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February 23, 2015

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: Dauphin County Industrial Development Authority v. PPL Electric Utilities Corporation
Docket No. C-2014-2450483

Dear Secretary Chiavetta:

Enclosed please find the Answer of PPL Electric Utilities Corporation to Motion for Judgment on the Pleadings of Dauphin County Industrial Development Authority in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

Michael W. Hassell

MWH/skr
Enclosure

CERTIFICATE OF SERVICE
(Docket No. C-2014-2450483)

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 § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

Mark S. Stewart
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Date: February 23, 2015

Michael W. Hassell

Michael W. Hassell

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Dauphin County Industrial Development Authority	:	
v.	:	Docket No. C-2014-2450483
PPL Electric Utilities Corporation	:	

ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO MOTION FOR JUDGMENT ON THE PLEADINGS OF DAUPHIN COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

Pursuant to the provisions of 52 Pa. Code § 5.102(b), PPL Electric Utilities Corporation ("PPL Electric" or the "Company") files this Answer in opposition to the Motion for Judgment on the Pleadings submitted by Dauphin County Industrial Development Authority ("DCIDA").

Contemporaneous with the filing of this Answer, PPL Electric has filed a Cross Motion for Summary Judgment. In the Cross Motion, PPL Electric contends that it has paid compensation for excess generation to DCIDA as a net metering customer in accordance with the terms of its tariff, which were approved by the Pennsylvania Public Utility Commission ("Commission") following a fully-litigated proceeding. Thus, DCIDA is barred from seeking additional compensation under the doctrine of Commission-made rates. In addition, pursuant to Commission Order entered September 11, 2014, at Docket No. P-2013-2389572, Time of Use ("TOU") service is now the responsibility of Electric Generation Suppliers ("EGSs"). Thus DCIDA is not entitled to prospective relief. Therefore, DCIDA's Complaint must be dismissed in its entirety and with prejudice as a matter of law.

I. INTRODUCTION

PPL Electric is a public utility subject to the Pennsylvania Public Utility Code, 66 Pa. C.S. § 5101, et seq., and regulated by the Commission. PPL Electric provides electric default

service and distribution service pursuant to its Commission-approved tariff, which governs PPL Electric's rates and terms and conditions of service.

Complainant DCIDA receives service at 120 Hetrick Lane, Harrisburg, PA 17018 under PPL Electric's Small General Service-1 ("GS-1") rate schedule. Beginning October 10, 2011, PPL Electric has treated DCIDA as a net metering customer. Beginning with service rendered on and after July 1, 2013, PPL Electric has treated DCIDA as eligible for a TOU default service rate option.[1]

By Secretarial Letter dated October 3, 2014, PPL Electric was served with DCIDA's Complaint. The Complaint alleges that PPL Electric incorrectly computed the compensation due to DCIDA for excess kWh deliveries over usage for the yearly period from June 1, 2013 through May 31, 2014. (See Complaint ¶¶ 18, 20.)

PPL Electric's Commission-approved tariff contains the following provision regarding the annual compensation to be paid to customer generators with a TOU option for excess generation delivered to PPL Electric:

> The customer-generator will receive a credit for each kilowatt-hour received by the Company up to the total amount of electricity delivered to the Customer by the Company during the billing period at the full retail rate consistent with Commission regulations. If a customer generator supplies more electricity to the Company than the Company delivers to the customer-generator in a given billing period, the excess kilowatt hours shall be carried forward and credited against the customer-generator's usage in subsequent billing periods at the full retail rate. Any excess kilowatt hours will continue to accumulate until the end of the PJM

[1] In its prior answer to DCIDA's Complaint, PPL Electric averred that DCIDA began to be served under a TOU option on April 10, 2013. After further investigation, the Company determined that DCIDA or its representative first contacted PPL Electric regarding TOU service in April 2013, and service under the TOU option began in July 2013. For the month of June 2013, DCIDA was served as a net metering customer without a TOU option. DCIDA's excess generation for the month of June 2013 was compensated at the Price to Compare rate of $0.02715 per kWh in effect for Small Commercial and Industrial customers for the month of June 2013. Because DCIDA switched to the TOU option during the period from June 1, 2013 through May 31, 2014, compensation for excess generation received prior to conversion to the TOU option was paid in or around August 2013, and not as part of an annual compensation.

> planning period ending May 31 of each year. On an annual basis consistent with the PJM planning period, the Company will compensate the customer-generator for kilowatt-hours received from the customer-generator in excess of the kilowatt hours delivered by Company to the customer-generator during the preceding year at the Company's Rate Schedule Price To Compare consistent with Commission regulations. For eligible customer-generators with a TOU rate provision, a weighted average of the on-peak and off-peak hours will be used to derive the Company's Price To Compare for that Rate Schedule. The customer-generator is responsible for the customer charge, demand charge and other applicable charges under the applicable Rate Schedule.

(Emphasis added.) A copy of the relevant portion of PPL Electric's tariff in effect for the period from June 1, 2013 through May 31, 2014 is attached as Appendix "A."

II. STANDARD FOR JUDGMENT ON THE PLEADINGS

Section 5.102 of the Commission's regulations provides the Commission's standard of review for a request for judgment on the pleadings:

> (1) Standard for grant or denial on all counts. The presiding officer will grant or deny a motion for judgment on the pleadings or a motion for summary judgment, as appropriate. The judgment sought will be rendered if the applicable pleadings, depositions, answer to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law.
>
> (2) Standard for grant or denial in part. The presiding officer may grant a partial summary judgment if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to the material fact and that the moving party is entitled to a judgment as a matter of law on one or more but not all outstanding issues.

52 Pa. Code § 5.102(d)(1), (2).

In ruling on a Motion for Judgment on the Pleadings, the Commission must accept as true all well-pleaded facts that appear in the pleadings of the non-moving party and must examine all asserted facts in a light most favorable to the non-moving party. *McCauley v. Pennsylvania Electric Company*, Docket No. C-2010-2195962, 2011 Pa. PUC LEXIS 305, at [7] (October 17,

2011) *citing Reuben v. O'Brien*, 496 A.2d 913 (Pa. Cmwlth. 1985) and *Monzo v. Commonwealth of PA, Dept. of Transportation*, 556 A.2d 493, 495 (Pa. Cmwlth. 1989). Judgment on the pleadings may not be granted if there are genuine issues of material fact, or if the moving party has not demonstrated it is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(d); *Office of Consumer Advocate, Pennsylvania Utility Law Project, AARP Pennsylvania v. Verizon North, Inc.*, Docket No. C-20077916, 2008 Pa. PUC LEXIS 37, at [10] (May 19, 2008); *MCI WorldCom, Inc. as successor in interest to MFS Intelenet of Pennsylvania, Inc. v. Bell Atlantic-Pennsylvania, Inc.*, 2000 Pa. PUC LEXIS 68, at [12] (August 1, 2000).

As explained below, DCIDA has not met its burden to prove that it is entitled to judgment as a matter of law. Furthermore, DCIDA has failed to show that there are not genuine issues as to material facts relevant to its Complaint. Therefore, DCIDA's Motion for Judgment on the Pleadings must be denied.

III. ARGUMENT

A. DCIDA IS NOT ENTITLED TO JUDGMENT ON THE PLEADINGS BECAUSE DCIDA HAS NOT SHOWN THAT PPL ELECTRIC PAID COMPENSATION IN VIOLATION OF ITS COMMISSION-APPROVED TARIFF.

DCIDA seeks to be paid additional compensation for the excess generation which it provided to PPL Electric during the period from June 1, 2013 through May 31, 2014. DCIDA asserts that it should receive greater compensation because it generated excess generation during "on-peak" periods. (Complaint ¶¶ 19, 22.) DCIDA has offered no evidence regarding the time (on-peak and off-peak) that excess generation was generated during the annual period at issue. On this basis alone, DCIDA has not proven facts necessary to its claim, and the Motion for Judgment on the Pleadings should be dismissed on that basis alone.

DCIDA also has not demonstrated it is entitled to judgment as a matter of law, because DCIDA has not shown that PPL Electric's payment to DCIDA for excess generation during the period June 1, 2013 through May 31, 2014 was contrary to PPL Electric's Commission-approved tariff.

On March 30, 2012, PPL Electric filed Supplement No. 118 to Tariff Electric Pa. P.U.C. No. 201 (Supplement No. 118), which proposed a general increase in base rates. Among the tariff provisions contained in Supplement No. 118, the Company proposed revised terms to its net metering tariff.

Specifically, the following additions were proposed:

> On an annual basis consistent with the PJM planning period, the Company will compensate the customer-generator for kilowatt-hours received from the customer-generator in excess of the kilowatt hours delivered by Company to the customer-generator during the preceding year at the Company's Rate Schedule Price To Compare consistent with Commission regulations. For eligible customer-generators with a TOU rate provision, a weighted average of the on-peak and off-peak hours will be used to derive the Company's Price to Compare for that Rate Schedule.

(Added language underlined.) Attached as Appendix "B" is a copy of tariff page 19L.3 that was provided as part of Exhibit DAK-1 in the base rate proceeding. The page shows the additions quoted above.

Supplement No. 118 was docketed to R-2012-2290597 and was suspended by operation of law to December 31, 2012. No party to the proceeding opposed the foregoing additions. Following a fully-litigated proceeding, the Commission issued an Order entered December 28, 2012, ruling on all issues in the case. In that Order, the foregoing tariff provisions were approved by the Commission. *Pa. P.U.C. v. PPL Electric Utilities Corporation*, Docket No. R-2012-2290597, Order entered December 28, 2012, Order at pp. 135-137.

The foregoing additions clearly and unambiguously establish how annual compensation is to be paid to net metering customers with a TOU option. The Company is to use a weighted average of on-peak and off-peak hours to derive a single Price to Compare ("PTC") for each rate schedule. It is to be emphasized that the tariff clearly states that the PTC is to be determined on a rate schedule basis, and not on an individual customer basis. Thus, for example, all GS-1 rate schedule customers receiving net metering service with a TOU option are paid the same amount per kWh for excess generation over an annual period.

PPL Electric paid DCIDA compensation for excess generation on an annual basis in accordance with the foregoing provision. Throughout the annual period ended May 31, 2014, PPL Electric's PTC for on-peak consumption for eligible Rate GS-1 customers under the TOU option was $0.15389 per kWh, and its PTC for off-peak consumption for eligible Rate GS-1 customers under the TOU option was $0.11588 per kWh, exclusive of the Transmission Service Charge ("TSC") and the State Tax Adjustment Surcharge ("STAS"). These rates had been fixed since September 1, 2011, pursuant to Commission Order entered August 25, 2011 at Docket No. M-2011-2258733. For the period June 1, 2013 through May 31, 2014, PPL Electric calculated the weighted average TOU PTC for customers served under Rate GS-1 based upon the on-peak and off-peak hours for that annual period. The total on-peak hours were 3,024, and the total off-peak hours were 5,736. This equates to an on-peak hourly weighting of 35% and an off-peak hourly weighting of 65%. These weightings were applied to the on-peak TOU rate of $0.15389 per kWh and to the off-peak TOU rate of $0.11588 per kWh, resulting in a weighted average Generation Supply Charge ("GSC") of $0.12918 per kWh. The TSC of $0.00817 per kWh and the STAS of $0.00001 per kWh were added to the GSC rate to derive the weighted average PTC of $0.13736 per kWh. PPL Electric paid DCIDA for excess generation subject to the TOU

option at the price of $0.13736/kWh during the period June 1, 2013 – May 31, 2014. (Verification, ¶ 6.)

Under law, the only rates PPL Electric may charge are those set forth in its tariff. 66 Pa. C.S. § 1303; *PPL Electric v. Pa. P.U.C.*, 912 A.2d 386 (Pa. Cmwlth. Ct 2006); *Pennsylvania Electric Co. v. Pa. Pub. Util. Comm'n*, 633 A.2d 281, 284 (Pa. Cmwlth. 1995) *citing Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067, 1070 (Pa. Cmwlth. 1981).[2] Because PPL Electric compensated DCIDA in accordance with the unambiguous terms of its Commission-approved tariff, DCIDA is not entitled to further compensation. As a result, DCIDA has failed to prove that it is entitled to additional payment as a matter of law. In fact, DCIDA's request for further compensation for a prior period is prohibited as a matter of law. DCIDA's Motion for Judgment on the Pleadings seeking additional compensation for a prior period therefore must be denied.

B. DCIDA HAS FAILED TO DEMONSTRATE HOW ITS REQUEST FOR FURTHER COMPENSATION DOES NOT VIOLATE THE COMMISSION-MADE RATE DOCTRINE.

The Complaint's request for a recalculation of previously-paid compensation for excess generation violates the Commission-made rate doctrine. DCIDA has failed to demonstrate how it can obtain further compensation in light of that doctrine. As a result, DCIDA is not entitled to relief as a matter of law.

The Commission-made rate doctrine was first described in the seminal case of *Cheltenham & Abington Sewerage Co. v. Pa. P.U.C.*, 344 Pa. 366, 25 A.2d 334 (Pa. 1942)

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[2] In Pennsylvania, a rate is defined as the entire rates mechanism and all rules and regulations associated with it. The statutory definition of a rate, under the Public Utility Code, is:

> Every individual, or joint fare, toll, charge, rental or other compensation whatsoever of any public utility ... made, demanded, or received for any service within this part, offered, rendered, or furnished by such public utility ... and any rules, regulations, practices, classifications or contracts affecting any such compensation, charge, fare, toll, or rental.

("*Cheltenham*"). The rates of Cheltenham & Abington Sewerage Co. ("C&S") had been set in 1930 as a result of a full hearing on complaint. Subsequently, in 1935, the Commission initiated an investigation into C&S's rates, and directed new, lower rates to be implemented effective August 30, 1935. Subsequently, a complaint was filed seeking refunds, which the Commission authorized going back to October 17, 1933. On review, the Pennsylvania Supreme Court held that refunds could not be granted prior to August 30, 1935, the date when new rates were established.[3] The Court reasoned as follows:

> The rates prescribed by the commission in 1931 after hearing were "commission-made" rates as that term is used in utility law. The rates so fixed could not be other than commission-made rates for that agency fixed the rate base and after estimating an amount allowable for expenses of operation prescribed the gross annual revenue which the utility should collect.
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> * * *
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> Mr. Justice ROBERTS in the leading case on the subject (Arizona Grocery Co. v. Atchison, T. & S.F. Ry., 284 U.S. 370, 386-389, 52 S. Ct. 183) said: "When ... the [Interstate Commerce] Commission declares a specific rate to be the reasonable and lawful rate for the future, it speaks as the Legislature, and its pronouncement has the force of a statute. This court has repeatedly so held with respect to the fixing of specific rates by state commissions, and in this respect there is no difference between authority delegated by state legislation and that conferred by congressional action ... As respects its future conduct, the carrier is entitled to rely upon the declaration as to what will be a lawful, that is, a reasonable, rate; and, if the order merely sets limits, it is entitled to protection if it fixes a rate which falls within them. Where, as in this case, the Commission has made an order having a dual aspect, it may not in a subsequent proceeding, acting in its quasi-judicial capacity, ignore its own pronouncement promulgated in its quasi legislative capacity and retroactively repeal its own enactment as to the reasonableness of the rate it has prescribed." The same principle was followed in this state by the Superior Court: Penna. R.R. Co. v. P.S.C., 125 Pa. Superior Ct.

[3] Because of an intervening appeal, C&S's rates from 1930 had remained in effect until January 1, 1937. 25 A.2d at 336.

> 558, 190 A. 367; B. & O.R.R. Co. v. P.U.C., 136 Pa. Superior Ct. 517, 7 A.2d 488.
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> * * *
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> At what date did the tariff of 1931 cease to protect the company from claims for reparations? We are of the opinion that protection extended to August 30, 1935, the date when the commission, acting under the authority granted to it by the legislature, declared that the former controlling rates were unreasonable and should be reduced. The appellant then knew that the commission after full hearing had determined that the rates were too high. It knew that the legislature had delegated to the commission power and authority to act for it and make that determination as well as the power to make an order for reparations. In prior decisions the Superior Court properly so held: Penna. R.R. Co. v. P.S.C., supra; B. & O.R.R. Co. v. P.U.C., supra.

Id. at 336-37.

Subsequent Court and Commission decisions have recognized the key characteristics of Commission-made rates to be a detailed examination of a utility's claimed expenses and assets, reflecting a determination of just and reasonable rates. *See Equitable Gas Company v. Pa. P.U.C.*, 526 A.2d 823 (Pa. Cmwlth. Ct. 1986); *Pa. P.U.C. v. Union Gas Company*, 1986 Pa. P.U.C. LEXIS 76, *41, fn 19. Commission approval, prior to the implementation of a rate, triggers the Commission-made rate doctrine's immunity from retroactive rate changes. *Metropolitan Edison Co. v. Pa. P.U.C.*, 437 A.2d 76, 80 (Pa. Cmwlth. Ct. 1981).

With regard to PPL Electric's tariff rules concerning the calculation of compensation for excess generation to be paid to net metering customers with a TOU option, all of the attributes of Commission-made rates exist. The current mechanism to determine the compensation paid was proposed by PPL Electric in its 2012 base rate case at Docket No. R-2012-2290597. That proceeding was fully litigated, resulting in a final Commission order. That order referenced the proposed change to PPL Electric's tariff language regarding compensation to net metering customers with a TOU option and specifically approved it. *Pa. P.U.C. v. PPL Electric Utilities*

Corporation, Docket No. 2012-2290597 (Order entered December 28, 2012), Order at pp. 135-37. Thus, the Commission-made rate doctrine prohibits a retroactive change to the compensation terms.

DCIDA asserts that the compensation for excess generation paid by PPL Electric to DCIDA violates Section 1648.5 of the Alternative Energy Portfolio Standards Act ("AEPS"). (DCIDA Motion for Judgment on the Pleadings, ¶ 16.) However, DCIDA has not offered its interpretation of that provision, other than to assert that PPL Electric's calculation conflicts with that provision. DCIDA cannot receive judgment as a matter of law where it has failed to identify what it believes the statute requires. In addition, any determination that PPL Electric's Commission-approved tariff is not compliant with law can only operate prospectively under the Commission-made rate doctrine.

DCIDA cites to a Commission decision in *Jensen v. PECO Energy Company*, Docket No. F-2011-2270675, Order entered December 20, 2012, *as modified* by Order on Reconsideration entered May 23, 2013, for the proposition that PPL Electric failed to correctly compute compensation for net metering customers with a TOU option. (DCIDA Motion for Judgment on the Pleadings, ¶ 17.) However, the Commission's decision in *Jensen* does not authorize a retroactive change to PPL Electric's Commission-approved rates in violation of the Commission-made rate doctrine.

The *Jensen* decision did not concern PPL Electric's tariff; rather, it concerned an interpretation of PECO Energy Company's ("PECO") tariff. As such, it does not represent controlling precedent regarding PPL Electric's tariff. In addition, the issue in *Jensen* concerned the calculation of compensation for excess generation received over a period of time when PECO had in effect different quarterly rates for net metering service. In contrast, PPL Electric's rates

for net metering customers with a TOU option have been fixed for the period June 1, 2013 through May 31, 2014. Furthermore, *Jensen* did not concern the calculation of compensation for excess generation under a TOU option. Therefore, the decision does not operate to invalidate the terms of PPL Electric's Commission-approved tariff.[4]

DCIDA also contends that PPL Electric's calculation of compensation conflicts with Section 75.13(d) of the Commission's regulations. (DCIDA Motion for Judgment on the Pleadings, ¶ 17.) PPL Electric disagrees. Section 75.13(d) provides:

> At the end of each year, the EDC shall compensate the customer generator for any excess kilowatt-hours generated by the customer-generator over the amount of kilowatt hours delivered by the EDC during the same year at the EDC's price to compare.

Nothing in PPL Electric's Commission-approved tariff concerning compensation to customers with a TOU option contradicts the terms of this regulation. PPL Electric's tariff defines the compensation to be paid, by rate schedule, based upon applicable on-peak and off-peak rates, weighted by the ratio of on-peak and off-peak hours. Any different determination of compensation to be paid to customer generators with a TOU option could be applied prospectively.[5] However, any such determination cannot be applied retroactively to Commission-made rates.

DCIDA further asserts that Section 75.13(d) is to be interpreted to require a calculation of compensation based upon separate on-peak and off-peak deliveries. (DCIDA Motion for Judgment on the Pleadings, ¶ 17(c).) DCIDA bases this assertion on the following statement contained in the Commission's Order adopting net metering regulations: "If the transmission or generation rate designs incorporate time of use rates the weighted average rates should reflect the

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[4] PPL Electric notes that there is no indication that PECO defended its net metering provisions on the basis of the Commission-made rate doctrine.

[5] As explained later in this Answer to the Motion for Judgment on the Pleading, prospective relief is now moot, given the change to PPL Electric's provision of the TOU option to all customers.

rates in effect during the time that the customer-generator delivered its generation to the EDC." (DCIDA Motion for Judgment on the Pleadings, ¶ 17(c).) However, the Company's tariff rules, set forth above, conform to this statement. The weighted average rates for a Rate GS-1 customer-generator under the TOU option do reflect the on-peak and off-peak rates in effect for the period July 1, 2013 – May 31, 2014, when DCIDA provided excess generation under a TOU option. As noted above, these rates were fixed during this entire period pursuant to prior Commission Order. In addition, to the extent that it may be concluded, after hearings, that PPL Electric's Commission-approved tariff rules do not conform with the Commission's determination of the appropriate compensation for TOU customers, the tariff rules may be revised only prospectively, under the Commission-made rate doctrine.

DCIDA asserts that PPL Electric's calculation of compensation conflicts with the Company's tariff. (DCIDA Motion for Judgment on the Pleadings, ¶ 18.) In making this assertion, DCIDA cites to a statement made in PPL Electric's Initial Brief in the base rate proceeding at Docket No. R-2012-2290597 for the proposition that PPL Electric did not follow its prior interpretation of its own tariff. PPL Electric denies that any statement in its Initial Brief in that proceeding represented an interpretation of its tariff provision concerning annual compensation for customer-generators with a TOU option different from the language of the tariff. If PPL Electric's prior interpretation is relevant to DCIDA's Complaint, this represents a genuine issue of material fact, and DCIDA's request for judgment on the pleadings must be denied. 52 Pa. Code § 5.102(a)(1), (2).

Finally, DCIDA asserts it is "unjust, unfair and unreasonable for PPL [Electric] to place weight or significance on the hour in which energy is consumed" by a net metering customer, but to apply a different weighting to the annual compensation for excess generation. (DCIDA

Motion for Judgment on the Pleadings, ¶ 18(d).) However, the issue of whether it is reasonable to have any difference between charges by PPL Electric under its TOU rate option provisions and the annual compensation paid for excess generation is a question of fact, and if relevant to DCIDA's Complaint, is further basis to deny the Motion for Judgment on the Pleadings. 52 Pa. Code § 5.102(d)(1), (2). Moreover, the question of whether the compensation is unjust or unreasonable is a decision with prospective application only, as clearly established in *Cheltenham*. Again as a matter of law, DCIDA has failed to demonstrate that it may receive further retroactive compensation.

For all of the reasons stated above, DCIDA has failed to demonstrate that it may receive retroactive relief in the form of additional compensation.

C. DCIDA'S CONTENTION THAT THE PUBLIC INTEREST IS BEING VIOLATED BY PPL ELECTRIC'S APPLICATION OF ITS COMMISSION-APPROVED TARIFF PROVISIONS INVOLVES AN ISSUE OF FACT.

Paragraph 19 of DCIDA's Motion for Judgment on the Pleadings contends that PPL Electric's tariff provision concerning annual compensation for net metering customers with a TOU option violates the public interest. DCIDA's assertion of public interest considerations raises an issue of material fact that would require a hearing.

Initially, for the reasons explained above, and as further explained in PPL Electric's Counter Motion for Judgment on the Pleadings, DCIDA's assertion that PPL Electric's payment to DCIDA for excess generation is contrary to the public interest does not support a claim for retroactive adjustment to compensation. Retroactive adjustment is prohibited under the doctrine of Commission-made rates.

However, if PPL Electric's Counter Motion for Judgment on the Pleadings is denied, then hearings are necessary to consider whether public interest considerations support DCIDA's

receipt of further compensation. At hearings, PPL Electric will seek to demonstrate that DCIDA would receive an inappropriate windfall under DCIDA's interpretation of what compensation it should receive. This is because PPL Electric's TOU rates for net metering customers for the period June 1, 2013 through May 31, 2014, have been frozen since September 2011. As a result, the TOU rates, both on-peak and off-peak, do not reflect the current market value for energy.

Any windfall that DCIDA would receive if it would have most or all of its compensation for the period June 1, 2013 through May 31, 2014 repriced at a higher TOU rate would be paid by other Small Commercial & Industrial Customers. This is because the cost of excess energy provided by net metering TOU customers is charged to the applicable customer group for GSC purposes. DCIDA is a small General Service 1 (GS-1) customer, and as such is part of the Small Commercial & Industrial Class. Therefore, if public interest is to be considered, a hearing must be held to receive evidence concerning whether it is in the public interest for DCIDA to receive additional compensation under the facts and circumstances described. Therefore, DCIDA is not entitled to judgment on the pleadings.

D. ANY PROSPECTIVE CHANGE REGARDING COMPENSATION IS MOOT AND THUS DCIDA CANNOT RECEIVE PROSPECTIVE RELIEF.

The Complaint alleges that PPL Electric's tariff provisions regarding annual compensation for excess generation from customer-generators taking net metering service with a TOU option are contrary to the Commission's interpretation of Section 75.13(d) of the Commission's regulations. 52 Pa. Code § 75.13(d); see Complaint ¶ 20. For reasons explained above, DCIDA has failed to meet the standards for summary relief on a retroactive basis. In addition, the interpretation and application of Section 75.13(d) to PPL Electric's tariff on a prospective basis is moot, because PPL Electric no longer provides the TOU service to customers.

On December 2, 2010, the Commission approved a TOU program filed by PPL Electric, to become effective January 1, 2011. PPL Electric Utilities Corporation Supplement No. 94 to Tariff Electric – Pa. P.U.C. No. 201 – Time-of-Use Rates, Docket No. R-2010-2201138 (Order entered December 2, 2010). However, this program proved unworkable, and caused a number of serious problems, including a significant undercollection due to unexpected increases in spot market prices, significant customer enrollment when both on-peak and off-peak prices were below the fixed-price default service rate, and rapid and massive customer exits from the TOU program when on-peak and off-peak rates were above the fixed-price default service rate. Therefore, on August 22, 2011, as part of its Generation Supply Charge-1 (GSC-1) quarterly rate update filing, PPL Electric requested that the Commission suspend the TOU rates that were to become effective on September 1, 2011, keep the then-current TOU rates in effect, and allow PPL Electric to submit a revised TOU program. *Id.* By Order entered August 25, 2011, at Docket No. M-2011-2258733 ("*August 2011 Order*"), the Commission granted PPL Electric's request to maintain the currently-effective TOU rates, and directed PPL Electric to submit, within thirty days, a plan proposing revisions to the pricing of the TOU rates in order to address the problems relating to the then-current program.

On September 26, 2011, PPL Electric proposed a new TOU program in accordance with the Commission's *August 2011 Order*. However, on August 30, 2012, the Commission rejected the TOU program as filed, and ordered that the existing TOU rates remain in effect until June 1, 2013, which coincided with the effective date of PPL Electric's then-pending Default Service Program for the period June 1, 2013 through May 31, 2015 (DSP II). *Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation*, Docket No. R-2011-2264771 (Order entered August 30, 2012) ("*August 2012 Order*").

On May 1, 2012, PPL Electric filed a Petition for approval of its DSP II, which included a TOU proposal. On January 24, 2013, the Commission entered an Opinion and Order approving, with modifications, PPL Electric's DSP II. *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan*, Docket No. P-2012-2302074 (Order entered January 24, 2013) ("*January 2013 DSP II Order*"). However, the Commission did not approve the TOU program submitted by PPL Electric as part of its proposed DSP II, nor did it approve an alternative TOU proposal submitted by PPL Electric in that proceeding. Instead, the Commission encouraged PPL Electric to schedule a collaborative with interested stakeholders "in order to discuss and resolve any issues regarding the development and implementation of a TOU rate option that will allow the Company to meet its TOU rate requirement." *January 2013 DSP II Order* at 116, 194. The Commission also encouraged PPL Electric to consider implementing a competitive retail bid process in order to use EGSs to meet the Company's TOU rate requirement. *Id.* Pursuant to the *January 2013 DSP II Order*, PPL Electric initiated a collaborative and discussions with interested parties regarding potential TOU program alternatives.

On August 23, 2013, PPL Electric filed a Petition for Approval of a New Pilot Time-of-Use Program (Petition), in compliance with the Commission's Order in *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan*, Docket Nos. P-2012-2302074, *et al.* (Order entered May 23, 2013) ("*May 2013 DSP II Order*"). Under the Pilot Time-of-Use Program ("Pilot TOU Program") as set forth in the Petition, PPL Electric proposed to utilize electric generation suppliers (EGSs) to fulfill its obligation to offer a TOU rate option to its default service customers.

By Order entered September 11, 2014, the Commission approved a Joint Petition for Partial Settlement and denied Exceptions of DCIDA. Pursuant to that Order, and as relevant to this Motion for Judgment on the Pleadings, PPL Electric now utilizes EGSs to offer a TOU rate option to all default service customers. *Petition of PPL Electric Utilities Corporation for Approval of a New Pilot Time-of-Use Program*, Docket No. P-2013-2389572 (Order entered September 11, 2014). As a consequence, PPL Electric no longer provides compensation to net metering customers with a TOU option.[6]

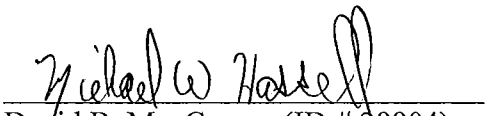
Because PPL Electric no longer is responsible to provide compensation to net metering customers with a TOU option, the provisions in PPL Electric's tariff regarding compensation for excess generation from net metering customers with a TOU option are no longer applicable. Thus, any prospective relief that DCIDA might seek regarding changes to PPL Electric's tariff are moot. As a matter of law, DCIDA is not entitled to prospective relief at this time. Therefore, DCIDA's Motion for Judgment on the Pleadings must also be dismissed with respect to any request for prospective relief.

[6] DCIDA has appealed the Commission's September 11, 2014 Order.

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Dauphin County Industrial Development Authority's Motion for Judgment on the Pleadings be denied.

Respectfully submitted,



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Date: February 23, 2015

Appendix A

NET METERING FOR RENEWABLE CUSTOMER-GENERATORS (Continued) (C)

METERING PROVISIONS

A Customer may select one of the following metering options in conjunction with service under applicable Rate Schedule RS, GS-1, GS-3, or LP-4.

1. A customer-generator facility used for net metering shall be equipped with a single bi-directional meter that can measure and record the flow of electricity in both directions at the same rate. A dual-meter arrangement may be substituted for a single bi-directional meter at the Company's expense.

2. If the customer-generator's existing electric metering equipment does not meet the requirements under Option (1) above, the Company shall install new metering equipment for the customer-generator at the Company's expense. Any subsequent metering equipment change necessitated by the customer-generator shall be paid for by the customer-generator. The customer-generator has the option of utilizing a qualified meter service provider to install metering equipment for the measurement of generation at the customer-generator's expense.

   Additional metering equipment for the purpose of qualifying alternative energy credits owned by the customer-generator shall be paid for by the customer-generator. The Company shall take title to the alternative energy credits produced by a customer-generator where the customer-generator has expressly rejected title to the credits. In the event that the Company takes title to the alternative energy credits, the Company will pay for and install the necessary metering equipment to qualify the alternative energy credits. The Company shall, prior to taking title to any alternative energy credits, fully inform the customer-generator of the potential value of those credits and options available to the customer-generator for their disposition.

3. Meter aggregation on properties owned, or leased and operated, by a customer-generator shall be allowed for purposes of net metering. Meter aggregation shall be limited to meters located on properties within two (2) miles of the boundaries of the customer-generator's property. Meter aggregation shall only be available for properties located within the Company's service territory. Physical meter aggregation shall be at the customer-generator's expense. The Company shall provide the necessary equipment to complete physical aggregation. If the customer-generator requests virtual meter aggregation, it shall be provided by the Company at the customer-generator's expense. The customer-generator shall be responsible only for any incremental expense incurred by the Company to process the customer-generator's account on a virtual meter aggregation basis.

(Continued)

Appendix B

NET METERING FOR RENEWABLE CUSTOMER-GENERATORS (Continued) (C)

2. If the customer-generator's existing electric metering equipment does not meet the requirements under Option (1) above, the Company shall install new metering equipment for the customer-generator at the Company's expense. Any subsequent metering equipment change necessitated by the customer-generator shall be paid for by the customer-generator. The customer-generator has the option of utilizing a qualified meter service provider to install metering equipment for the measurement of generation at the customer-generator's expense.

   Additional metering equipment for the purpose of qualifying alternative energy credits owned by the customer-generator shall be paid for by the customer-generator. The Company shall take title to the alternative energy credits produced by a customer-generator where the customer-generator has expressly rejected title to the credits. In the event that the Company takes title to the alternative energy credits, the Company will pay for and install the necessary metering equipment to qualify the alternative energy credits. The Company shall, prior to taking title to any alternative energy credits, fully inform the customer-generator of the potential value of those credits and options available to the customer-generator for their disposition.

3. Meter aggregation on properties owned, or leased and operated, by a customer-generator shall be allowed for purposes of net metering. Meter aggregation shall be limited to meters located on properties within two (2) miles of the boundaries of the customer-generator's property. Meter aggregation shall only be available for properties located within the Company's service territory. Physical meter aggregation shall be at the customer-generator's expense. The Company shall provide the necessary equipment to complete physical aggregation. If the customer-generator requests virtual meter aggregation, it shall be provided by the Company at the customer-generator's expense. The customer-generator shall be responsible only for any incremental expense incurred by the Company to process the customer-generator's account on a virtual meter aggregation basis.

BILLING PROVISIONS: (C)

The following billing provisions apply to customer-generators in conjunction with service under applicable Rate Schedules RS, GS-1, GS-3, or LP-4.

1. The customer-generator will receive a credit for each kilowatt-hour received by the Company up to the total amount of electricity delivered to the Customer by the Company during the billing period at the full retail rate consistent with Commission regulations. If a customer-generator supplies more electricity to the Company than the Company delivers to the customer-generator in a given billing period, the excess kilowatt hours shall be carried forward and credited against the customer-generator's usage in subsequent billing periods at the full retail rate. Any excess kilowatt hours will continue to accumulate until the end of the PJM planning period ending May 31 of each year. On an annual basis consistent with the PJM planning period, the Company will compensate the customer-generator for kilowatt-hours received from the customer-generator in excess of the kilowatt hours delivered by Company to the customer-generator during the preceding year at the Company's Rate Schedule Price To Compare consistent with Commission regulations. For eligible customer-generators with a TOU rate provision, a weighted average of the on-peak and off-peak hours will be used to derive the Company's Price To Compare for that Rate Schedule. The customer-generator is responsible for the customer charge, demand charge and other applicable charges under the applicable Rate Schedule.

(Continued)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Dauphin County Industrial Development Authority	:	
v.	:	Docket No. C-2014-2450483
PPL Electric Utilities Corporation	:	

VERIFICATION

I, James M. Rouland, Supervisor of Energy Procurement for PPL Electric Utilities Corporation ("PPL Electric"), hereby state that the following facts, as set forth in PPL Electric's Answer to Motion for Judgment on the Pleadings of Dauphin County Industrial Development Authority, are true and correct to the best of my knowledge, information and belief:

1. Appendix "A" attached to PPL Electric's Answer to Motion for Judgment on the Pleadings of Dauphin County Industrial Development Authority is a true and correct copy of tariff page 19L.3 of PPL Electric's tariff in effect for the period from June 1, 2013 through May 31, 2014.

2. Appendix "B" attached to PPL Electric's Answer to Motion for Judgment on the Pleadings of Dauphin County Industrial Development Authority is a true and correct copy of tariff page 19L.3 from Exhibit DAK-1 presented in PPL Electric's base rate proceeding at Docket No. R-2012-2290597.

3. Throughout the annual period ended May 31, 2014, PPL Electric's price to compare ("PTC") rate for on-peak consumption for eligible Rate GS-1 customers under the Time of Use ("TOU") option was $0.15389 per kWh, and its PTC rate for off-peak consumption for eligible Rate GS-1 customers under the TOU option was $0.11588 per kWh, exclusive of the Transmission Service Charge ("TSC") and the State Tax Adjustment Surcharge ("STAS").

4. For the period June 1, 2013 through May 31, 2014, PPL Electric calculated the weighted average TOU PTC for customers served under Rate GS-1 based upon the on-peak and off-peak hours for that annual period. The total on-peak hours were 3,024, and the total off-peak hours were 5,736. This equates to an on-peak hourly weighting of 35% and an off-peak hourly weighting of 65%.

5. These weightings were applied to the on-peak TOU rate of $0.15389 per kWh and to the off-peak TOU rate of $0.11588 per kWh, resulting in a weighted average Generation Supply Charge ("GSC") of $0.12918 per kWh. The TSC of $0.00817 per kWh and the STAS of $0.00001 per kWh were added to the GSC rate to derive the weighted average PTC of $0.13736 per kWh.

6. PPL Electric paid DCIDA for excess generation subject to the TOU option at the price of $0.13736/kWh during the period July 1, 2013 – May 31, 2014.

7. DCIDA began to receive net metering service with a TOU option beginning July 1, 2013.

8. As a result of the Commission's September 11, 2014 Order in *Petition of PPL Electric Utilities Corporation for Approval of a New Pilot Time-of-Use Program*, Docket No. P-2013-2389572, PPL Electric now utilizes EGSs to offer a TOU rate option to all default service customers and no longer provides compensation to net metering customers with a TOU option.

I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 2/20/2015

James M. Rouland