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File #: 2507/151904

November 19, 2014

VIA ELECTRONIC FILING

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

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

Dear Secretary Chiavetta:

Enclosed please find the Exceptions of PPL Electric Utilities Corporation for the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Michael W. Hassell'.

Michael W. Hassell

MWH/skr
Enclosure

cc: Honorable Susan D. Colwell
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: November 19, 2014



Michael W. Hassell

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**EXCEPTIONS OF
PPL ELECTRIC UTILITIES CORPORATION**

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I. INTRODUCTION

In this proceeding, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) requests Pennsylvania Public Utility Commission (“Commission”) approval of its third Default Service Program and Procurement Plan (“DSP III Program”) to establish the terms and conditions under which PPL Electric will acquire and supply default service or provider of last resort service from June 1, 2015 through May 31, 2017. On September 12, 2014, a Joint Petition for Partial Settlement (“Settlement”) was filed to resolve the vast majority of the issues and concerns raised in the instant proceeding.¹ The Settlement reserved two discrete issues for litigation. The first issue is PPL Electric’s proposal to reduce the peak demand limitation for the Small Commercial and Industrial (“Small C&I”) Customer Class from 500 kW to 100 kW. The second issue is the proposal of RESA and ExGen that PPL Electric pay the Non-market-based Transmission Service Charges (“NMB Charges”) incurred to serve all customers, both default service and shopping customers, and recover these costs from all retail customers through a non-bypassable surcharge.

By Secretarial Letter dated October 30, 2014, the Commission issued the Recommended Decision (“RD”) of Administrative Law Judge Susan D. Colwell. Therein, the RD concluded that the Settlement is in the public interest and should be approved without modification. With respect to the issues reserved for litigation, the RD recommended that the Commission reject

¹ PPL Electric, the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), 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 Exelon Generation Company, LLC (“ExGen”) were Signatory Parties to the Settlement. The Bureau of Investigation and Enforcement (“I&E”) for the Commission, FirstEnergy Solutions Corp. (“FES”), Noble Americas Energy Solutions LLC (“Noble”), and Direct Energy Services, LLC (“Direct Energy”) were not parties to the Settlement but indicated that they do not object.

PPL Electric's proposal to reduce the peak demand limitation for the Small C&I Customer Class from 500 kW to 100 kW. The RD also recommended that the Commission reject RESA's and ExGen's proposal regarding the cost responsibility for NMB Charges.

PPL Electric generally agrees with the findings and conclusions set forth in the well-reasoned RD, including the recommendations that the Commission adopt the Settlement without modification and that the Commission reject RESA's and ExGen's proposal regarding the cost responsibility for NMB Charges. PPL Electric herein takes exception to the RD on the Small C&I demand split proposal pursuant to 52 Pa. Code § 5.533 and the Secretarial Letter dated October 30, 2014.

As explained below, the proposal to reduce the demand level for the Small C&I Customer Class from 500 kW to 100 kW is consistent with PPL Electric's commitment adopted in *Petition of PPL Electric Utilities Corporation For Approval of a Default Service Program and Procurement Plan*, Docket No. P-2012-2302074, (Opinion and Order entered May 23, 2013) ("*DSP II Plan Order*"), and the Commission's Order in *Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952, 303 P.U.R.4th 28, 2013 Pa. PUC LEXIS 306 (Final Order entered Feb. 15, 2013) ("*End State Order*"). PPL Electric's proposal in this case is consistent with prior Commission precedent and policy.

For these reasons, as more fully explained below and in PPL Electric's Initial Brief and Response Brief, which are incorporated herein, the Commission should adopt PPL Electric's proposal to reduce the peak demand limitation for the Small C&I Customer Class from 500 kW to 100 kW.

II. EXCEPTION

A. EXCEPTION No. 1 - **The Proposal to Reduce the Demand Level for the Small C&I Customer Class is Consistent with PPL Electric's DSP II Plan and the Commission's *End State Order*.**

In this proceeding, PPL Electric is proposing to reduce the demand level for the Small C&I Customer Class from 500 kW to 100 kW. Under this proposal, customers with a demand level of 100 kW and above would be classified as Large C&I customers and would receive hourly price default service, and those with a demand below 100 kW are classified as Small C&I customers and would receive fixed price default service.

The RD recommended that PPL Electric's proposal be rejected. The RD found that the 100 kW threshold announced in the *End State Order* is inconsistent with the Commission's policy statement at 52 Pa. Code § 69.1805, promoting the "prudent mix" standard. (RD, pp. 42-44) As such, the RD relied on Section 2807(e)(3.2) of the Public Utility Code, 66 Pa.C.S. § 2807(e)(3.2), to conclude that PPL Electric has the burden of proving that its proposal to move commercial customers with a maximum load of 100 kW to 500 kW to hourly pricing is consistent with the "prudent mix" requirement.² (RD, pp. 44-45). Based thereon, the RD found that "[w]hile PPL Electric has set forth a plan to comply with the *End State Order*, it has provided no evidence to support a finding that its proposal to move these small commercial customers to hourly pricing is consistent with the goal of the statute to establish a default plan which provides the least cost over time by using a prudent mix of products." (RD, p. 46)

PPL Electric respectfully submits that Section 2807(e)(3.2) of the Public Utility Code does not require a default service provider to procure multiple default service products for each customer class (or in this case a subset of a customer class). Rather, Section 2807(e)(3.2)

² Section 2807(e)(3.2) of the Public Utility Code provides that electric power procured by a default service provider shall include a "prudent mix" of spot market purchases, short-term contracts, and long-term purchase contracts. 66 Pa.C.S. § 2807(e)(3.2).

provides that a default service plan include a “prudent mix” of products. Here, the record evidence clearly demonstrates, and the Settlement clearly acknowledges, that PPL Electric’s DSP III Program, as a whole, will include a prudent mix of default service products. (RD, pp. 32, 53)

This interpretation is in accordance with prior Commission decisions approving default service plans without requiring a mix of default service products for each customer class. For example, in *Popowsky v. Pa. PUC*, 71 A.3d 1112 (Pa. Cmwlth. 2013), *appeal denied*, 83 A.3d 416 (2013), the Commission approved a default service plan for Pike County Light & Power Company that consisted solely of spot market purchases. On appeal, the OCA argued that, in order to satisfy the “prudent mix” standard set forth in Section 2807(e)(3.2), a default service plan must include at least two of the sources enumerated in Section 2807(e)(3.2)(i)-(iii). *Id.* at 1116. The Commonwealth Court rejected the OCA’s argument, explaining that the word “prudent” must not be disregarded in Section 2807(e)(3.2), and that the Commission “must exercise some balance and discretion under the circumstances of the case in order for the ‘mix’ in question to be ‘prudent.’” *Id.* at 1117. Further, as acknowledged by the OSBA, other electric distribution companies (“EDCs”) also offer a single hourly default service product to large commercial and industrial customers. (See OSBA Statement No. 1, p. 8)³

³ See *Petition of PPL Electric Utilities Corporation For Approval of a Default Service Program and Procurement Plan*, Docket No. P 2012-2302074 (Opinion and Order entered May 23, 2013) (approved using a single full-requirements, load-following, spot market default service product for the Large C&I Customer Class); *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company for Approval of their Default Service Programs*, Docket Nos. P-2013-2391368 (Final Order entered Jul. 24, 2014) (approving a single hourly pricing default service product for the industrial customer class for West Penn Power Company, Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company); *Petition of PECO Energy Co. for Approval of Its Default Service Program II*, Docket No. P-2012-2283641 (Order entered October 12, 2012). approving the procurement of a single hourly pricing default service product

PPL Electric also submits that the Commission's expectation in the *End State Order* that EDCs implement a 100 kW demand split for commercial and industrial customers is consistent with the Commission's policy statement at 52 Pa. Code § 69.1805. The Commission's policy statement provides, in pertinent part, as follows:

(2) *Nonresidential customers with 25—500 kW in maximum registered peak load.* The DSP should acquire electric generation supply for these customers using a mix of resources as described in the introductory paragraph to this section. Fixed-term contracts may be laddered to minimize risk, with a minimum of two competitive bid solicitations a year to further reduce the risk of acquisition at a time of peak prices. In subsequent programs, the mix percentage of supply acquired through long-term and short-term contracts and spot market purchases should be adjusted, depending on developments in retail and wholesale energy markets to ensure least cost to customers.

52 Pa. Code § 69.1805 (emphasis added). Thus, the Commission's policy statement contemplates that the mix and types of products procured for nonresidential customers with a peak demand between 25 kW and 500 kW would and should be adjusted based on developments in the competitive energy markets. In this regard, PPL Electric has modified its overall procurement mix over time to shift toward shorter term products as a robust competitive market has developed in the Company's service territory. (PPL Electric Statement No. 2, pp. 12-18) The proposal to implement a 100 kW demand split in the commercial and industrial group is consistent with this shift and the Commission's policy statement.

The Commission's *End State Order* does precisely what was contemplated by the policy statement. Indeed, in support of its proposal that EDCs reduce the demand split for commercial and industrial customers, the Commission explained as follows:

for the Large Commercial and Industrial Class); *Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2011 Through May 31, 2013*, Docket No. P-2009-2135500, 2010 Pa. PUC LEXIS 1075 (Opinion entered June 21, 2010) (approving a single hourly pricing default service product for Large C&I customers).

In the *Tentative Order*, the Commission proposed that EDCs offer hourly LMP for medium and large commercial and industrial (C&I) accounts through quarterly auctions.... Noting that LMP pricing is already offered to large C&I customers, the Commission suggested that medium C&I customers are equally well-equipped and educated to manage their commodity costs in an hourly LMP default service environment. The Commission described this proposal as a natural progression for the retail marketplace and opined that having EDCs offer hourly LMP to these accounts will put EGSs on a level playing field for competing not only with the PTC but with each other. *Tentative Order* at 16-17.

* * *

As was noted in our *Tentative Order* and many of the comments, hourly LMP is already offered to large C&I customers, and medium C&I customers are equally well-equipped and educated to manage their commodity costs in an hourly LMP default service environment. Therefore, in the next round of default service plans that begin on June 1, 2015, we expect that EDCs will offer only hourly LMP to medium and large C&I customers with interval meters, subject to the several conditions discussed herein.

End State Order, at *38-39, *46. Consistent with the policy statement at 52 Pa. Code § 69.1805, the Commission's *End State Order* directed EDCs to implement an adjustment in the mix of products procured for non-residential customers with a peak demand of 100 kW or higher to more accurately reflect market conditions.

In this case, PPL Electric explained that it is proposing to reduce the demand level for the Small C&I Customer Class from 500 kW to 100 kW for three primary reasons. First, the proposal to change the Small C&I demand split from 500 kW to 100 kW is consistent with PPL Electric's commitment adopted in PPL Electric's DSP II Plan. *DSP II Plan Order*, Slip Op. pp. 62-63. Second, the Commission stated that it expected EDCs to implement a 100 kW demand split for commercial and industrial customers. *End State Order*, at *50, Slip Op. pp. 31-32.⁴

⁴ In its *End State Order*, the Commission explained that it supports the threshold of 100 kW and directed that all hourly spot-market Default Service customers be grouped into one single auction

Third, the number of Default Service customers impacted, as of May 2014, is very small at approximately 430 customers. This is only 0.4% of all Default Service commercial and industrial customers. (See PPL Electric Initial Brief, pp. 12-13)

PPL Electric also explained that a significant number of commercial and industrial customers with a demand of 100 kW or higher currently are shopping, and that there are only a relatively few number of default service customers with a demand between 100 kW and 500 kW that would be impacted. (PPL Electric Initial Brief, pp. 14-15) The record further demonstrated that the percentage of commercial and industrial customers with a demand between 100 kW and 500 kW who are shopping is very similar to the percentage of commercial and industrial customers with a demand over 500 kW who are shopping. (PPL Electric St. No. 1, p. 31)

As the Commission and Commonwealth Court have recognized, a single product can be a “prudent mix” for certain customer classes under appropriate circumstances and within the Commission’s reasonable discretion. Where, as here, a further group of commercial and industrial customers demonstrate shopping characteristics similar to the existing Large C&I Customer Class, the Commission has the discretion, consistent with the policy statement at 52 Pa. Code § 69.1805, to redefine the parameters of the Large C&I Customer Class to include this group of customers, without violating the “prudent mix” standard.

PPL Electric herein takes exception to the RD in order to ensure the Company is fully compliant with the Commission’s Orders in the DSP II Plan and the *End State Order*. PPL Electric submits that its proposal to reduce the demand level for the Small C&I Customer Class is entirely consistent with prior Commission precedent and policy. For these reasons, the Commission should, in recognition of the circumstances of this case, adopt PPL Electric’s

class for each EDC. *Id.* at *50. The Commission also directed EDCs to offer hourly spot-market products only to customers above the 100 kW demand level who have interval meters. *Id.*

proposal to reduce the peak demand limitation for the Small C&I Customer Class from 500 kW to 100 kW.

III. CONCLUSION

WHEREFORE, for all the foregoing reasons, as well as those more fully explained in its Initial and Response Briefs, PPL Electric Utilities Corporation respectfully takes exception to the Recommended Decision of Administrative Colwell and respectfully requests that the Pennsylvania Public Utility Commission adopt the proposal to reduce the peak demand limitation for the Small C&I Customer Class from 500 kW to 100 kW.

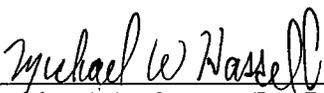
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