

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :
For Approval for a Distribution System : Docket No. P-2012-2325034
Improvement Charge :

**MAIN BRIEF OF THE
PP&L INDUSTRIAL CUSTOMER ALLIANCE
REVISED AS OF APRIL 3, 2014**

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Armstrong World Industries, Inc.
General Dynamics-OTS Scranton
Hercules Cement Company
Linde LLC

SAPA Extrusions, Inc.
The Hershey Company
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I. INTRODUCTION

A. Procedural History

On February 14, 2012, Governor Corbett signed into law House Bill 1294, or Act 11 of 2012 ("Act 11" or "Act"). Among other effects, Act 11 amended Chapter 13 of Title 66 of the Code, 66 Pa. C.S. §§ 1350, *et seq.*, to allow the Pennsylvania Public Utility Commission ("Commission" or "PUC") to approve a Distribution System Improvement Charge ("DSIC") for Electric Distribution Companies ("EDCs"). The DSIC is designed to recover reasonable and prudent costs incurred to repair, improve, or replace certain eligible distribution property that is part of the EDC's distribution system. In order to implement a DSIC, a utility must first submit a Long-Term Infrastructure Improvement Plan ("LTIIIP").¹

On August 2, 2012, the Commission issued a Final Implementation Order setting forth the procedures for complying with the requirements of Act 11, and permitting EDCs to petition the Commission for a DSIC beginning January 1, 2013.²

Pursuant to the Implementation Order, PPL filed an LTIIIP on September 18, 2013, identifying PPL's projected infrastructure improvements eligible for recovery through a DSIC.³

¹ See *id.* § 1352(a).

² Implementation of Act 11 of 2012; Docket No. M-2012-2293611, Final Implementation Order (Aug. 2, 2012) (hereinafter, "Implementation Order").

Additionally, on January 15, 2013, PPL filed with the Commission Supplement No. 127 to Electric – Pa. P.U.C. No. 201, proposing to implement a DSIC.⁴ On February 4, 2013, PPLICA filed a Petition to Intervene and Answer in this proceeding.⁵

On May 23, 2013, the Commission issued an Order approving PPL's DSIC effective July 1, 2013, but assigning several outstanding issues to the Office of Administrative Law Judge ("OALJ") for hearing and a recommended decision, including the application of PPL's DSIC to customers served by PPL's Rate Schedule LP-5.⁶ A Prehearing Conference was held on July 1, 2013, before Administrative Law Judge ("ALJ") Kandace F. Melillo.

On June 6, 2013, PPLICA filed a Motion for Judgment on the Pleadings asserting that no issue of material fact exists as to whether customers served on Rate Schedule LP-5 should be included under PPL's DSIC, and requesting that the Commission decide the issue as a matter of law.

The ALJ denied PPLICA's Motion for Judgment on July 5, 2013, but agreed that LP-5 customers may be exempted from PPL's DSIC if the evidence at hearings confirms that they are served from high voltage facilities included in PPL's distribution plant for ratemaking purposes.

PPLICA received the Company's Direct Testimony on January 15, 2013. Supplemental Direct Testimony was received on July 19, 2013. On August 15, 2013, PPLICA served Direct Testimony, and received Direct Testimony from the Office of Consumer Advocate ("OCA"). On September 12, 2013, PPLICA received Rebuttal Testimony from the Company. On October 7,

³ Petition of PPL Electric Utilities Corporation for Approval of its Long-Term Infrastructure Improvement Plan; Docket No. P-2012-2325034 (hereinafter, "LTIIP Petition").

⁴ Petition of PPL Electric Utilities Corporation for Approval of a Distribution System Improvement Charge; Docket No. P-2012-2325034 (hereinafter, "DSIC Petition").

⁵ PPLICA's compilation is listed on the cover page of this Main Brief.

⁶ Petition of PPL Electric Utilities Corporation for Approval of a Distribution System Improvement Charge; Docket Nos. P-2012-2325034, et al., Opinion and Order (May 23, 2013) (hereinafter "May 23 Order").

2013, PPLICA served Surrebuttal Testimony, and received Surrebuttal Testimony from OCA. On October 24, 2013, PPLICA received Rejoinder Testimony from PPL.

An evidentiary hearing was held in this proceeding on October 29, 2013, for the purposes of presenting testimony. During this hearing, PPLICA entered PPLICA Statement No. 1, Direct Testimony and Exhibits of Richard A. Baudino ("PPLICA Stmt. No. 1"), PPLICA Statement No. 1-SR, Surrebuttal Testimony of Richard A. Baudino ("PPLICA Stmt. No. 1-SR"), and PPLICA Hearing Exhibit No. 1 into the record, and the parties confirmed the process for submitting Briefs. Pursuant to the procedural schedule, PPLICA submits this Main Brief.

II. SUMMARY OF ARGUMENT

PPLICA is an ad hoc group of energy-intensive customers receiving electric service from PPL primarily under Rate Schedules LP-4 and LP-5.⁷ PPLICA members consume substantial amounts of electricity in their manufacturing and operational processes, and these electric costs are a significant element of their respective costs of operation. Accordingly, modifications to PPL's rates can significantly impact PPLICA members' cost of operation. Of concern to PPLICA members, PPL's DSIC fails to comply with the Commission's Implementation Order and imposes unjust and unreasonable charges to members.

As noted above, the Commission's May 23 Order conditionally approved PPL's DSIC, subject to any refunds required following conclusion of hearings on specific issues. The issues reserved for hearings include:

- a. Whether customers taking service under Rate Schedule LP-5 at transmission voltage rates should be included under the DSIC charge;
- b. If revenues associated with the Company's Act 129 Compliance Rider (ACR), Smart Meter Rider, Universal Service Rider, Net Metering Rider,

⁷ Some PPLICA members also have accounts on Rate Schedule GS-3.

and Competitive Enhancement Rider in PPL Electric's tariff are properly included as distribution revenues.⁸

This Main Brief will address both the treatment of LP-5 customers under PPL's DSIC and the riders appropriately included as distribution revenues for purposes of calculating PPL's 5% DSIC cap.

First, the Implementation Order appropriately determined that DSIC charges should not be applied to customers served at transmission voltage unless the higher voltage facilities are included within the EDC's distribution plant for ratemaking purposes.⁹ Despite the Commission's clear guidance on this issue, PPL proposed a DSIC including customers on Rate Schedule LP-5. The record evidence in this proceeding establishes that LP-5 customers are served exclusively from transmission voltage facilities excluded from PPL's distribution plant. PPL must be compelled to refund all DSIC revenues collected from LP-5 customers and modify its DSIC to exempt LP-5 customers.

Second, the Implementation Order also addressed calculation of the 5% cap on DSIC revenues mandated by Act 11. The Order limited DSIC collections to 5% of distribution revenues, including applicable clauses and riders.¹⁰ In its current form, PPL's 5% DSIC cap incorporates revenue from several riders bearing no correlation to PPL's distribution system. To protect customers from unreasonable charges consistent with the customer protection provisions of Act 11 and the Commission's DSIC Implementation Order, PPLICA requests that the Commission prohibit PPL from including revenue from its Phase I and Phase II Act 129 Compliance Riders (individually "ACR-1" and "ACR-2") (jointly "ACR"); and CER, and Net Metering Rider in any calculation of the 5% DSIC cap.

⁸ May 23 Order, p. 20.

⁹ Implementation Order, p. 46.

¹⁰ Implementation Order, Model Tariff.

III. ARGUMENT

A. **Consistent with the unequivocal language in the Implementation Order, LP-5 customers must be exempted from PPL's DSIC.**

Pursuant to the Implementation Order, the Commission should exempt LP-5 customers from PPL's DSIC and expeditiously refund all DSIC revenues collected from LP-5 customers to date. The Implementation Order articulated a clear exemption for customers served exclusively from transmission voltage facilities.¹¹ PPLICA initially submitted evidence showing that LP-5 customers met the criteria and requested Judgment on the Pleadings. Following a denial of the request for Judgment on the Pleadings, PPLICA furnished additional evidence confirming that LP-5 customers are served exclusively by transmission voltage facilities. To the contrary, PPL has not shown that any of the higher voltage facilities serving LP-5 customers are included in its distribution plant for ratemaking purposes. Accordingly, PPL must remove LP-5 customers from its DSIC surcharge and refund all DSIC revenues collected from LP-5 customers.

1. **The Commission's Implementation Order prohibits PPL from assessing DSIC charges to LP-5 customers unless higher voltage facilities are included in the Company's distribution plant for ratemaking purposes.**

The Commission already addressed the appropriate application of DSIC charges to transmission voltage customers and determined that, as a general rule, transmission voltage customers should be exempt from DSIC charges. In the Implementation Order, the Commission declared "[w]ith regard to the issue of applying a DSIC surcharge to EDC customers receiving service at transmission voltages, we are in general agreement with EAP and other commenters that a DSIC surcharge should not be applied to such customers."¹² With this statement, the Commission established a guiding principle for EDCs to follow.

¹¹ Implementation Order, p. 46

¹² Id.

The Commission also preserved limited authority for EDCs to apply DSIC charges to transmission voltage customers.¹³ The Implementation Order recognized that "DSIC charges are to be applied to any customers served from higher voltage facilities which are included within the EDC's distribution plant for ratemaking purposes."¹⁴ The caveat did not displace the primary determination that transmission voltage customers should not pay DSIC charges, but merely recognized the limited conditions under which it is appropriate to recover DSIC charges from transmission voltage customers.

This standard was reiterated by the ALJ in the Order denying PPLICA's Motion for Judgment on the Pleadings.¹⁵ Although the ALJ declined to rule on the matter without taking additional evidence, the ALJ agreed that PPL may apply DSIC charges to LP-5 customers only "if the plant serving these customers is considered distribution plant for ratemaking purposes...".¹⁶ In deciding the Motion, the ALJ placed great weight on PPL's claim that costs of serving LP-5 customers are included in PPL's distribution rates, consistent with the obligation to review the Motion in a light most favorable to the non-moving party.¹⁷ However, under the auspices of the Implementation Order, the Commission must now resolve this controversy based not on whether any costs of serving LP-5 customers are recovered through PPL's distribution rates, but whether the cost of higher voltage facilities serving LP-5 customers are included in PPL's distribution rates. As discussed below, this inquiry must be answered in the negative.

¹³ Id.

¹⁴ Id.

¹⁵ Order on Motion, p. 3.

¹⁶ Id.

¹⁷ Id.

2. LP-5 customers are not served by distribution facilities included in PPL's distribution plant for ratemaking purposes.

Throughout this proceeding PPLICA proffered substantial evidence establishing that higher voltage facilities serving LP-5 customers are not included in PPL's distribution rates. Conversely, PPL has engaged in efforts to cloud the analysis with various references to irrelevant cost allocation arguments and misapplication of the Implementation Order. As discussed below, PPLICA's arguments are persuasive and should be adopted.

As an initial step towards understanding the distinction between PPL's higher voltage and lower voltage facilities, a review of the Company's tariff proves helpful. PPL's LP-5 tariff describes the service as set forth below:

This Rate Schedule is for large general service supplied from available lines of 69,000 volts or higher, with the customer furnishing and maintaining all equipment necessary to transform the energy from the line voltage. It applies to three phase, 60 Hertz service.¹⁸

Importantly, LP-5 customers buy all the equipment necessary to take high voltage service from PPL's transmission lines without use of utility-owned facilities.¹⁹ The lack of distribution plant used by LP-5 customers is reflected in the LP-5 distribution rates, as described by PPLICA

Witness Baudino:

[T]he Commission determines eligibility for DSIC charges based on the allocation of an Electric Distribution Company's ("EDC") distribution plant costs, not simply recovery of any O&M, administrative and general, or other customer related costs. "Plant" refers to physical facilities (*i.e.*, rate base) upon which PPL is entitled to earn a return. Expenses such as O&M or administrative and general are distinct in the ratemaking formula (Revenue Requirement = Expenses + Rate of Return(Rate Base)). As the 69 kV facilities serving LP-5 customer are not included as part of PPL's distribution plant, PPL's DSIC should not be applied to LP-5 customers.²⁰

¹⁸ PPL Electric Utilities Corporation, Supplement No. 125 to Electric Pa. P.U.C. No. 201, p. 28.

¹⁹ Id.

²⁰ PPLICA Stmt. No. 1-SR, p. 3.

To clarify that higher voltage facilities serving LP-5 customers are not included in PPL's distribution plant, Mr. Baudino examined the definition of PPL's "distribution system" set forth in the Company's tariff. PPL's tariff defines the distribution system as follows:

The distribution system is defined, for the purposes of this rule, as *including all lines energized at voltages less than the nominal 69,000 volts and excluding service extensions and lines energized at voltages of nominal 69,000 volts or higher.*²¹

This language provides an instructive definition of the costs at issue in this proceeding. The higher voltage plant serving LP-5 customers consists of the plant energized at 69 kV or higher. However, "in the 2012 rate case, PPL allocated no costs to LP-5 customers for distribution substations, overhead lines, underground lines, line transformers, or distribution services."²² If these higher voltage facilities are not included in PPL's distribution plant for ratemaking purposes, then PPL may not recover DSIC charges from LP-5 customers.

In addition to establishing that the higher voltage facilities serving LP-5 customers are not included in PPL's distribution rates, the record in this proceeding also specifically identifies the total cost items allocated to LP-5 customers. In response to a PPL Interrogatory request, PPLICA Witness Baudino prepared a comprehensive list of the cost items allocated to LP-5 customers.²³ These costs are limited to the following:

Miscellaneous Distribution Expense
Meters
Customer Accounts
Administrative and General Expenses
Amortization of 2010 Rate Case Expenses
Amortization – 2005 Ice Storm Deferral
Certain proforma adjustment

²¹ PPLICA Stmt. No. 1-SR, p. 3 citing PPL Electric Utilities Corporation Supplement No. 125 to Electric Pa. P.U.C. No. 201, Tariff Rule 4 (Emphasis added).

²² PPLICA Stmt. No. 1, p. 2.

²³ PPL Stmt. No. 3-R, Exhibit BLJ-3R.

Depreciation expenses consisting primarily of meters and included allocated
general and intangible
Taxes other than income
Associated DIT
Other taxes²⁴

With the exception of meters, which are discussed below, these costs are operations and maintenance, administrative and general or customer costs.²⁵ These cost items do not include higher voltage facilities serving LP-5 customers, and certainly do not reflect distribution voltage facilities, which are not used by PPL to serve the LP-5 class.

Consistent with Mr. Baudino's testimony, cost allocation arguments offered by PPL fail to show that the higher voltage, *i.e.* 69 kV, facilities serving LP-5 customers are included in PPL's distribution plant for ratemaking purposes. PPL Witness Bethany Johnson repeatedly states that LP-5 customers are distribution customers served under PPL's distribution tariff.²⁶ This argument is irrelevant and counterintuitive. If the Commission meant to apply the DSIC to all customers served under EDC tariffs, there would be no need for the Commission to develop an exemption for transmission voltage customers.²⁷ To the contrary, the Commission applied the DSIC equally at the customer class level, as required under Act 11, and found that individual customers served at higher voltages should be exempt from DSIC charges unless the higher voltage facilities are included in the EDC's distribution rates for ratemaking purposes.²⁸ The fact that such customers take service through distribution tariffs is irrelevant to the inquiry.

Additionally, PPL argues that LP-5 customers pay general distribution costs. Specifically, PPL Witness Johnson observed the "[LP-5] customer class was assigned

²⁴ Id.

²⁵ PPLICA Stmt. No. 1-SR, p. 3.

²⁶ PPL Statement No. 3-S, Supplemental Direct Testimony of Bethany L. Johnson ("PPL Stmt. No. 3-S"), p. 4; PPL Statement No. 3-R, Rebuttal Testimony of Bethany L. Johnson ("PPL Stmt. No. 3-R"), p. 8; PPL Statement No. 3-RJ, Rejoinder Testimony of Bethany L. Johnson ("PPL Stmt. No. 3-RJ"), p. 6.

²⁷ Implementation Order, p. 46.

²⁸ Id.

distribution plant and other distribution expenses."²⁹ Ms. Johnson further notes that PPLICA does not dispute payment of "distribution costs" by LP-5 customers.³⁰ Similar to the Company's contentions regarding customers served by distribution tariff rates, the payment of general distribution costs is irrelevant to this proceeding. As confirmed by PPLICA Witness Baudino, payment of operations and maintenance, administrative and general, or other customer-related costs has no bearing on whether higher voltage facilities serving LP-5 customers are included in PPL's distribution plant for ratemaking purposes.³¹

The only argument raised by PPL requiring further clarification is PPL's claim that LP-5 customers are allocated distribution plant costs. PPL Witness Johnson claims LP-5 customers are allocated "some distribution plant."³² What Ms. Johnson fails to clarify is that the costs of the higher voltage facilities serving PPL's LP-5 customers are recovered by PPL through its FERC transmission rates, not its distribution rates.³³ Accordingly, while the Implementation Order allows EDCs to apply a DSIC to customers served at higher voltages if the transmission voltage facilities are included in distribution rates, this is not the case on PPL's system.³⁴ LP-5 customers are not allocated costs of PPL's primary and secondary distribution systems.³⁵ It appears that Ms. Johnson believes the Commission should allow PPL to recover DSIC revenues from LP-5 customers simply because such customers are allocated meter costs and general and intangible plant costs.

²⁹ PPL Stmt. No. 3-S, p. 4.

³⁰ PPL Stmt. No. 3-R, p. 8.

³¹ PPLICA Stmt. No. 1-SR, p. 2.

³² PPL Stmt. No. 3-RJ, p. 7

³³ See PPLICA Stmt. No. 1-SR, p. 3.

³⁴ Implementation Order, p. 46.

³⁵ See PPLICA Stmt. No. 1, Exhibit __ (RAB-2), lines 1-25 (showing that LP-5 customers are allocated \$0.0 of PPL's distribution plant costs, including substations, overhead lines, underground lines, line transformers, and distribution plant services).

Although meters are distribution plant, they cannot reasonably be considered sufficient to warrant application under the Implementation Order. Every customer has a meter. The Commission determined that customers served at transmission voltage rates should be excluded from the DSIC when the higher voltage facilities serving the customers are not included in the EDC's distribution plant for ratemaking purposes. The Commission issued this directive knowing that EDC customers, whether served at higher voltage or lower voltage, take metered service. If an allocation of meter costs is sufficient to void the Commission's exemption, then the exemption is rendered meaningless.

Such a consequence is obviously absurd and contrary to the Commission's general observation that customers served at transmission voltage should not pay DSIC charges.³⁶ The only reasonable application of the Commission's language is to conclude that the Commission intended to exempt higher voltage customers based on the plant from which the higher voltage service is received, *i.e.* line transformers, poles and towers, and overhead and underground conductors, none of which are allocated to LP-5 customers under PPL's distribution rates.³⁷

Finally, it is worth noting that a portion of PPL's testimony underscores the importance of exempting LP-5 customers from PPL's DSIC. PPL suggests that "if Mr. Baudino is correct that no DSIC-eligible plant serves Rate Schedule LP-5 customers, then in the next base rate case, none of this plant will be allocated to Rate Schedule LP-5 and it will not be included in the base rates paid by those customers."³⁸ This is precisely the reason why LP-5 customers should not pay DSIC charges. Apparently, PPL finds it reasonable for an LP-5 customer to pay rates benefitting other customers until the next rate case, with full recognition that the underlying costs

³⁶ Including LP-5 customers in PPL's DSIC charge solely due to payment of meter costs is particularly unreasonable where the Model Tariff attached to the Implementation Order does not identify meters as an eligible cost for electric DSICs and meter installation costs are already recovered for all customers through PPL's SMR. See PPLICA Stmt. No. 1, pp. 4, 1, Exhibit (RAB-7), pp. 1-3.

³⁷ PPLICA Stmt. No. 1-SR, p. 2.

³⁸ PPL Stmt. No. 3-RJ, p. 7.

will not be allocated to LP-5 customers when the DSIC investment is eventually rolled into base rates. Fortunately, the Commission adopted a more protective approach for customers that do not stand to benefit from PPL's DSIC by exempting transmission voltage customers from the surcharge.

3. Summary

PPL has not met the criteria established by the Commission for deviating from the general rule that transmission voltage customers should be exempted from DSIC charges. The record evidence shows that LP-5 customers served by PPL take service from higher voltage facilities that are not included in PPL's distribution plant. As such, the Commission should modify PPL's DSIC to exempt LP-5 customers and refund DSIC revenues collected since July 1, 2013.

B. To protect customers from unreasonable DSIC charges, only revenues related to PPL's distribution system should be applied calculating PPL's 5% DSIC cap.

To preserve the protections afforded by the 5% DSIC cap, the Commission should take a measured approach to defining "distribution revenue" and ensure that only revenue related to PPL's distribution services is included in the 5% cap calculation. The Implementation Order recognized the variety of costs recoverable through riders by clarifying that only revenue from "applicable" riders should be applied to the 5% cap.³⁹ Ample record evidence demonstrates that revenues from PPL's ACR and CER are not related to PPL's distribution services. Similarly, ~~PPL has failed to produce evidence showing that revenues from its Net Metering rider are collected for distribution services.~~ Because these charges bear no relation to use of the distribution system, including such charges in the 5% DSIC cap calculation significantly erodes the reasonableness of PPL's DSIC cost allocations and violates the statute.

³⁹ Implementation Order, Model Tariff.

1. Act 11 and the Commission's Implementation Order allowed for flexibility in determining the rider revenues included in PPL's DSIC.

Consistent with the Commission's duty to enforce the Public Utility Code and carry out the intent of all provisions therein, the Commission should conduct a meaningful analysis of PPL's distribution rates to determine which are applicable and inapplicable to the DSIC. Act 11 did not convey blanket authority for PPL to calculate its DSIC charge based on any source of revenue received through its distribution tariff.⁴⁰ The Act specifically limited calculation of the DSIC to a percentage, currently set at 5%, to be applied to "the utility's applicable rates and charges."⁴¹ Further, the Act explicitly deferred ratemaking matters to the Commission's expertise as follows:

Except as otherwise expressly provided under this subchapter, nothing under this subchapter shall be construed as limiting the existing ratemaking authority of the commission.⁴²

Consistent with the Act's flexible language, the Commission authorized EDCs to implement DSICs recovering no more than 5% of distribution rates or "applicable" clauses and riders.⁴³

The Commission should exercise its authority under the Public Utility Code to limit PPL's DSIC calculation to revenues received for PPL's distribution services. As noted above, the General Assembly authorized the Commission to implement Act 11 consistent with its existing ratemaking authority, which includes the requirements to ensure that rates charged by public utilities are just, reasonable, and non-discriminatory between customer classes.⁴⁴ To that end, the Commission should apply Act 11 consistent with the below observations of PPLICA Witness Richard Baudino:

⁴⁰ 66 Pa. C.S. § 1357(d)(1).

⁴¹ Implementation Order, Model Tariff; 66 Pa. C.S. § 1358(a)(1).

⁴² Id.

⁴³ 66 Pa. C.S. § 1357.

⁴⁴ See 66 Pa. C.S. §§ 1301 & 1304.

Act 11, as codified at Section 1358(a)(i) of the Public Utility Code states: "except as provided under paragraph (2), the distribution system improvement charge may not exceed 5% of the amount billed to customers under the... distribution rates of the electric distribution company... ." "Distribution rates" are paid by customers for "distribution service," which is transmitting electricity to customers at distribution voltages. In my opinion, some of PPL's riders are unrelated to PPL's distribution services and should not be considered applicable riders for purposes of establishing PPL's DSIC revenues.⁴⁵

As articulated by Mr. Baudino, only riders related to PPL's distribution services should be applied to PPL's DSIC cap calculation.

To the contrary, PPL has calculated its DSIC based on its assumption that a charge is "applicable" for purposes of the DSIC as long as it is received from distribution customers. PPL Witness Johnson stated that PPL's DSIC calculation "included only those clauses and riders that apply to distribution service customers..."⁴⁶ Based on PPL's analysis, any revenue received through non-bypassable charges to distribution customers should be included in the DSIC calculation.⁴⁷

PPLICA submits that a reasonable application of Act 11 in conjunction with the Commission's statutory obligation to ensure just and reasonable and nondiscriminatory rates requires a more disciplined and targeted approach. PPLICA Witness Baudino described the concerns with PPL's overbroad methodology:

[u]nder the proposed DSIC, any charge paid by distribution customers on a non-bypassable basis has been included in PPL's calculation of its DSIC cap. This formula is overly broad. In an unbundled rate environment, it is inappropriate to assume that all non-bypassable charges are for "distribution service." Rather, the purpose of each rider must be considered individually.⁴⁸

⁴⁵ PPLICA Stmt. No. 1, p. 5.

⁴⁶ PPL Stmt. No. 3-S, p. 4.

⁴⁷ *Id.* at 5.

⁴⁸ PPLICA Stmt. No. 1, p. 5.

Mr. Baudino's observations correspond with the overall purpose of a DSIC surcharge under Act 11, which the General Assembly identified as to "provide an additional mechanism for a distribution system to recover costs related to the repair, improvement and replacement of eligible property."⁴⁹ The Act defines such eligible property as "[p]roperty that is part of a distribution system and eligible for repair, improvement and replacement of infrastructure under this subchapter."⁵⁰ Accordingly, the Act's limitation of DSIC revenue to "applicable" rates and charges should be applied to limit revenue included in the calculation of PPL's DSIC cap to rates and charges sufficiently related to PPL's distribution services.

2. PPL's ACR and CER revenues are not received for the Company's distribution services.

The record in this proceeding shows that PPL's ACR and CER revenues are not received for PPL's distribution services and should be excluded from PPL's DSIC cap calculation. PPL's ACR recovers costs for end-user energy efficiency programs. Similarly, the CER recovers costs related to retail market enhancement programs designed to bolster customer transition to competitive generation suppliers. PPL's arguments, that these costs should be included in the DSIC cap calculation simply because they are recovered through the EDC and/or that similar costs may have been recovered through base distribution rates at some prior point, miss the mark. In an unbundled rate environment, revenues that are clearly not received for distribution services should not applied to the DSIC cap calculation.

PPLICA Witness Baudino discussed the underlying purpose of the ACR and CER and concluded that both riders are directed towards non-distribution services. It is well known that PPL's ACR recovers the Company's costs of administering EE&C programs to meet statutory

⁴⁹ 66 Pa. C.S. § 1350.

⁵⁰ 66 Pa. C.S. § 1351.

consumption benchmarks.⁵¹ However, as observed by Mr. Baudino, "[t]hese charges recover expenses to fund rebates directed towards improvements, retrofits, and other program measures installed at end-user locations, not distribution plant."⁵² Similarly, the CER recovers retail enhancement programs designed to develop competitive generation supply markets.⁵³ The underlying purposes of each rider is not sufficiently tied to activities or services concerning PPL's distribution plant.⁵⁴

PPL offered several arguments attempting to support inclusion of ACR and CER revenues in the DSIC cap calculation, but failed to carry its burden of proving that the surcharges recover costs associated with distribution services. First, PPL Witness Johnson appeared to mischaracterize Mr. Baudino's testimony. Ms. Johnson claimed that Mr. Baudino "draws artificial and irrelevant distinctions between distribution revenues and non-bypassable revenues."⁵⁵ To clarify, Mr. Baudino drew no such artificial or irrelevant distinctions. Mr. Baudino only encouraged the Commission to take reasonable steps to examine the purpose of PPL's various riders and eliminate revenues unrelated to distribution service from the calculation of the DSIC application.⁵⁶

Similarly, PPL inappropriately emphasized the form of its ACR and CER surcharges over their function. PPL Witness Johnson testified that the Company recovers ACR and CER charges from all distribution customers, suggesting that the determination of whether revenues are related to distribution services should not extend further than whether the such revenues are collected by

⁵¹ PPLICA Stmt. No. 1, p. 8; see 66 Pa. C.S. § 2806.1(c).

⁵² Id.

⁵³ See PPLICA Stmt. No. 1, p. 9, Exhibit __ (RAB-7), p. 5.

⁵⁴ By way of contrast, Mr. Baudino determined that PPL's SMR surcharge is sufficiently related to the Company's distribution service for purposes of calculating the DSIC cap. Id. at 6.

⁵⁵ PPL Stmt. No. 3-R, p.9.

⁵⁶ See PPLICA Stmt. No. 1-SR, p. 4.

an EDC.⁵⁷ However, mere payment of a charge assessed by an EDC cannot determine whether the charge is distribution-related or not. For example, PPL's Phase I EE&C Plan included a 4.5% peak load reduction benchmark, which, as evidenced by the Commission's recent Peak Demand Cost Effectiveness Determination Tentative Order, was intended to reduce wholesale energy and capacity costs.⁵⁸ As stated by Mr. Baudino, "the fact that the General Assembly directed PPL to administer a program targeting peak load reductions does not transform peak load reduction services into a component of distribution service."⁵⁹

To further support the necessity to look beyond the collecting entity and examine the purpose of the underlying charge, the Commission should consider PPL's recent Default Service Plan ("DSP") proceeding. In this docket, certain parties to PPL's most recent DSP proceeding supported implementation of non-bypassable riders to recover transmission service charge costs.⁶⁰ While these efforts proved unsuccessful, the Commission should note that under PPL's overbroad assessment of "applicable" DSIC revenues, non-bypassable costs recovering only transmission expenses would then be considered "distribution revenue" and applied to calculate PPL's DSIC cap.⁶¹

3. Including the ACR and CER riders in the DSIC cap calculation is contrary to Act 11 and the Public Utility Code

Except as explicitly stated otherwise, Act 11 remains subject to the Commission's ratemaking powers, including its obligation to provide non-discriminatory rates under Section

⁵⁷ PPL Stmt. No. 3-R, pp. 9-10.

⁵⁸ Peak Demand Cost Effectiveness Determination Tentative Order, Docket Nos. M-2012-2289411 and M-2008-2069887 (Nov. 14, 2013).

⁵⁹ PPLICA Stmt. No. 1-SR, p. 5. Notably, PPL's Witness Johnson referenced PPL's Phase II EE&C Plan and asserted that Mr. Baudino's reference to a 4.5% reduction in peak load "is not accurate" PPL Stmt. No. 3-RJ, p. 7. However, as stated plainly in his testimony, Mr. Baudino referenced PPL's Phase I EE&C Plan, which did include the 4.5% peak load reduction. PPLICA Stmt. No. 1-SR, p. 5.

⁶⁰ 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, Opinion and Order, Docket No. P-2012-2302074 (Jan. 24, 2013).

⁶¹ See PPL Stmt. No. 3-S, p. 5.

1304 of the Public Utility Code.⁶² To the contrary, applying revenues from riders not related to distribution services distorts the equity of DSIC charges and results in unjust, unreasonable and discriminatory rates. To preserve DSIC rates consistent with general ratemaking principles and avoid unreasonable cost-shifting, the Commission should exclude PPL's ACR and CER rider revenues from the DSIC cap calculation.

PPL's DSIC fails to comply with customer protections developed through Act 11 and the Commission's Implementation Order. Section 1358 of the Public Utility Code prohibits EDCs from recovering more than 5% of the amount billed to customers under distribution rates.⁶³ The Implementation Order appropriately defined distribution rates to include "applicable clauses and riders."⁶⁴ PPL's current DSIC frustrates the purpose of these protections by imputing revenues to the calculation of PPL's DSIC cap that have no connection to PPL's distribution services.⁶⁵ This practice skews DSIC costs away from customers that stand to benefit from the DSIC and towards customers that will not benefit from the DSIC, resulting in discriminatory rates."⁶⁶

The Commission has addressed the standard to be applied in determining whether a DSIC charge is discriminatory. Under Section 1304 of the Public Utility Code "[n]o public utility shall establish or maintain any unreasonable difference as to rates, either between localities or as between classes of service."⁶⁷ In C. Leslie Pettko v. Pennsylvania-American Water Company, the Commission interpreted Section 1304 within the context of a DSIC approved under Section 1307 of the Public Utility Code.⁶⁸ The Commission applied the traditional Section 1304 analysis,

⁶² 66 Pa. C.S. § 1304.

⁶³ 66 Pa. C.S. § 1358.

⁶⁴ Implementation Order, Model Tariff.

⁶⁵ PPLICA Stmt. No. 1, pp. 9-10.

⁶⁶ See *Id.* at 9.

⁶⁷ 66 Pa. C.S. § 1304.

⁶⁸ Slip op, 2013 WL 839971.

acknowledging "mere variation in rates does not violate the Code,"⁶⁹ and further affirming that "in order for a surcharge to be found unreasonable discrimination under Section 1304, it must provide an advantage to one customer and an injury to another."⁷⁰ As the record in this proceeding demonstrates, PPL's inclusion of riders with no relation to distribution services creates unreasonable rate discrimination between customer classes.

The discriminatory effects of calculating a DSIC cap based on riders related to non-distribution services were outlined in PPLICA's testimony. Including the ACR and CER revenues in PPL's DSIC cap calculation "would result in cost shifting among customers, with particularly adverse effects upon PPL's Large C&I customers."⁷¹ Specifically, "because the ACR recovers Act 129 EE&C charges that are not related to PPL's distribution system, the costs paid by customers can be radically different from the costs paid by the customers for use of the distribution system."⁷² This contrasts with cost impacts from PPL's SMR or USR, where the additional revenues impose costs in relative proportion with customers' use of the distribution system.⁷³

Cost data furnished by PPL also highlights the discriminatory rate effects of PPL's DSIC. PPLICA Witness Baudino analyzed initial DSIC cost projections provided by PPL and concluded that including ACR and CER revenues in PPL's DSIC cap calculation increases the Large C&I share of total DSIC revenues from 4.4% to 5.4%, while decreasing the Residential share of total DSIC revenues from 67.1% to 64.5%. The actual dollar amounts further demonstrate the impact of this cost shift. The ACR component increases Large C&I annual base

⁶⁹ Id.

⁷⁰ Id.

⁷¹ PPLICA Stmt. No. 1, p. 9.

⁷² Id.

⁷³ See id. at 7, Exhibit__ (RAB-7), pp. 1-4.

distribution revenues from \$22.5 million to \$32 million, an increase of \$9.5 million (42%). By comparison, including ACR revenues affects other customers classes as follows:

Table 1⁷⁴

	Large C&I	Small C&I	Residential
Base Distribution Revenues	\$22,565,799	\$145,051,531	\$342,071,358
ACR	\$9,544,720	\$23,972,144	\$19,233,796
% Revenue Change	42%	16.5%	5.6%

Again, the revenues shifted as a result of the ACR modify distribution-related DSIC expenses based on payments for non-distribution services.⁷⁵

To evaluate the impact from an individual customer standpoint, Mr. Baudino analyzed the effect of PPL's proposed DSIC upon a typical LP-5 customer. To illustrate the potential impact, the DSIC was applied at the maximum 5% rate.⁷⁶ As discussed in Section III.A above, LP-5 customers do not use PPL's distribution plant and "therefore pay a fixed distribution fee of \$994 per month (\$11,928 per year) for metering equipment and service costs."⁷⁷ At a 5% DSIC, LP-5 customers would pay \$596 annually based on customers' base distribution rates. However, as observed by Mr. Baudino, adding the ACR revenues dramatically increases the impact of the DSIC to LP-5 customers:

[A]t the full 5% DSIC, including ACR revenues would raise PPL's annual DSIC collections from LP-5 customers by \$3,198, an increase of 536%. As discussed earlier in my testimony, LP-5 customers do not use PPL's distribution system and would therefore pay thousands of dollars, per customer, for improvements benefitting other customer classes.⁷⁸

⁷⁴ See PPLICA Stmt. No. 1, Exhibit__(RAB-8). Note that the data reported in Table 1 reflects PPL's forecasted revenues for 2013.

⁷⁵ While the CER does not present a similarly dramatic cost impact in its current form, PPLICA submits that future retail enhancement costs that may be approved for recovery through the CER are unknown. However, even in its current form, the rider contributes to unreasonable cost shifting because the underlying costs are not related to PPL's distribution services. See 66 Pa. C.S. § 1304.

⁷⁶ PPLICA Stmt. No. 1, p. 10.

⁷⁷ PPLICA Stmt. No. 1, p. 10.

⁷⁸ Id.

The cost discrimination observed by Mr. Baudino would not occur if PPL limited its DSIC calculation to revenues received for service related to the distribution system.

Importantly, the ACR revenue projections reflected in this record do not accurately capture the full impact of including ACR revenues in PPL's DSIC cap calculation. On October 22, 2013, PPL filed Supplement Nos. 139 and 140 to Tariff - Electric Pa. P.U.C. No. 201 at Docket Nos. M-2013-2389549 and M-2013-2389551 (individually, "Supplement No. 139" and "Supplement No. 140") (jointly, the "Supplements"). Supplement No. 139 proposed to shift approximately \$12.7 million of PPL's Phase I EE&C costs from the Small C&I class to the Large C&I class.⁷⁹ Supplement No. 140 proposed to shift approximately \$12.5 million of Phase I EE&C costs from the Small C&I and Residential classes to the Large C&I class. On October 31, 2013, following conclusion of evidentiary hearings in this proceeding, the Commission issued Secretarial Letters at Docket Nos. M-2013-2389549 and M-2013-2389551 approving the Supplements and collectively increasing Large C&I ACR rates by 162%⁸⁰ As these increase are not reflected in the ACR cost data on record in this proceeding, the significant and unreasonable cost shifting documented throughout this record remains vastly understated.

~~**PPL has not carried its burden of proving that the Net Metering Rider should be included in the DSIC cap calculation.**~~

4. Unlike the ACR and the CER, PPL's Net Metering Rider would not result in non-distribution related adjustments to the distribution revenues applied to calculate PPL's 5% DSIC cap.

As noted above, the riders at issue in this proceeding include not only the ACR, CER, SMR and USR surcharges, but also PPL's Net Metering Rider. PPLICA did not submit

⁷⁹ PPLICA requested that PPL update its analysis to include the revised ACR rates. PPL refused this request, but did not object to referencing the public filing in briefs.

⁸⁰ Supplement No. 139 resulted in a \$0.437/kW increase from the former Large C&I ACR-1 rate of \$(0.021)/kW to the current \$0.416/kW rate. Supplement No. 139, Docket No. 2389549. Supplement No. 140 resulted in a \$0.394/kW increase from the former Large C&I ACR-2 rate of \$0.533/kW to the current \$0.927/kW rate. Supplement No. 140, M-2013-2389551. Collectively the Supplements increased the combined ACR rate to Large C&I customers from \$0.512/kW to \$1.343/kW (162%).

testimony addressing PPL's Net Metering Rider following receipt of interrogatory responses and testimony representing that the Net Metering Rider is not included in PPL's DSIC cap calculation. However, in response to questioning from ALJ Melillo at the October 29, 2013, evidentiary hearing, PPL submitted a post-hearing Affidavit from Witness Johnson indicating that revenue from the Net Metering Rider is included in its DSIC cap calculation.⁸¹ ~~As parties were not afforded an opportunity to address PPL's Net Metering Rider as directed by the May 23, 2013 Order, PPLICA requests that the Commission order PPL to exclude revenues from the Net Metering Rider from calculation of the DSIC cap. Notwithstanding the discrepancy between the October 29 Affidavit and PPL's prior testimony, subsequent clarification from PPL confirms that the impact of the Net Metering Rider upon the DSIC is appropriately limited to distribution-related adjustments.~~

~~With regard to the Net Metering Rider, PPL has submitted contradictory information resulting in a deprivation of parties' due process rights. Because PPL has previously indicated that the Net Metering Rider was not included in the DSIC revenues, the October 29, 2013, Affidavit contradicted the Company's prior on-the-record statements. The Commission's May 23 Order directed parties to address, inter alia:~~

If revenues associated with the Company's Act 129 Compliance Rider (ACR), Smart Meter Rider, Universal Service Rider, *Net Metering Rider*, and Competitive Enhancement Rider in PPL Electric's tariff are properly included as distribution revenues.⁸²

Consistent with the Commission's May 23, 2013, Order, PPLICA vigorously investigated PPL's inclusion of riders in the DSIC cap calculation. Upon receipt of PPL's Direct Testimony, PPLICA served discovery upon PPL asking the Company to "list all riders and/or surcharges

⁸¹ See PPL Electric Exhibit BLJ-1-RJ, pp. 1-2 (hereinafter "October 29 Affidavit").

⁸² May 23 Order, p. 20 (Emphasis added).

generating revenue included as "distribution service revenue" for purposes of calculating the 5% DSIC cap."⁸³ PPL provided the following response:

A.1. The following riders are included as "distribution service revenue" for purposes of calculating the 5% DSIC cap"

USR = Universal Service Rider

ACR = Act 129 Compliance Rider

SMR = Smart Meter Rider

CER = Competitive Enhancement Rider⁸⁴

The response plainly indicated that PPL included only revenue from these four riders, and no others, as distribution service revenue applicable to the 5% DSIC cap.

All of the evidence adduced ~~in testimony throughout this proceeding~~ remained consistent with PPL's initial representation. PPL's Supplemental Direct Testimony also confirmed "PPL Electric has included only those clauses and riders that apply to distribution service customers, including the Smart Meter Rider, Act 129 Rider, Universal Service Rider, and Competitive Enhancement Rider."⁸⁵ Based on the information provided by PPL, PPLICA submitted Direct Testimony identifying the USR, ACR, SMR, and CER as the riders included in PPL's calculation of the 5% DSIC cap and ~~taking positions only with regard to the four riders identified by PPL as relevant to the DSIC. Importantly, recommending that the Commission exclude revenue associated with the ACR and CER because these riders recover expenses unrelated to distribution service.~~⁸⁶ PPL did not challenge or clarify PPLICA's representation that the DSIC cap included revenue from only four riders.

⁸³ PPLICA Stmt. No. 1, Exhibit __ (RAB-4).

⁸⁴ Id.

⁸⁵ PPL Stmt. No. 3-S, pp. 4-5.

⁸⁶ PPLICA Stmt. No. 1, p. 6.

After engaging in ~~thorough~~ discovery and submitting ~~detailed~~ testimony, parties to this proceeding waived cross-examination of witnesses and participated in evidentiary hearings to admit testimony to the record. At the evidentiary hearing, ALJ Melillo observed that parties' testimony ~~does~~ did not appear to address the Net Metering Rider and requested additional confirmation as to whether the rider is included in PPL's existing DSIC cap calculation.⁸⁷ As witnesses were not present at the hearing, PPL agreed to submit an additional Affidavit in response to the ALJ's inquiry. On October 29, 2013, PPL submitted ~~an~~ the Affidavit from Witness Johnson asserting that revenue ~~from~~ associated with the Net Metering Rider is included in PPL's base distribution revenue and thereby incorporated into the DSIC cap calculation.⁸⁸ Additionally, for the first time, PPL contended that the Net Metering Rider should not be considered a "rider" because it is not a reconcilable automatic-adjustment rider under Section 1307(e) of the Public Utility Code like the USR, CER, SMR, and ACR.⁸⁹

~~Due to the lack of record evidence supporting inclusion of the Net Metering Rider as distribution service revenues, the Commission should order PPL to exclude Net Metering Rider revenues from its DSIC cap calculation. Regardless of PPL's belated attempt to distinguish the Net Metering Rider, the Commission clearly identified the Net Metering Rider as a "rider" for purposes of this proceeding.⁸⁹ PPLICA submitted discovery requesting confirmation of all "riders and/or surcharges" included as distribution service revenue for purposes of PPL's DSIC cap.⁹⁰ Neither the Commission nor PPLICA limited the discussion of riders to reconcilable riders. By failing to submit testimony addressing the treatment of revenues from the Net Metering Rider or accurately respond to discovery requests regarding the total riders included in~~

⁸⁷ Tr. 26-27.

⁸⁸ Affidavit of Bethany L. Johnson, October 29, 2013 ("Johnson Affidavit No. 1"); see 66 Pa. C.S. § 1307(e).

⁸⁹ Id.

⁸⁹ May 23 Order, p. 20.

⁹⁰ PPLICA Stmt. No. 1, Exhibit __ (RAB-4).

~~PPL's DSIC cap calculation, PPL has not met its burden of proof as to whether revenues associated with the Net Metering Rider should be included as distribution revenues.~~

Following the initial discrepancy, PPL subsequently clarified that only the distribution-related impacts of the Net Metering Rider are incorporated into base distribution rates and included in the 5% DSIC cap calculation. On March 6, 2014, ALJ Mellilo issued an Order Reopening the Record and directing parties to submit additional factual material to address the inclusion of revenue from PPL's Net Metering Rider in the 5% DSIC cap calculation.⁹⁰ Consistent with the schedule established by the ALJ for submission of additional factual material, PPL filed a second Affidavit of Bethany L. Johnson on March 21, 2014 ("Johnson Affidavit No. 2"), confirming that the only impact of the Net Metering Rider upon base distribution revenue is the use of net-metered kWh consumption, instead of total delivered kWh, for calculation of an applicable customer's monthly distribution charges.⁹¹ The net-metered consumption is also applied to calculate the customer's generation charges, but this consumption credit is appropriately applied to generation rates and not part of PPL's 5% DSIC cap calculation.⁹² Additionally, any cash payments earned by net metering customers supplying more energy than consumed during a PJM planning year are paid through the customer's generation and transmission rates, which are not included in the DSIC cap calculation.⁹³

Pursuant to the clarification provided in Johnson Affidavit No. 2, PPLICA submits that including the revenue effects of the Net Metering Rider in PPL's DSIC cap calculation may be appropriate where the impact is limited to distribution revenues as set forth in PPL's March 21

⁹⁰ Petition of PPL Electric Utilities Corporation for Approval of a Distribution System Improvement Charge, Docket Nos. P-2012-2325034, et al., Opinion and Order (March 6, 2014) (hereinafter "March 6 Order"). The ALJ subsequently approved a schedule for submission of additional factual material through an Order entered March 14, 2014. Petition of PPL Electric Utilities Corporation for Approval of a Distribution System Improvement Charge, Docket Nos. P-2012-2325034, et al., Opinion and Order (March 14, 2014) (hereinafter "March 14 Order").

⁹¹ See Johnson Affidavit No. 2, ¶ 6.

⁹² Id.

⁹³ Id.

Affidavit. As described by PPL, the cost allocation concerns raised by PPL's proposal to include non-distribution-related riders in the DSIC cap calculation, such as the ACR and CER are not present with respect to PPL's Net Metering Rider. Therefore, PPLICA does not oppose PPL's proposed treatment of Net Metering Rider revenues for purposes of calculating the 5% DSIC cap.

5. Summary

As recognized in the Implementation Order, Act 11 defers to the Commission's discretion regarding what distribution rates are applicable for purposes of calculating a 5% DSIC cap. In today's deregulated and evolving retail markets, EDCs are tasked with administering programs and charges beyond traditional distribution services, many of which impose significant non-bypassable costs upon customers. For purposes of applying the 5% cap implemented by the General Assembly as a customer protection, it is appropriate and reasonable for the Commission to examine the purpose of each rider to assess whether the underlying costs are applicable distribution rates. PPLICA submits that the costs recovered through PPL's ACR and CER are not related to distribution services and should be excluded from the DSIC cap. ~~Because the Company failed to furnish evidence supporting inclusion of the Net Metering Rider in the DSIC cap, the Commission should additionally remove all revenues associated with the Net Metering Rider from PPL's DSIC cap. Finally~~To the extent necessary to remedy prior collections, the Commission should direct PPL to issue refunds retroactive to July 1, 2013 consistent with the Commission's Final Order in this docket.

IV. CONCLUSION

WHEREFORE, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission:

- (1) Order PPL to exempt Rate Schedule LP-5 customers from PPL's DSIC as customers served from transmission voltage facilities that are not included in PPL's distribution rates for ratemaking purposes;
- (2) Order PPL to exclude all revenues from its Act 129 Compliance Riders, and Competitive Enhancement Rider, and Net Metering Rider from calculation of the 5% DSIC cap;
- (3) Order PPL to issue refunds for all DSIC revenues collected in contravention of the Commission's findings in this docket retroactive to July 1, 2013; and
- (4) Provide any other relief deemed necessary and reasonable.

Respectfully submitted,

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Dated: ~~November 26~~ April 3, 2013 2014

APPENDIX A

PROPOSED FINDINGS OF FACT

1. Act 11 sets forth requirements and procedures for EDCs to implement Distribution System Improvement Charges ("DSIC"). 66 Pa. C.S. §§ 1350-60.
2. The purpose of the DSIC is to provide an additional mechanism for a distribution system to recover costs related to the repair, improvement and replacement of eligible property. 66 Pa. C.S. § 1351.
3. On August 2, 2012, the Pennsylvania Public Utility Commission ("PUC" or "Commission") issued a Final Implementation Order setting forth the procedures for complying with the requirements of Act 11. Docket No. M-2012-2293611, Final Implementation Order (Aug. 2, 2012) (hereinafter, "Implementation Order").
4. With regard to the issue of applying a DSIC surcharge to EDC customers receiving service at transmission voltages, the Commission determined that a DSIC surcharge should not be applied to such customers. Implementation Order, p. 46.
5. DSIC charges are to be applied to any customers served from higher voltage facilities which are included within the EDC's distribution plant for ratemaking purposes. Implementation Order, p. 46.
6. PPL has proposed to recover DSIC charges from customers served on Rate Schedule LP-5 ("LP-5"). PPL Stmt. 3-S, p. 4
7. PPL's LP-5 customers are served exclusively at higher, *i.e.* transmission, voltages of 69 kV and above. PPL Electric Utilities Corporation, Supplement No. 125 to Electric Pa. P.U.C. No. 201, p. 28; PPLICA Stmt. No. 1-SR, p. 3.
8. Higher voltage facilities serving LP-5 customers are not included in PPL's distribution plant for ratemaking purposes. PPLICA Stmt. No. 1-SR, p. 3; PPL Stmt. No. 3-R, Exhibit BLJ-3R.
9. Costs of higher voltage facilities serving LP-5 customers are not recovered through PPL's distribution rates. PPLICA Stmt. No. 1-SR, p. 3; PPL Stmt. No. 3-R, Exhibit BLJ-3R.
10. The Commission authorized EDCs to implement DSICs recovering no more than 5% of distribution rates billed to customers, including applicable clauses and riders. Implementation Order, Model Tariff.
11. PPL's Act 129 Compliance Riders do not recover costs of the Company's distribution services. PPLICA Stmt. No. 1, p. 8; see PA. C.S. § 2806.1(c).

12. PPL's Competitive Enhancement Rider does not recover costs of the Company's distribution services. PPLICA Stmt. No. 1, p. 9, Exhibit __ (RAB-7), p. 5.
13. Including PPL's ACR and CER revenues in PPL's DSIC cap calculation would result in cost shifting among customers, with particularly adverse effects upon Large C&I customers. PPLICA Stmt. No. 1, p. 9.
14. The Commission directed parties to address whether PPL's Smart Meter Rider, Act 129 Compliance Riders, Universal Service Rider, Competitive Enhancement Rider, or Net Metering Rider were included in the Company's DSIC cap calculation. May 23 Order, p. 20.
15. PPL submitted discovery responses identifying the Smart Meter Rider, Act 129 Compliance Riders, Universal Service Rider and Competitive Enhancement Rider as riders included in the DSIC cap calculation. PPLICA Stmt. No. 1, Exhibit __ (RAB-4).
16. PPL entered testimony into the record stating that PPL included the Smart Meter Rider, Act 129 Compliance Riders, Universal Service Rider, and Competitive Enhancement Rider in the DSIC cap calculation. PPL Stmt. No. 3-S, pp. 5-4.
17. On October 29, 2013, after conclusion of evidentiary hearings, PPL submitted an Affidavit from PPL Witness Bethany Johnson affirming that PPL included revenues from the Net Metering Rider the DSIC cap calculation. Affidavit of Bethany L. Johnson, October 29, 2013 ("Johnson Affidavit No. 1").
18. On March 6, 2014, Administrative Law Judge ("ALJ") Kandace Melillo issued an Order Reopening the Record and requesting additional factual evidence from parties regarding PPL's Net Metering Rider. March 6 Order, p. 2.
19. On March 14, 2014, ALJ Melillo issued an Order granting additional time for submitting the factual evidence requested in the March 6 Order. March 21 Order, pp. 2-3.
20. On March 21, 2014, PPL submitted a second Affidavit from Ms. Johnson clarifying that PPL's inclusion of the Net Metering Rider as distribution revenue for DSIC purposes would properly exclude generation and transmission credits. Affidavit of Bethany L. Johnson, March 21, 2014 ("Johnson Affidavit No. 2").

APPENDIX B

PROPOSED CONCLUSIONS OF LAW

1. PPL customers taking service on Rate Schedule LP-5 are exempt from PPL's DSIC charges as all LP-5 customers are served from higher voltage facilities which are not included in PPL's distribution plant for ratemaking purposes. Implementation of Act 11 of 2012; Docket No. M-2012-2293611, Final Implementation Order (Aug. 2, 2012) (hereinafter, "Implementation Order"), p. 46.
2. PPL's Act 129 Compliance Riders, and Competitive Enhancement Rider, ~~and Net Metering Rider~~ are not applicable distribution rates or riders for purposes of calculating PPL's 5% DSIC cap. Implementation Order, Model Tariff; 66 Pa. C.S. § 1358(a)(1).
3. Including revenue from PPL's Act 129 Compliance Riders, and Competitive Enhancement Rider, ~~and Net Metering Rider~~ as distribution rates revenue for purposes of calculating PPL's 5% DSIC cap would result in unjust, unreasonable, and discriminatory rates. 66 Pa. C.S. § 1301; 66 Pa. C.S. § 1304.

APPENDIX C

PROPOSED ORDERING PARAGRAPHS

1. PPL is hereby directed to exempt Rate Schedule LP-5 customers from the DSIC consistent with the Implementation Order.

2. PPL is hereby directed to exclude all revenues from its Act 129 Compliance Riders, and Competitive Enhancement Rider, ~~and Net Metering Rider~~ from calculation of the 5% DSIC cap.

3. Consistent with the Commission Order entered on May 23, 2013, in this proceeding, PPL is directed to calculate and issue refunds for all DSIC revenues collected in contravention of this Order retroactive to July 1, 2013.