

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of PPL Electric Utilities Corporation** :  
**for Approval of a New Pilot Time-of-Use** : **Docket No. P-2013-2389572**  
**Program** :

**STATEMENT OF  
THE OFFICE OF SMALL BUSINESS ADVOCATE  
IN SUPPORT OF THE  
JOINT PETITION FOR PARTIAL SETTLEMENT**

**Introduction**

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers of utility services in the Commonwealth of Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. Pursuant to that statutory authority, the Office of Small Business Advocate (“OSBA”) filed an answer and notice of intervention to the Petition for the Approval of a Default Service Program and Procurement Plan for the Period June 1, 2013 through May 31, 2015 with the Pennsylvania Public Utility Commission (“Commission”) on May 1, 2012. On August 23, 2013, by order of the Commission, PPL filed an updated Pilot Time of Use (“TOU”) program. The proposed settlement addresses that August 23, 2013, filing.

The OSBA actively participated in the negotiations that led to the proposed settlement and is a signatory to the Joint Petition for Partial Settlement (“*Partial Settlement*”), with the proviso that OSBA takes exception to one aspect of Paragraph 41. The OSBA submits this statement in support of the *Partial Settlement*.<sup>1</sup>

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<sup>1</sup> The OSBA is separately briefing the issue of net metering customers taking TOU rates. The OSBA is also advocating in its briefs for the termination of PPL’s existing small commercial and industrial customer TOU rates upon the entry of a Commission Order in this proceeding. Thus, the OSBA does not support the *Partial Settlement’s* proposal for a 90 day window after that Order is entered for the termination of PPL’s existing TOU rates.

### **The Partial Settlement**

The *Partial Settlement* sets forth a list of issues that were resolved through the negotiation process. The following issues were of particular significance to the OSBA when it concluded that the *Partial Settlement* was in the best interests of PPL's small business customers.

### **The Proposed Time of Use Pilot Program**

The Partial Settlement proposes a primary TOU Pilot program and a Contingency TOU plan. Simply put, PPL will use electric generation suppliers ("EGSs") to satisfy the Company's statutory obligation to provide TOU service to its customers. *Partial Settlement*, at Paragraph 19.

The OSBA supports the proposal as a reasonable and practicable way of providing TOU service. OSBA witness Robert D. Knecht testified on this issue, as follows:

I conclude that utility default service providers who are subject to time-consuming regulatory processes and who are subject to market-distorting reconciliation mechanisms are not the ideal purveyors of TOU rates that must be flexible and adapt to changing market conditions. Moreover, the many tradeoffs that must be made in designing alternative types of TOU rates, combined with the difficulties of finding TOU rates that are acceptable to customers but which remain economically effective, also argue against a heavily regulated utility solution.

For those reasons, I conclude that TOU rates are better provided by competitive electric generation suppliers ('EGSs'), and that such suppliers should face as few regulatory burdens as possible.

OSBA Statement No. 1, at 2.

Consequently, because the *Partial Settlement* proposal conforms to the testimony of Mr. Knecht, the OSBA supports the *Partial Settlement* TOU Pilot Program proposal as a just and reasonable solution.

### **The Proposed Time of Use Contingency Plan**

The *Partial Settlement* also includes a proposed TOU Contingency plan if the original TOU Pilot program fails. *Partial Settlement*, at Paragraphs 47-49. In that Contingency Plan, PPL commits to making a determined effort to implement the program as designed, namely that of having TOU service be provided by EGSs. If that is unsuccessful, Paragraph 49 of the *Partial Settlement* lays out a general outline for a contingency plan using an RFP process. However, Paragraph 49 allows all parties to the *Partial Settlement* to challenge any such proposal.

The OSBA supports the requirements in the *Partial Settlement* that PPL both monitor the status of the TOU Pilot program, and that PPL respond quickly if that Pilot program runs into difficulty. The OSBA observes that setting forth the general outline of a future PPL TOU program helps to provide the parties and the Commission with some direction as to what the Company will propose if the TOU Pilot program fails. Moreover, the OSBA observes that the *Partial Settlement* allows OSBA to retain its rights to contest the details of any such plan should it be needed in the context of the Company's current default service plan.

Although no contingency plan can anticipate all possible problems, the OSBA supports the TOU Contingency plan, as set forth in the *Partial Settlement*, as a rational failsafe if the TOU Pilot program is unsuccessful.

### **Paragraph 41**

Paragraph 41 of the *Partial Settlement* states, "PPL Electric's currently effective TOU program will no longer be available to new applicants as of the effective date of the new tariff supplement implementing the new Pilot TOU Program." As detailed in the OSBA Main Brief and Reply Brief, it would be wrong to continue the existing TOU program for Small C&I any longer than necessary, as both PPL and OSBA conclude that the existing tariff has not been just

and reasonable for quite some time. The OSBA therefore respectfully disagrees with the other parties to the *Partial Settlement* in this respect, and requests that the Commission terminate the current Small C&I TOU program on the date an Order is entered in this proceeding.

**Conclusion**

Therefore, for the reasons set forth in the *Partial Settlement*, as well as the additional factors that are enumerated in this statement, the OSBA supports the proposed *Partial Settlement* and respectfully requests that the Administrative Law Judge and the Commission approve the *Partial Settlement*.

Respectfully submitted,



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