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September 12, 2014

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Petition of PPL Electric Utilities Corporation for Approval of Default Service Plan for Period June 1, 2015 through May 31, 2017; Docket No. P-2014-2417907

Dear Secretary Chiavetta:

Enclosed on behalf of Noble Americas Energy Solutions LLC please find its Initial Brief in the above-captioned matter. Copies of the Initial Brief are being served upon the persons and in the manner set forth on the attached certificate of service. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By 
Charles E. Thomas, III

Encl.

cc: Honorable Susan D. Colwell (w/encl.)
Certificate of Service (w/encl.)
Becky Merola (w/encl.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities :
Corporation for Approval of a Default :
Service Program and Procurement Plan : **Docket No. P-2014-2417907**
for the Period from June 1, 2015 through :
May 31, 2017 :

**INITIAL BRIEF
OF
NOBLE AMERICAS ENERGY SOLUTIONS LLC**

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DATED: September 12, 2014

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns the petition of PPL Electric Utilities Corporation (“PPL”) filed on April 18, 2014 with the Pennsylvania Public Utility Commission (“Commission”) seeking approval of its third Default Service Program (“DSP III”) to establish terms and conditions under which PPL will acquire and supply default service for the period from June 1, 2015 through May 31, 2017. PPL requested Commission approval of its DSP III by December 2014.

On June 5, 2014, a Prehearing Conference was convened before presiding Administrative Law Judge Susan D. Colwell, at which time a procedural schedule was established and other preliminary matters were discussed. On June 6, 2014, Judge Colwell issued a Scheduling Order (Second Prehearing Order) confirming the procedural schedule adopted at the prehearing conference and granting the petitions to intervene filed by the various parties, including Noble Americas Energy Solutions LLC (“Noble”).¹

In accordance with the procedural schedule, direct testimony was submitted by various intervening parties on July 1, 2014. Rebuttal testimony was filed on July 28, 2014, and surrebuttal testimony was filed on August 8, 2014. Noble did not submit any testimony in the proceeding, but reserved its right to participate in all other aspects of the proceeding, including the submission of briefs and other pleadings authorized under the Commission’s regulations. An evidentiary hearing was held on August 19, 2014 in Harrisburg, at which time parties moved their respective testimonies and exhibits into the record.

¹ In addition to Noble, Judge Colwell also granted intervention to PP&L Industrial Customer Alliance (“PPLICA”), Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), the Sustainable Energy Fund (“SEF”), Citizens for Pennsylvania’s Future (“PennFuture”), NextEra Energy Power Marketing, LLC (“NEPM”), Retail Energy Supply Association (“RESA”) and Direct Energy Services, LLC (“Direct Energy”), Exelon Generation Company, LLC (“ExGen”), and FirstEnergy Solutions Corp. (“FES”). The Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), and the Commission’s Bureau of Investigation and Enforcement (“I&E”) also intervened in the matter.

On or about September 12, 2014, a Joint Petition for Approval of Partial Settlement was filed by PPL, the OCA, the OSBA, PPLICA, CAUSE-PA, SEF, PennFuture, NEPM, RESA, Direct Energy, and ExGen, seeking Commission approval of PPL's DSP III subject to the terms and conditions of the partial settlement and a decision on the issues reserved for litigation. Noble, FES, and I&E were not parties to the Joint Petition. The Joint Petition resolves all of the issues and concerns among the parties, except for (i) PPL Electric's proposal to change the customer size demarcation between Small Commercial and Industrial ("C&I") and Large C&I customers demand split from 500 kW to 100 kW and (ii) the issue of the cost responsibility for Non-market-based Transmission Service Charges ("NMB Charges"), both of which have been reserved for litigation.

Noble submits this Initial Brief in accordance with the briefing schedule established by Scheduling Order (Second Prehearing Order). Noble limits the discussion in its Initial Brief to matters related to cost recovery of certain PJM charges in connection with the rate design and cost recovery proposed by PPL's DSP III. Noble takes no position at this time with respect to the other issues reserved for litigation.

II. DISCUSSION

A. Cost Recovery for Non-Market Based ("NMB") Transmission Service Charges

Noble's principal interest with respect to the rate design and cost recovery of PPL's DSP III relates to the collection and recovery of certain NMB transmission service charges, *viz.* Network Integration Transmission Service ("NITS") charges. Presently, Electric Generation Suppliers ("EGS") are responsible for NITS charges as Load Serving Entities ("LSE").² Noble supports PPL's proposal under its DSP III, as filed, which would continue to require LSEs, such

² PPL St. No. 1-R at 44; PPL St. No 3-R at 13, 16.

as EGSs, to maintain responsibility for PJM charges assigned to LSEs.³ Such an approach is consistent with PPL’s present practice under its existing default service plan.⁴

RESA and ExGen advocate proposals which would require PPL to assume responsibility for collecting and recovering certain non-market based charges, including NITS, from shopping and non-shopping customers. RESA argues that transferring PJM costs from LSEs to PPL is warranted because the future amount of those cost items are unpredictable and unknown and, thus, EGSs cannot hedge the associated risks.⁵ Non-market based transmission costs should, therefore, be recovered from all distribution customers through a non-bypassable rider to PPL’s tariff.⁶

Despite RESA’s contentions, NMB costs are manageable and to change them would unnecessarily shift risk, harming existing retail contracts and licensed retail customers and their contracts. NITS costs, in particular, are predictable from year to year. PPL witness Johnson explained that “NITS charges are the largest portion of the transmission service charge and the NITS rate is set by PJM on an annual basis, thereby reducing the volatility to which any entity is exposed.”⁷

An EGSs ability to manage its NMB costs is an accepted responsibility and inherent risk of competing in the retail market. As PPL witness Johnson stated:

The entity that incurs a cost does not make the cost more or less predictable or reduce the risk. To the extent that every LSE is paying for its share of the load, the playing field is level. Each entity is responsible for projecting and pricing its load and transmission service costs accurately....

³ PPL St. No. 1-R at 44; PPL St. No. 3-R at 13-14.

⁴ PPL St. No. 1-R at 45.

⁵ RESA St. No. 1 at 20. ExGen makes similar arguments. *See* ExGen St. No. 1 at 4-5.

⁶ RESA St. No. 1 at 17, 20-21.

⁷ PPL St. No. 3-R at 15.

... By the nature of being a competitive EGS, it is appropriate that such a business needs to manage both market and non-market based charges, and the risks associated therewith, like any other industry. The EGSs are aware of this structure when they enter the market and have a choice to compete given the conditions that exist.⁸

Noble submits that a customer's ability to manage its NITS costs enables the customer and their supplier to effectively manage their load obligations and allows for further development of product and service offerings in the marketplace which provide a meaningful benefit to retail electric service customers regardless of size.

Adopting RESA's non-bypassable proposal would have an adverse effect on the shopping decisions by customers. A non-bypassable rider would create a situation that limits a customer's ability to negotiate contracts relative to a variety of competitive retail products. It also would result in the double collection of transmission service costs by both PPL and the EGS. PPL witness Johnson testified:

[I]f the EDC were to develop a non-bypassable clause for the transmission charges, every customer with every EGS would need a revised contract effective on the date in which the change took place. Otherwise, customers would be paying the EGS price that includes the transmission costs, as well as being charged by the EDC for the transmission costs.⁹

Noble submits that such a proposal is unacceptable and should be denied.

Noble also cautions that retail electric contracts, particularly contracts with large commercial and industrial customers, can often carry three (3) year terms. By adopting a proposal similar to RESA's which would change the way in which non-market based charges, like NITS, are currently handled, existing contracts could be adversely impacted. PPL witness Rouland correctly observed that "this is not the time to be making significant changes to the construct of the TSC Rider, especially when certain commercial and industrial customers may

⁸ PPL St. No. 3-R at 14-15.

⁹ PPL St. No. 3-R at 17.

already have contracts with EGSs with pricing that includes risk premiums for these [non-market based] charges.”¹⁰ Moreover, any attempt to divide customers up by volume with respect to the treatment of NITS would be very problematic in terms of settlements with PJM, which does not recognize any artificial division of load.

Accordingly, Noble recommends that the status quo be maintained such that LSEs, including licensed EGSs, continue to maintain responsibility for their own NITS costs. Should the Commission, however, adopt an approach which would socialize these PJM transmission charges and shift the market risk to the ratepayers in Pennsylvania, Noble submits that the entire load should be moved to a non-bypassable charge for ISO settlement purposes and that it should not become effective without three years advance notice so as to not effect current retail contracts.

B. Other Issues

Noble reserves the right to respond in its Reply Brief to positions taken and arguments raised by the other parties on any other issues relevant to this proceeding, including future cost recovery for PPL’s Standard Offer Program.

¹⁰ PPL St. No. 1-R at 44.

III. CONCLUSION

For the foregoing reasons, Noble Americas Energy Solutions LLC respectfully requests that Administrative Law Judge Susan D. Colwell issue a Recommended Decision granting the Petition of PPL Electric Utilities Corporation for approval of its third Default Service Program consistent with the limited recommendations stated herein.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have this 12th day of September, 2014, served a true and correct copy of the foregoing document upon the persons and in the manner set forth below:

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