PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265

Public Meeting December 2, 2004
DEC-2004-OSA-0298*

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U.S. Department of Defense & Federal Executive Agencies	R-00049255C0001
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Philip A. Trump	R-00049255C0017
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Christy Meyers	R-00049255C0019

v.

PPL Electric Utilities Corporation

MOTION OF CHAIRMAN WENDELL F. HOLLAND

Before the Commission for disposition is the Recommended Decision of Administrative Law Judge Allison K. Turner (ALJ) regarding the general rate increase sought by PPL Electric Utilities Corporation (PPL or the Company).

After review and consideration of the ALJ's Recommended Decision I will adopt it with the following changes.

SUSTAINABLE ENERGY FUND (SEF)

In this proceeding PPL has proposed that the Commission continue funding the SEF as part of the Company's distribution rates at its current level of 0.01 cents per kWh from all customers for a period to end not later than December 31, 2009. PPL Electric St. 7 at 24. Therefore, the Company includes $3.689 million as a distribution expense in the future test year.

Since January 1, 1999 to December 31, 2004, PPL has allocated .01 cent per kWh, on all power sold, from its Distribution rate revenue to fund the SEF. This allocation was established in the Company's Restructuring Settlement Agreement. PPL recognizes that while the parties to the 1998 Settlement Agreement were able to reach agreement regarding SEF funding, that consensus no longer exists. PPL St. 7-R at 34. The Company has characterized its proposal as a compromise position between the proposals of the parties who wish to increase the monies committed to SEF (PennFuture) and/or change its program (OSBA and CEO) and the proposals of parties who object to SEF funding and seek its elimination (OTS, PPLICA and USDOD). R.D. at 79-80.

In her decision the ALJ recommends that the Commission approve the Company's claim of $3,689,000 and suggests that consideration be given to establishing declining annual funding levels, so that at the end of five years funding will have ended.

While I agree with the ALJ's rationale for approving the continued funding of the SEF at this time, I move that the Commission approve funding the SEF through December 31, 2006 and that funding level decline from 0.01 cents per kWh in year one to 0.005 per kWh in year two. Subsequently, this funding mechanism will cease on December 31, 2006.

The SEF has helped to foster the development of alternate sources of energy and with Pennsylvania's Alternative Energy Portfolio Standards Act (Act 213) being signed into law on November 30, 2004 by Governor Edward G. Rendell, the SEF and Pennsylvania's other regional funds will have an additional source of funding. Further, the SEF has effectively managed its funding and has a strong balance sheet, showing unrestricted net assets of $12,203,454 at June 30, 2003 and therefore is achieving a stated goal of this Commission, that the SEF itself become sustainable.

Given the breakdown of the consensus, the strong balance sheet of the SEF and the Legislature's creation of a permanent statutory funding source, now is the appropriate time to begin eliminating the use of distribution revenues to support these funds.

CAPITAL STRUCTURE

The position of the OCA, as adopted by ALJ Turner, is not reasonable. The capital structure recommended by PPL and accepted as reasonable by OTS is appropriate. The difference in capital structure ratios is a PPL projection of an increase in retained earnings for the future test-year of a $15.071 million ($318.762 million - $303.691). For the first six months of 2004, the Company's earnings available for common equity were $36 million, with dividend payments for that time period of $2 million. It is reasonable

to expect that the Company's projected increase in retained earnings for 2004 of $15 million is attainable.

Consequently, I reject the ALJ's recommendation and adopt the positions of PPL and the OTS.

COST OF COMMON EQUITY

The ALJ recommends that the Commission use a cost of common equity of 10.25% based upon the adoption of the U.S. Department of Defense & Federal Executive Agencies' unadjusted Discounted Cash Flow result of 10.25%. I believe this is a good start but must be modified to better reflect the Company's financial risk. When establishing the cost of common equity, an increment should be included to reflect financial risk. The cost of common equity recommended by the ALJ omits consideration of this critical component. PPL states, "It should be noted that the PPL Electric witness Moul also calculated an unadjusted DCF cost rate of 10.25% for the Electric Group, which when adjusted for financial risk increases to 10.69%". [1] (PPL Exc. at 13).

PPL reminds us that, "...electric distribution companies are relatively new entities and there have been few rate allowances for such companies due to T&D rate caps. Investors and analysts are uncertain of future earnings and likely reflect such uncertainty by making conservative estimates of future growth rates, thereby depressing DCF results". (PPL Exc. at 14).

Based upon the foregoing I believe a proper determination of the cost of common equity should include a financial risk adjustment. I believe a cost of common equity of 10.70% is appropriate. This is based upon PPL Electric witness Moul's calculation of an unadjusted DCF cost rate of 10.25% for the Electric Group, which he adjusted for financial risk to 10.69%. Also, I believe this common equity cost rate represents a fair balance between the high of 11.5% claimed by PPL in its Exceptions and the low of 9.00% recommended by the Office of Trial Staff.

COMMUNITY BETTERMENT INITIATIVE

PPL proposes to establish a mandated ratepayer contribution of $1.0 million annually to its program designed to assist community development organizations and human service agencies in its service territory. If approved, PPL intends to match the ratepayer contribution dollar-for-dollar with a contribution from its shareholders.

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[1] PPL argues that the Commission should establish its cost of common equity as follows, "Based upon all the methods and PPL Electric's extraordinary service, Mr. Moul recommended an equity cost rate of 11.5%". (PPL Exceptions p. 15.)

PPL's proposal to be a good citizen is laudable; the shareholders' contribution is generous. However, the use of ratepayer funds in this regard is not appropriate. The Office of Trial Staff (OTS) states that "In the present proceeding the Company has not demonstrated, with substantial evidence, that this program is any different than the programs offered in its last base rate case. They were identified as social programs in the past and this offering is no different. As a social program and absent proof of a demonstrable benefit to ratepayers, this claim must be rejected." (OTS Exc. at 17). I agree that this claim must be rejected.

TARIFF RULE 5(a)

PPL proposes to revise Rule 5(a) of its Tariff regarding the customer's responsibility beyond the point of delivery. In its Exceptions, the PPL Industrial Customer Alliance (PPLICA) objected to the proposed changes arguing that the proposal is an attempt to unlawfully alter the Company's duty to provide the quality of electric service required by the Public Utility Code. The ALJ did not address this issue in the Recommended Decision.

In its Reply Exceptions, PPL asserts that "There is no change in policy or liability contemplated by this provision, and it should be approved." (PPL R.Exc. at 24)

In the abstract, the concern raised by PPLICA is appropriate. However, upon review of the proposed revisions to Rule 5(a) and PPL's position quoted above that they intend no change to policy or liability, I am convinced that the change to Rule 5(a) proposed by PPL should be approved. To address PPLICA's concern, PPL shall be directed to explicitly state in Rule (5) that there is no change to the Company's duty and responsibility to provide safe and adequate service.

UNIVERSAL SERVICE AND CUSTOMER ASSISTANCE PROGRAMS – $150 Arrearage Eligibility for OnTrack

PPL's tariff currently requires that a customer have an overdue arrearage of at least $150 before they can become eligible for the OnTrack program and they propose continuing this practice. The ALJ recommends adoption of PPL's position allowing the $150 arrearage eligibility to remain in place. I disagree.

The Commission allowed PPL to impose the $150 eligibility requirement as well as the requirement that housing costs must be greater than $150 in subsidized housing on a temporary basis. PPL was instructed that once funding was resolved, it was to revise its eligibility criteria to be consistent with the definition of low income, payment troubled customer at 52 Pa. Code § 54.72. (*PPL's Universal Service and Energy Conservation*

Plan Submission in Compliance with 52 Pa. Code §54.74, Docket No. M-00031698, entered June 13, 2003.)

This proceeding resolves the funding issue and established the size of the CAP program. PPL did not appeal the Universal Order and therefore, both eligibility criteria must be eliminated.

THEREFORE, I MOVE:

1. That the Recommended Decision of Administrative Law Judge Allison Turner is adopted to the extent consistent with this Motion and as further modified;

2. That the Exceptions of PPL Electric Utilities Corporation and all parties to the proceeding are granted and denied to the extent consistent with this Motion;

3. That PPL Electric Utilities Corporation's tariffs, tariff supplements and/or tariff revisions may be filed on less than statutory notice, and pursuant to the provisions of 52 Pa. Code §§53.1, *et seq.*, and 53.101, may be filed to be effective for service rendered on and after January 1, 2005; and

4. That the Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

Dec. 2, 2004
DATE

Wendell F. Holland
WENDELL F. HOLLAND, CHAIRMAN

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PARTIAL DISSENT OF VICE CHAIRMAN ROBERT K. BLOOM

I respectfully dissent from the Majority's decision to accept PPL Electric Utilities Corporation's (PPL) claim for the mandated contribution of ratepayer funds for the financing of the operation of the Sustainable Energy Fund (SEF).

Administrative Law Judge Allison Turner (ALJ) recommended approval of the full amount but stated that "consideration could be given to setting declining amounts, so that at the end of five years, or by December 31, 2009, funding will have ended." (RD p. 87-88) The Majority directs that the financing by ratepayers be phased out over a two year period.

The issue is not whether SEF is a worthwhile program. The issue is whether it should be mandated that ratepayers – not shareholders – fund this private entity.

The SEF was created as a result of PPL's restructuring case[1] with an expiration date for the funding of December 31, 2004. PPL proposed that the previously agreed to expiration of the funding should be continued and that ratepayers should fund SEF.

Currently, ratepayers fund the considerable social programs of PPL. In approving the use of ratepayers' dollars, the Commission has found that ratepayers will receive a demonstrable benefit. The record is devoid of evidence to support a claim that distribution ratepayers will receive demonstrable benefits from the activities of SEF. The Office of Trial Staff correctly concludes that "if ratepayers are required to contribute to a fund that fails to provide a demonstrable benefit, but supports a broader, social initiative, it is akin to a hidden tax." (OTS Exceptions, p. 20)

Finally, it should be noted that Act 213 was signed into law on November 30, 2004 and provides for funding of private entities such as SEF. If there is a strong balance sheet and SEF is achieving the goal of becoming itself sustainable, why continue to tax the ratepayers?

12-02-04
DATE

Robert K. Bloom
ROBERT K. BLOOM, VICE CHAIRMAN

[1] *Application of PP&L, Inc. for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code*, Docket No. R-00973954 entered August 27, 1998.