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May 21, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

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

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Exception of the PP&L Industrial Customer Alliance to PPL Electric Utilities Corporation's Distribution System Improvement Charge Refund and Recoupment Plan, concerning the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Thank you.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare', written over a horizontal line.

Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

/lmc

Enclosure

c: Cheryl Walker Davis, Director, Office of Special Assistants (via e-mail and First Class Mail)
Certificate of Service (via e-mail and First Class Mail)

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Adeolu A. Bakare

Counsel to PP&L Industrial Customer Alliance

Dated this 21st day of May, 2015, at Harrisburg, Pennsylvania.

**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 :

**EXCEPTION OF THE
PP&L INDUSTRIAL CUSTOMER ALLIANCE
TO PPL ELECTRIC UTILITIES CORPORATION'S
DISTRIBUTION SYSTEM IMPROVEMENT CHARGE
REFUND AND RECOUPMENT PLAN**

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Dated: May 21, 2015

I. Introduction

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").

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, 2013.¹

On January 15, 2013, PPL Electric Utilities Corporation ("PPL" or "Company") filed with the Commission Supplement No. 127 to Electric – Pa. P.U.C. No. 201, proposing to implement a DSIC.² 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 and the inclusion of certain riders in the distribution revenues used to calculate PPL's 5% cap on DSIC collections.³

An evidentiary hearing was held in this proceeding on October 29, 2013. Following the hearing, parties filed briefs addressing the issues reserved for litigation. Of relevance to these Exceptions the PP&L Industrial Customer Alliance ("PPLICA") and PPL filed Main Briefs on November 26, 2013, with Reply Briefs following on December 20, 2013. Consistent with

¹ Implementation of Act 11 of 2012; Docket No. M-2012 -2293611, Final Implementation Order (Aug. 2, 2012) (hereinafter, "Implementation Order").

² Petition of PPL Electric Utilities Corporation for Approval of a Distribution System Improvement Charge; Docket No. P-2012-2325034 (hereinafter, "DSIC Petition").

³ 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 2013 Order").

directives from Administrative Law Judge ("ALJ") Kandace F. Melillo, both PPLICA and PPL filed revised Main Briefs on April 3, 2014.⁴ In response to PPLICA's revised Main Brief, PPL filed a revised Reply Brief, on April 10, 2014.⁵

On July 25, 2014, ALJ Melillo issued a Recommended Decision ("R.D.") recommending that the application of the DSIC to the LP-5 customer class be denied as unjust and unreasonable and that the inclusion of revenues from the Act 129 Compliance Rider ("ACR") and the Competitive Enhancement Rider ("CER") in the DSIC calculation be rejected as unjust and unreasonable. Consistent with the May 2013 Order identifying all DSIC charges as subject to refund pending resolution of the litigated issues, ALJ Melillo further directed PPL to issue refunds for DSIC charges collected from LP-5 customers or due to inclusion of the ACR or CER within the calculation of PPL's 5% DSIC cap, retroactive to July 1, 2013.

On August 21, 2014, PPL filed Exceptions to the R.D. taking issue with the ALJ's recommendation to exclude the ACR and the CER from the calculation of the 5% DSIC cap.⁶

On September 2, 2014, PPLICA filed replies to the Exceptions of PPL arguing that the R.D. applied the correct legal standard to determine that the ACR and the CER are not distribution rates, and that any state-wide effects of applying the R.D.'s construction of Act 11 are necessary and appropriate for the protection of customers.

The Commission entered an Order on April 9, 2015, directing PPL to: (1) exclude the Accumulated Deferred Income Taxes ("ADIT") adjustment from its DSIC calculation; (2) include the state income tax gross-up in its DSIC calculation; (3) include the ACR and the CER

⁴ PPLICA also filed a revised Reply Brief on May 1, 2014. This filing adopted only non-substantive revisions to conform the previously filed Reply Brief to the revised PPLICA Main Brief.

⁵ All subsequent citations to PPLICA's Main and Reply briefs refer to the revised versions.

⁶ PPL did not file Exceptions to the ALJ's recommendation to exclude Rate Schedule LP-5 customers from the DSIC. *See* PPL Exceptions, p. 1. As a result, PPL and PPLICA now agree that the LP-5 customers should not pay the DSIC.

revenues in its calculation of the DSIC, as well as the calculation of the DSIC cap; and (4) refund the DSIC charges to Rate Schedule LP-5 customers retroactive to July 1, 2013, with interest, as the DSIC does not apply to these customers ("April 2015 Order").

On April 24, 2015, PPLICA filed a Petition for Reconsideration of the April 2015 Order requesting that the PUC direct PPL to exclude the ACR and the CER revenues from the calculation of the DSIC cap and rate, and issue refunds for prior ACR and CER revenue collection retroactive to July 1, 2013.⁷

In accordance with the April 2015 Order, PPL submitted a compliance filing on May 11, 2015, proposing to refund DSIC revenues collected from Large Commercial and Industrial ("C&I") customers on Rate Schedule LP-5 and to recoup the associated DSIC expenses from all other applicable Rate Schedules ("DSIC Refund Plan").

Pursuant to Section 5.592(c) of the Commission's Regulations, 52 Pa. Code § 5.592(c), PPLICA hereby files these Exceptions to PPL's DSIC Refund Plan.

II. EXCEPTION TO COMPLIANCE FILING

Exception: The Commission must modify PPL's DSIC Refund Plan to avoid unnecessary, unjust, and unreasonable intraclass cost-shifting.

The DSIC Refund Plan proposed to refund total DSIC revenues collected from LP-5 customers as a uniform per-customer bill credit, with interest applied at the residential mortgage rate. This proposed refund methodology differs significantly from the manner in which the DSIC revenues were collected from customers, meaning that some customers would receive refunds significantly below or above their prior DSIC payments. Considering that: (1) Commission precedent and governing statutes disfavor both interclass and intraclass cost

⁷ PPLICA Petition for Reconsideration is not relevant to the issues addressed herein.

shifting; (2) the Commission gave notice that DSIC charges collected from LP-5 customers would be subject to refund; (3) PPL has records of each customer's DSIC charges; and (4) PPL would only be required to calculate refunds for a relatively small customer class, PPL's proposal to issue uniform per-customer refunds must be rejected as unjust and unreasonable.

As a result of PPL's proposed refund calculation, individual LP-5 customers would receive refunds disproportionate to their billed DSIC charges. Pursuant to PPL's tariff, the Company collects the DSIC as a percentage of billed distribution revenues. As calculated from implementation of the DSIC to date, the billed distribution revenues include revenues from PPL's ACR. Accordingly, while PPL applies the DSIC to various fixed monthly charges, including the \$994 fixed monthly distribution charge paid by LP-5 customers and the fixed Smart Meter Rider ("SMR") monthly charge, the Company also applies the DSIC to the ACR revenues billed to LP-5 customers. Importantly, PPL bills the ACR for the LP-5 class as a per-kW charge based on each customer's individual Peak Load Contribution ("PLC"). Due to the component of the DSIC charge applied to ACR billed revenues, the total DSIC charge collected from each individual customer on Rate Schedule LP-5 varies significantly.

For example, PPLICA's Direct Testimony provided an illustrative example based on the ACR rates effective as of August 2014 and assuming a 5% DSIC Charge. Under this illustrative example, an LP-5 customer with a PLC of 10 MW would pay annual DSIC charges of approximately \$3,794, of which \$3,198 would be attributable to the customer's billed ACR charges. See PPLICA M.B., p. 20; see also PPLICA Statement No. 1, p. 10. However, another customer with a PLC of 20 MW would pay approximately \$6,992 in annual DSIC charges, as the DSIC would be applied to much higher ACR payments. Extrapolated over the total 23 month period for which PPL proposes to refund DSIC revenues, many of the larger customers on Rate

Schedule LP-5, including some PPLICA members, would have paid DSIC charges ranging from \$10,000 - \$20,000. As such, the proposed per-customer refund of \$3,682 (excluding interest) would unnecessarily, unjustly, and unreasonably shift the refund entitlement between LP-5 customers, in contravention of Commission precedent and the public interest.

Commission precedent requires PPL to design rates based on customers' cost of service. See Lloyd v. Pa. Pub. Util. Comm'n, 904 A.2d 1010, 1020 (Pa. Commw. Ct. 2006). While Lloyd addressed cost of service principles in the context of interclass allocation of costs in a Section 1308, 66 Pa. C.S. § 1308, base rate proceeding, the same principles hold true for the intraclass allocation of PPL's DSIC refunds for the LP-5 customer class. See Petition of PPL Electric Utilities Corporation for Approval of a New Pilot Time-of-Use Program, 2014 Pa. PUC LEXIS 690, *83, 316 P.U.R. 4th 167, (denying an intervenor's proposal to extend eligibility for Time-of-Use rates to net metering customers due to likelihood of unjust and unreasonable intraclass cost subsidies).

Moreover, under Section 1301, all rates charged by jurisdictional utilities, including Section 1307 automatic adjustment clauses, must be just and reasonable. See Pennsylvania Public Utility Commission v. West Penn Power Company, 1988 Pa. PUC LEXIS 145, *11, 66 Pa. PUC 370, (clarifying that "Section 1301, 66 Pa. C.S. § 1301, applies to Section 1307 also and requires all rates of whatever origin to be reasonable."). Consistent with Commission precedent and the Public Utility Code, the DSIC refund mechanism should endeavor to align each customer's refund as closely as possible to the DSIC charges paid by such customers. To do otherwise would provide a windfall to certain Large C&I customers in violation of the above-referenced Commission Orders and Section 1301 of the Public Utility Code. The larger customers on Rate Schedule LP-5 would have paid DSIC charges in the \$10,000 - \$20,000

range, but would receive only a refund of \$3,682. Such an outcome would be unjust, unreasonable, and unduly discriminatory. Moreover, it is bad public policy to deny customers an appropriately calculated refund when a utility is permitted to begin collecting a contested rate "subject to refund." See May 2013 Order, pp. 19-20.

The factual circumstances of this proceeding provide further support for PPLICA's proposal to modify PPL's proposed DSIC Refund Plan. As referenced above, in the May 2013 Order approving PPL's DSIC, the Commission explicitly put PPL on notice that any charges issued to LP-5 customers upon implementation of a DSIC would remain subject to refund pending resolution of PPLICA's Comments proposing to exempt LP-5 customers from the DSIC. See May 2013 Order, pp. 19-20. Additionally, as PPL lists the DSIC charges as a separate line item on each LP-5 bill, PPL has ready access to the actual DSIC charges paid by each customer. See PPL Statement No. 3, Direct Testimony of Bethany L. Johnson, at Docket No. P-2013-2325034. Further, the calculation of individual customer DSIC refunds would not unduly burden the Company as the LP-5 customer class consists of approximately 150 accounts. See Joint Petition for Settlement, Docket Nos. M-2010-2213754, M-2011-2239805, Appendix A (June 11, 2014) (listing LP-5 customers for purposes of allocating refunds of PPL's Transmission Service Charge).

For the reasons set forth above, the Commission should reject PPL's proposed DSIC Refund Plan and direct the Company to calculate individual customer refunds based on each customer's billed DSIC charges from July 2013 to date.

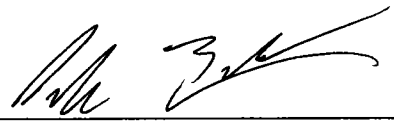
III. CONCLUSION

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

- (a) Grant PPLICA's Exception to PPL's DSIC Refund Plan;
- (b) Deny PPL's proposal to refund DSIC revenues collected from the LP-5 customers class on a uniform per-customer basis; and
- (c) Direct PPL to file a revised DSIC Refund Plan proposing a methodology for refunding the total DSIC revenues collected from LP-5 customers in a manner properly allocating the refunds consistent with the DSIC charges billed to each individual LP-5 customer from July 1, 2013, to date.

Respectfully submitted,

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