Expenses for Accounting Purposes Only*, at Docket No. P-2012-2333760 [2013 WL 1771089 (Pa.P.U.C.), Slip Copy]:

The standard which a utility must meet when seeking Commission authorization for deferral accounting is whether, based on Commission precedent, the expense item appears to be within the scope of the type of items that the Commission has allowed as an exception to the general rule against recovery of past expenses. Deferred accounting treatment is most often granted for expenses incurred as a result of storm damage, but the Commission has approved other types of expense items which are substantial and/or extraordinary. This standard does not encompass foreseeable costs incurred for routine business operations.

The scope of the type of items that the Commission has previously allowed to be deferred for accounting purposes are generally expenses that are extraordinary, unanticipated, non-recurring, and substantial.

⁴ It cannot be successfully argued, in response to the proposition that a present investigation may be required, that the instant petition seeks only deferred accounting of the proposed expenditures and any questions of the appropriateness of the Company's actions can wait until the claim for these O&M expenses are made in the next rate case. In a base rate case, the only issue related to this situation would be whether the deferred O&M expenses should be recognized in rates. An investigation now would be not be limited to whether the expenses could be included in base rates, but also whether any responsive measures are required by the Commission based upon the independently documented actions of the Company. And importantly, any such investigation could, inter alia, determine and document whether any meter issues of a similar nature were experienced by other jurisdictional EDCs and if so, how and when those EDCs discovered and addressed such situation(s).

Opinion and Order at P-2012-2333760, p. 4.

5. While PPL Electric appropriately cites to this *Duquesne* Order and its reiteration of the Commission's standard at page 5 of the Petition, it fails to present clear and convincing argument and assertions of fact that the subject costs to be incurred are in fact extraordinary, unanticipated, non-recurring, and substantial and thereby entitled to deferred accounting treatment. And interestingly, the instant petition omits referencing the outcome of that *Duquesne* proceeding, whereby the Commission applied the identified standard and denied that petition seeking deferred accounting treatment of costs incurred to upgrade or replace certain of Duquesne's technology systems. *Duquesne* Order, p. 7.

6. Further elucidation of the appropriate criteria for consideration of a petition requesting authorization to utilize deferred accounting was provided by the Commission when it denied another deferred accounting petition in its Opinion and Order entered December 5, 2012, in *Re Columbia Gas of Pennsylvania, Inc.* at Docket No. P-2012-2319920 [2012 WL 6208415 (Pa.P.U.C.) PUR Slip Copy]. In that Order, the Commission denied Columbia's request for an allowance to use deferred accounting, where the Commission concluded that start-up expenses related to new software development are routine business expenses. *Id.* There, the Commission states in particular at page 3 of its Opinion and Order:

A grant of deferred accounting is based on an exception to the general rules against retroactive recovery of past expenses. Thus, if routine

business costs were within the scope of this exception, the exception would have to be so broad as to overcome the general rule.

7. I&E submits that the instant petition filed by PPL Electric seeking to use deferred accounting for claimed “incremental” O&M expenses for inspecting and replacing aging customer-owned meter bases and certain PRBP Meters does not meet these aforementioned Commission standards for the granting of such authority to a public utility, for the numerous and precise reasons presented herein.

C. The Described Situation Fails To Meet the Extraordinary Standard

8. On the question of whether the described situation is extraordinary, I&E submits that the Company’s proposed escalation of its existing meter inspection and replacement program, even if presumed necessary for purposes of consideration of the instant petition, falls well within the realm of normal and routine business operation expense for a jurisdictional electric distribution company (“EDC”), particularly one of the size of PPL Electric, and thus fails to qualify as the type of costs that the Commission has, on rare occasions, granted authority for deferred accounting treatment; with the potential for full recovery of such out-of-test-years costs in a subsequently filed base rate case.

9. And it is important to emphasize that the Company’s characterization of such higher meter inspection and replacement costs as “incremental” does not automatically render them as out of the ordinary realm of business expense.

Essentially, any increase in any expenditure is incremental by the very definition of the term, which according to the Oxford Dictionary is “a discrete increase in (a numerical quantity).”

10. I&E submits that all electric distribution companies have meters that require ongoing inspection and replacement due to the passage of time and/or advances in technology. In the normal course of providing electric service, all meters eventually have to be replaced. Here, PPL Electric has made a its own unilateral business decision to hasten the pace of such normal business practices as inspection and replacement of meters. This presently identified situation is not so extraordinary as to allow for deferred accounting and the resultant possibility of retroactive recovery of such expenses in a subsequent base rate case.

D. The Described Situation Fails To Meet the Unanticipated Standard

11. I&E submits that Company’s representation here that it intends to hasten the pace of inspection and replacement of electric meters cannot be considered to be unanticipated. Simply put, the Company’s proposal to inspect and make repairs or replacements as necessary to customer-owned meter bases and/or meters, following its installation of some 130,000 BRPB meters is anticipated by definition, as it represents a business decision of its own making and is not in response to such events as repairing damages caused by catastrophic storms beyond any utility’s control.

12. And indeed, it appears disingenuous for the Company to claim that such a situation is unanticipated when its own meter employees were installing the new PRBP Meters over many customer meter bases that they most certainly knew or should have known were aged, and thus reasonably expected to be already deteriorated or in a deteriorating condition. Again, a prerequisite action by the Commission before consideration of the instant petition may be to authorize an independent investigation of the circumstances surrounding the installation of the PRBP meters.

E. The Described Situation Fails To Meet the Non-Recurring Standard

13. As to the Company's contention that such incremental O&M costs are non-recurring, it should be emphasized that fluctuating levels of expenditure amounts for meter inspection and replacement due to technological innovations or other systemic changes in the methodology of meters servicing will continue as long as individual meters exist. As such, those fluctuations are not a singular event necessitating a deviation from normal ratemaking by allowing for deferred accounting. Again, such fluctuations in the level of required meter servicing are part and parcel of the fundamental and normal nature of electric distribution business operations and should not be construed as non-recurring, as alleged in the instant Petition. Further, to adopt the notion of similar events being "non-recurring" is to suggest that all future meter inspection and replacement programs will be flawless and

never require the involved utility to make appropriate adjustments to the program schedule or level of related expenses.

F. The Described Situation As To Whether The Proposed Level Of Expenditures Are Substantial Is Within the Company's Discretion

14. As to the Company's reference on page 5 of its petition to the projected "incremental" expenses to range between \$25 and \$30 million dollars, it should be noted that this level and degree of proposed increase, in excess of the annual meter inspection and replacement O&M expenses granted by the Commission in the Company's last base rate case, is entirely within Company management's discretion. Unlike a deferred accounting petition where storm damage can be assessed at a particular point in time, the instant petition clearly reflects the very inaccurate and perhaps arbitrary nature of the amount sought to be deferred, as the Company can only project within a range that varies by some \$5 million dollars (\$25-\$30 million).⁵ Petition, p. 5, ¶ 12.

15. The petition also discloses the unilateral nature of the level of proposed incremental costs, as the Company itself determined that such inspections and potential replacements should be conducted within such a highly condensed timeframe ending this June. Petition, p. 4, ¶ 6. In point of fact, that actual level of incremental costs may be notably much less if the Company had instead decided to

⁵ That admittedly is due in part to the uncertainty as to the number of situations encountered that would lead the meter inspectors to decide to perform work at that location.

schedule the work within a longer timeframe, rather than making the unilateral business decision to have the work done in a matter of months. As such, the eventual amount of such proposed additional expenditures, likely to consist primarily of labor and overtime costs, is solely within the discretion of the Company and may not qualify as “substantial” if the servicing was instead conducted at a more measured pace over a decidedly longer period of time.

G. The Petition’s Referenced Prior Commission Cases Are Not Analogous and Are Readily Distinguishable From the Current Described Situation

16. Rather than citing to a necessity to incur such proposed additional expense due to a legislative or regulatory mandate, or to recover infrastructure from a destructive and devastating storm or other natural disaster, situations where the Commission has typically granted deferral petitions, the Company’s Petition instead provides as justification a notation that “... a small percentage” of the installed PRBP meters have been discolored or damaged.”⁶ Petition, p. 3.

17. The Petition seeks to support the requested grant of authorization from the Commission by citing to previously approved deferrals in *Petition of PPL Electric Utilities Corp. for Authority to Defer for Accounting and Financial Reporting Purposes Certain Losses from Extraordinary Winter Storm Damage and to Amortize Such Losses*,

⁶ And while noting that 130,000 PRBP meters have been installed since 2008, the Petition fails to quantify the “small percentage” by providing the actual number of meters discolored or damaged. Nor incidentally, does the Petition cite to the actual number of adverse safety events that have occurred related to these “small percentage” of meters. Nor has the Petition provided a performed cost/benefit analysis along with the Petition seeking to support or justify the level of the proposed costs.

Docket No. P-00052148 (Aug. 26, 2005) and *Accord Petition of PPL Elec. Utils. Corp. for Authorization to Defer, for Accounting Purposes, Certain Unanticipated Expenses Relating to Storm Damage from the Late October 2011 Snowstorm*, Docket No. P-2011-2274298 (Dec. 15, 2011) ("PPL 2011 Snowstorm"). Petition, pp. 5-6, ¶ 12. Both these cases are readily distinguishable from the present situation as both involved damage from severe storms, the occurrence of which were completely outside the control of PPL Electric. For that reason alone, those two prior occasions are simply not analogous here, where not only may the Company have some responsibility for the degree of the situation, but all the discretion as to how to respond and in what timeframe. Few could disagree that storm damage requires immediate remedial action to resolve readily identifiable safety and system reliability issues.

18. The Petition also cites to other Commission Orders where deferred accounting treatment was authorized. Petition, pp. 6-7, ¶ 16. A review of those cited cases discloses that they involved situations where massive capital costs were being incurred by the involved utilities for major construction projects and an occasion where an accounting change was being implemented that the Commission recognized would have a substantial financial impact on the involved utility if deferred accounting was not authorized. And unlike the two recently entered Commission Orders denying deferred accounting cited earlier in this I&E Answer, the cases cited in Paragraph 16 of the Company's Petition involved events in the 1990's or 1980's. Again, the Commission in

those cases addressed circumstances entirely different from PPL Electric's unilaterally proposed escalation of its O&M costs in the instant situation.

H. Conclusion

19. In providing this Answer, I&E emphasizes that nothing herein should be construed as reflecting opposition to this or any other EDC's normal and necessary annual and ongoing meter inspection and replacement programs, the costs of which are routinely reflected in an EDC's rates when deemed appropriate O&M expenses in a base rate case. Nor should this Answer in any way discourage jurisdictional EDCs from continuing such programs in the manner they each respectively deem appropriate. The I&E opposition to the granting of the petition here is, as stated in detail above, relates to the distinct and pervasive lack of the necessary justification for allowing the claimed incremental expenses to receive deferred accounting treatment under the circumstances characterized in the Petition.

20. The proposed level of increased O&M expenses sought to receive deferred accounting treatment in this present petition clearly relates to a single issue. The inevitable variations in the level of expenses allowed and the level actually incurred by a public utility between rate cases is precisely why the traditional ratemaking prohibition against "single issue ratemaking" is also appropriately a serious concern here.

21. Also relevant is the previous representation by PPL Electric in their last rate case, docketed at R-2012-2290597, that they would be making a base rate filing in 2014⁷ – a representation that has not, and appears likely to not, occur this year.⁸ It is indisputable that had PPL Electric followed through with their representation to the Commission in their previous rate case, i.e. to again file a base rate case this year as promised, there would be no reason for the Commission to presently extend time and energy considering the merits, if any, of the instant petition; as any legitimacy of the reason, nature and proposed level of such O&M expenses could be addressed within such a base rate filing.

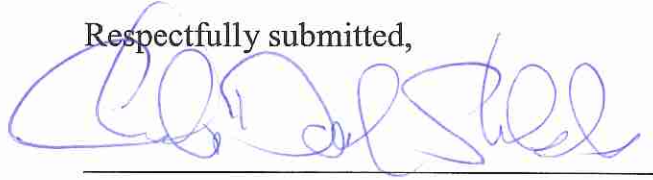
WHEREFORE, for the foregoing reasons, the Bureau of Investigation and Enforcement respectfully requests that the Commission properly limit its review and deliberations to the Petition itself and to filed Answers,⁹ and thereafter appropriately render an Opinion and Order denying the instant Petition.

⁷ Said representation can be found at *Pa. PUC v. PPL Electric Utilities Corporation*, Docket No. R-2012-2290597, at PPL Electric M.B. p. 76. The Commission's Opinion and Order accepted this representation by the Company in that proceeding, stating in pertinent part, that "Further, we can reasonably expect that PPL will file its next base rate case much closer to a twenty-four month interval than to a thirty-month interval as proposed by I&E and the OCA." Order entered December 28, 2012, pp. 47-48.

⁸ This is so, particularly given that PPL subsequently made a different representation, at the same docket and almost a year to the date of the Commission final Order in PPL Electric's rate case, where they argued in an issue that was an offshoot of the base rate case, that the Commission had to approve PPL's preferred Section 1307 storm expense rider and not await full review of that novel proposal in PPL's next base rate case as previously promised by PPL "during 2014 or before." In Reply Comments filed December 31, 2013, PPL there declared "[a]t this time, however, PPL does not foresee a need to file a base rate case in or before 2014. PPL Reply Comments, p. 13, note 3, that continued to filed at the base rate docket of R-2012-2290597.

⁹ To the exclusion of any further Company-filed documents, however titled and/or strenuously characterized as necessary and appropriate; as such additional submissions are nowhere provided for or otherwise allowed under the Commission's existing rules of practice and procedure. Respectfully, the Petition must rise or fall on its own merits, and any subsequent Company submission to "clarify the record" or "respond to I&E or another answering party's

Respectfully submitted,



Charles Daniel Shields
Senior Prosecutor
PA Attorney I.D. No. 29363

Richard A. Kanaskie
Deputy Chief Prosecutor
PA Attorney I.D. No. 80409

Johnnie E. Simms
Chief Prosecutor
PA Attorney I.D. No. 33911

Bureau of Investigations and Enforcement
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, Pennsylvania 17105-3265
(717) 787-1976

Dated: April 1, 2014

misstatements” - that also conveniently serve to bolster the assertions in the original Petition - should be ignored during the Commission’s fair and appropriate deliberations on the matter.