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March 26, 2007

VIA HAND DELIVERY

DOCUMENT FOLDER

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120

Re: Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan, Docket No. P-00062227

Dear Secretary McNulty:

Reliant Energy, Inc. will not be filing Reply Exceptions in this proceeding. Copies of this letter have been served upon all parties of record as indicated in the attached Certificate of Service.

Very truly yours,

Brian J. Knipe
For BUCHANAN INGERSOLL & ROONEY, P.C.

BTL

BJK/eh

Enclosure

cc: Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan	:	Docket No. P-00062227

CERTIFICATE OF SERVICE

I hereby certify that I have this day served true and correct copies of the foregoing in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 26th day of March 2007.

By e-mail and first-class mail:

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March 26, 2007

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DOCUMENT
FOLDER

In re: Docket No. P-00062227
Petition of PPL Electric Utilities Corporation

Dear Secretary McNulty:

Enclosed for filing on behalf of the Sustainable Energy Fund of Central Eastern Pennsylvania are an original and nine (9) copies of its Reply to the Exceptions of Other Parties in the above matter. Copies of the Reply Exceptions are being served upon the persons and in the manner set forth on the certificate of service attached to it.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By

Thomas T. Niesen

Encl.
cc: Certificate of Service (w/encl.)
Gary Lamont (w/encl.)
Jennifer Hopkins (w/encl.)
070326 McNulty Reply Exceptions.wpd

BTL

78

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Administrative Law Judge
Marlane R. Chestnut, Presiding

Petition of PPL Electric Utilities	:	
Corporation for Approval of a	:	**Docket No. P-00062227**
Competitive Bridge Plan	:	

REPLY OF THE
SUSTAINABLE ENERGY FUND OF CENTRAL EASTERN PENNSYLVANIA
TO EXCEPTIONS OF OTHER PARTIES

Thomas T. Niesen, Esquire
PA Attorney ID No. 31379

Attorney for
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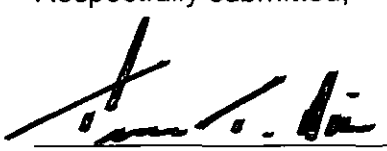
DATED: March 26, 2007

REPLY OF THE
SUSTAINABLE ENERGY FUND OF
CENTRAL EASTERN PENNSYLVANIA

This proceeding concerns PPL Electric Utilities Corporation's ("PPL") Petition filed with the Public Utility Commission for approval of a Competitive Bridge Plan. The Sustainable Energy Fund of Central Eastern Pennsylvania ("SEF") intervened in the proceeding and actively participated addressing the issue of consumer education. On January 18, 2007, PPL and SEF executed a Stipulation which was admitted into the evidentiary record as PPL Electric Cross Examination Exhibit No. 7 and recommended to the Commission by Administrative Law Judge Chestnut in her Recommended Decision dated February 21, 2007. Exceptions to the Recommended Decision were filed by Constellation Energy Commodities Group, Inc., Constellation NewEnergy Inc., Dominion Retail, Inc., Retail Energy Supply Association, Direct Energy Services LLC, Strategic Energy LLC and the PP&L Industrial Customer Alliance. None of the Exceptions addresses the PPL/SEF Stipulation. SEF supports its Stipulation with PPL in resolution of all issues between SEF and PPL in this proceeding.

Respectfully submitted,



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DATED: March 26, 2007
SEF Reply Exceptions.wpd

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan	: : :	**Docket No. P-00062227**

CERTIFICATE OF SERVICE

I hereby certify that I have this 26th day of March, 2007, served a true and correct copy of the Reply of The Sustainable Energy Fund of Central Eastern Pennsylvania to Exceptions of Other Parties, upon the persons and in the manner set forth below:

VIA EMAIL AND FIRST CLASS MAIL

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March 26, 2007

VIA E-MAIL & FIRST CLASS MAIL
James J. McNulty, Esquire
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Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105

Re: Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation re: Petition of PPL Electric Utilities Corporation for Approval of A Competitive Bridge Plan, Docket No. P-00062227

Dear Secretary McNulty:

Please be advised that Constellation Energy Commodities Group, Inc. and Constellation NewEnergy will not be submitting Reply Exceptions in the above-referenced proceeding. As evidenced by the attached Certificate of Service, all parties to the proceeding are being duly served.

Respectfully submitted,

Christopher A. Lewis

Christopher A. Lewis
Glen R. Thomas
Blank Rome, LLP

Counsel for Constellation Intervenors:
Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc.

cc: The Honorable Marlane Chestnut
All parties as listed on Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan	: : :	Docket No. P-00062227

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to serve by a participant), in the manner and upon the persons listed below:

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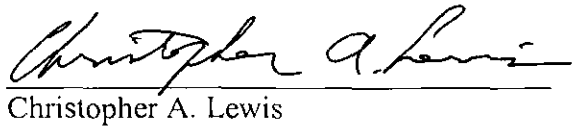

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Counsel for Constellation Intervenors:
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Dated: March 26, 2007

COMMONWEALTH OF PENNSYLVANIA

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March 26, 2007

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RE: Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan
Docket No. P-00062227

Dear Secretary McNulty:

Enclosed for filing are an original and nine (9) copies of the Reply Exceptions of the Office of Consumer Advocate, in the above-referenced proceeding.

Copies have been served on the parties of record as indicated on the enclosed Certificate of Service.

Sincerely,

Tanya J. McCloskey
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50044

Enclosures
cc: Honorable Marlane R. Chestnut
Parties of Record

00093270.DOC

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84

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan	: : :	Docket No. P-00062227

REPLY EXCEPTIONS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: March 26, 2007

TABLE OF CONTENTS

TABLE OF AUTHORITIES

ADMINISTRATIVE DECISIONS

STATUTES

I. INTRODUCTION

On February 23, 2007, the Recommended Decision (R.D.) of Administrative Law Judge Marlane R. Chestnut (ALJ Chestnut) was issued in this matter. The Office of Consumer Advocate (OCA) agrees with ALJ Chestnut's R.D., and submits that the Public Utility Commission (Commission) should adopt and uphold the R.D.

The OCA files these Reply Exceptions to address certain Exceptions filed by the Retail Energy Supply Association, Direct Energy Services LLC and Strategic Energy LLC (RESA, *et. al.*) and Dominion Retail, Inc. (Dominion) to the extent that these Exceptions address the issues that the OCA raised, analyzed, investigated and ultimately resolved through the OCA's Stipulation with PPL Electric Utilities, Inc. (PPL).

II. REPLY EXCEPTIONS

OCA Reply to RESA *et al.* Exception No. 2 and Dominion Exception No. 1: ALJ Chestnut's Determination That The Pennsylvania Public Utility Code Does Not Prohibit PPL's Proposed Procurement Strategy Should Be Upheld. (R.D. at 32-36; OCA M.B. at 14-16; OCA R.B. at 4-6)

A. Prevailing Market Prices Standard

In her R.D., ALJ Chestnut stated that:

> Nothing in Section 2807(e)(3) of the Competition Act prohibits use of a multi-year procurement strategy as proposed by PPL Electric. The statute at Section 2807(e)(3) provides that an electric distribution company must "acquire electric energy at prevailing market prices" but does not define how those prevailing market prices are to be determined. No limitation on the timeframe for the procurement of POLR energy is provided, as long as the procurement occurs through a competitive process.

R.D. at 33. The OCA submits that ALJ Chestnut correctly concluded that PPL's proposal to use multiple solicitations to procure supply to meet its provider of last resort obligation in 2010 is permitted under applicable Pennsylvania law. Id. at 33. The OCA submits that ALJ Chestnut's determination is correct and should not be disturbed.

In excepting to ALJ Chestnut's determination, RESA, *et. al.* and Dominion continue to assert that PPL's proposed procurement approach does not comply with Section 2807(e)(3). RESA, *et al.* Exc. at 6, Dominion Exc. at 4. Specifically, RESA, *et al.* and Dominion's interpretation of Section 2807(e)(3) is that this provision requires the use of short term or spot market purchases to meet the prevailing market prices standard. ALJ Chestnut was correct in recommending that RESA, *et al.* and Dominion's interpretation of Section 2807(e)(3) be rejected.

As set forth in the OCA's Main and Reply Briefs, the interpretation of RESA, *et al.* and Dominion of Section 2807(e)(3) must be rejected. OCA M.B. at 14-16, OCA R.B. at 4-6.

Dominion and RESA, *et al.* both argue that the use of the term "prevailing" in the Act requires a close temporal connection between the acquisition of supply and the delivery to customers, although Dominion and RESA, *et al.* have different views of the temporal connection.[1] As OCA witness Estomin explained, the statutory requirement to acquire supply at "prevailing market prices" is not as narrow as Dominion Retail and RESA, *et al.* argue, nor is such an interpretation consistent with the wholesale markets where supply is acquired. Prevailing market prices reflect the product which is being acquired, the term of the acquisition, and the price at the time the product is acquired. OCA St. 1 at 3. Dr. Estomin explained:

> At any given time, there exists a menu of prevailing market prices based on the particular characteristics of the electric product to be purchased. The wholesale market provides extensive options with respect to product type, including day-ahead products, month-ahead, multi-month, year-ahead, multi-year products, block products (on-peak, off-peak, all-hours), and requirements contracts. Each such product will entail its own prevailing market price at the time the purchase is transacted. To limit the definition of "prevailing market price" as applicable to only one or a small subset of short-term products is inconsistent with the market reality, which provides an array of prevailing market prices which vary by the wide range of product types commonly available. Consequently, the method of procurement, which needs to be designed to effectively ensure that the price paid for POLR supplies is appropriate, is what determines whether the prevailing market price is secured, not the duration of the contract or the nature of the electric product.

OCA St. 1R at 1-2. The "prevailing market prices" standard of the Act reflects the reality of the multiple products in the market and the need to design POLR service in a manner that provides reasonable and stable prices.

Moreover, Section 2807(e)(3) cannot be read in isolation from other provisions of the Act, or from the entirety of the Public Utility Code. For example, the Act also declares:

---

[1] Dominion Retail argues for a multi-year supply procurement that should be conducted in 2009. RESA, *et al.*, through Direct Energy, argues that the Act requires that the price of power charged to the customer be reflective of market prices at the time of delivery.

"Electric service is essential to the health and well-being of residents, to public safety and to orderly economic development, and electric service should be available to all customers on reasonable terms and conditions." 66 Pa.C.S. § 2802(9). Further, it states: "The cost of electricity is an important factor in decisions made by businesses concerning locating, expanding and retaining facilities in this Commonwealth." 66 Pa.C.S. § 2802(6). Therefore, the Act is part of the entire Public Utility Code which still requires that rates charged to customers be just and reasonable. 66 Pa.C.S. § 1301. Since the goal of restructuring was to provide customer benefits, ALJ Chestnut was correct in her rejection of RESA and Dominion's interpretation of Section 2807(e)(3).

As the ALJ also correctly concluded, the laddered approach proposed by PPL is a useful and valuable tool to mitigate the timing risk associated with the procurement of a single year's supply, and is completely in accord with the Act. R.D. at 34. As to this market timing risk, OCA witness Estomin explained:

> Were PPL to procure the full residential class POLR requirement for 2010 at one time, residential customers would bear the risk that the procurement timing would coincide with extremely unfavorable market conditions. By conducting six separate procurements spread out over three years, the risk of unfortunate market timing is reduced. This is important given that the PJM wholesale power supply market has exhibited considerable price volatility in recent years. Exposure to the potential adverse impacts of volatile wholesale market prices is greatly reduced through the approaches proposed by PPL.

OCA St. 1 at 10. PPL witness Krall also testified as to the benefits of the multi-year, multi-phase procurement as follows:

> PPL Electric, therefore, believes that it is prudent to take action now to begin to obtain POLR supply for 2010, which may help to moderate POLR rate increases on January 1, 2010 by spreading the acquisition of POLR supply over a period of several years and, thereby reduce the risk from a short-term price spike.

PPL St. 1 at 7. Mr. Krall elaborated in his Rebuttal Testimony as follows:

> I believe it is absolutely essential that PPL Electric start now to acquire power to serve its smaller POLR customers. Our laddering approach was developed in direct response to the failures experienced in other POLR solicitations, such as Pike County, where customers experienced generation rate increases of over 100% because of poor timing of POLR solicitations. It should be obvious that an EDC should not put all of its eggs in one basket through a single POLR solicitation that is subject to weather and the vagaries of the energy markets. This is particularly true for our smaller customers who do not have the size, sophistication or interest to protect themselves through forward purchasing and other hedging mechanisms. I do not believe that a single solicitation for smaller customers is sound public policy at this time for a one-year bridge program for a single utility.

PPL St. 1-R at 17-18.

After reviewing the evidence and the law, ALJ Chestnut concluded:

> PPL Electric has presented a prudent and reasonable approach to incorporating prevailing market rates while attempting to eliminate the effect of abnormal market conditions. I recommend that it be approved by the Commission.

R.D. at 39. The OCA submits that this recommendation should be adopted.

B. Alternative Models

Based on their view of the "prevailing market prices" standard in the Act, the members of RESA, *et al.* and Dominion also propose alternative POLR designs. RESA, *et al* through its member, Direct Energy, prefers monthly pricing, while Dominion proposes that PPL be required to purchase its entire needs (in 2009) and charge fixed prices for at least three years. RESA, *et al.* Exc. at 7; Dominion Exc. at 5. ALJ Chestnut's rejection of these alternative proposals was well-reasoned and should be upheld.

ALJ Chestnut found that the monthly pricing proposal, among other things, will: 1) expose residential customers to extreme price volatility, 2) require the outlay of additional costs to conduct twelve solicitations a year, notify customers of each monthly price, respond to customer inquiries about their monthly bill changes and reprogram PPL Electric's billing systems to change rates monthly, and 3) necessitate interaction with the billing cycle, budget billing and CAP rates of PPL. R.D. at 37. After consideration of these facts, the ALJ concluded as follows:

> I completely agree with PPL electric that "Forcing all customers onto monthly POLR pricing in January 2010, the first month after the end of rate caps that will have been in effect for 14 years, is a prescription for chaos and customer revolt." PPL Electric Main Brief at 33.

R.D. at 37.

The OCA submits that the ALJ's conclusion is exactly right. Of particular concern is the volatility associated with a monthly change in prices. Based on a review of historic PJM locational marginal prices (LMPs), PPL witness Krall made the following observations:

- Because LMPs change every month, it can be expected that customers will see changes in price every month.
- Month to month increases can be as much as 2.2 cents per kWh and decreases can be as much as 2.0 cents per kWh.
- Month to month increases can be as much as 52% and decreases can be as much as 32%.
- The difference within a calendar year can be as much as 4.4 cents per kWh and 200%.

PPL St. 1-R at 21-22. See also, PPL St.1-R, Exh. DAK-3.

This price volatility can have significant impacts on residential customers' ability to afford and manage their electric bills. As OCA witness, Estomin testified:

> Residential consumers, particularly low-income residential consumers, require price stability to allow for budgeting electric bills. The cost of electricity represents a major monthly expenditure, and volatility in prices seriously erodes the ability of low- and middle-income households to deal with balancing those expenditures with other household expenditures. This would be particularly true of monthly prices were relied upon, as recommended by Mr. Lacey. Those months in which consumption tends to be greatest are the same months in which wholesale prices on the spot market tend to be highest. This relationship between monthly usage levels and monthly prices serves to exacerbate the difficulties associated with budgeting for electric supply costs, which will only be compounded with the anticipated increases in power supply costs in 2010 relative to current levels (estimated to be between 20 and 30 percent by PPL).

OCA St. 1-S at 6. See also, OCA St. 2-R at 9.

Additionally, the OCA would note that budget billing would be totally impractical under such a model. Such a model also makes informed shopping decisions by customers more difficult by customers and can hamper informed retail choice. The ALJ properly rejected the proposal to change default service rates on a monthly basis.

As to Dominion's alternative proposal that PPL procure supply in 2009 for a three year period, the ALJ also properly rejected this proposal. ALJ Chestnut found that:

> First, it is contrary to the intent that the Revised CBP be a one-year interim bridge to full statewide competition. Second, having all supply procured in a single year still presents the risk that the resulting POLR rates could be affected by unusual market events. Third, it distorts prices by requiring that bidders assess costs for each year of the multi-year period and then create a single price.

R.D. at 38. PPL witness Krall also noted that there would be a substantial risk premium built into bids for a three to five year period after 2010. PPL St. 1-R at 25.

The OCA submits that ALJ Chestnut's reasoning is sound with respect to the RESA, *et al.* and Dominion alternatives. The ALJ's recommendation to reject these proposals should be adopted.

OCA Reply to RESA *et al.* Exception No. 1 and Dominion Exception No. 1: ALJ Chestnut's Determination That PPL's Proposal Is Timely And Prudent Should Not Be Disturbed. (R.D. at 30-32; OCA M.B. at 4-5; OCA R.B. at 2-3)

In recommending approval of PPL's plan, ALJ Chestnut determined that PPL's decision to "propose a plan, and to present it with sufficient time for all parties and the Commission to thoroughly review it, is prudent and appropriate." R.D. at 32. Both RESA and Dominion argue against the timeliness and prudence of PPL's proposal for a variety of reasons. Primarily, Dominion and RESA, *et al.* argue that PPL's plan is premature due to the recent issuance of the Commission's Advance Notice of Final Rulemaking and proposed Policy Statement regarding the default service regulations. RESA, *et al.* Exc. at 3-6.

> With respect to these arguments, ALJ Chestnut determined that:
>
> 1) final POLR regulations have not yet been adopted, and there is no assurance when they will be in effect; and
>
> 2) it is not certain that the regulations will be in effect in sufficient time for PPL Electric to effectively develop an approved POLR program.

R.D. at 31.[2] The ALJ also properly noted that the provisions of the Regulatory Review Act require that regulations be reviewed by the applicable standing committees of the General Assembly, the Independent Regulatory Review Commission (IRRC), and the Attorney General before they can become effective. Any of these reviews could result in a disapproval of the final

[2] ALJ Chestnut's decision was dated February 21, 2007, following the February 9, 2007 issuance of the Commission's Advance Notice of Final Rulemaking at Docket No. L-00040169 and proposed Policy Statement at M-00072009.

form regulations promulgated by the Commission. R.D. at 31-32. ALJ Chestnut, then concluded that:

> it would be extremely unwise for PPL Electric to delay its 2010 acquisition to await the final effective date of the regulations.

Id. at 32.

RESA, *et al.* hypothesize a "best-case scenario" that final POLR regulations will be in place in sufficient time for PPL to adequately fulfill its POLR obligations. Even RESA, *et al.'s* best case scenario that hypothesizes submission of the regulations for review by IRRC and the standing committees of the Legislature by mid-2007 with final approval by late 2007 or early 2008, would eliminate an entire year of market opportunity for purchasing, and would compress the procurement into a two-year or less time period. As PPL notes, this would increase the risk of price volatility. PPL M.B. at 32. The OCA would also note that with the need to procure resources to meet the Alternative Energy Portfolio Standards Act, any further delay could impact on the price to be paid for these resources.

PPL's proposed plan is an interim plan to reach the post-2010 period when all major electric utility rate caps end, and the Commission regulations governing default service will be applicable for all default service. ALJ Chestnut issued an important reminder:

> It must be remembered that the Revised CBP presented for the Commission's approval in this case is not intended to constitute the company's ultimate default service program. Rather, it is a transition or interim plan that recognizes the various aspects of moving from a regulated environment with capped rates to one in which the competitive market is able to provide the needed supply. It recognizes that the Commission's regulations will be controlling prospectively. As such, PPL Electric's decision to propose a plan, and to present it with sufficient time for all parties and the Commission to thoroughly review it, is prudent and appropriate.

R.D. at 32. The OCA submits that the ALJ's decision has correctly found that now is the time for PPL to begin to procure supply to meet its 2010 obligation so that the most reasonable price can be obtained to meet its default service obligation in 2010.

OCA Reply to RESA et al. Exception No. 5 and Dominion Exception No. 1: The ALJ's Recommendation That The Commission Approve The Limited Reconciliation Mechanism Proposed By PPL In This Proceeding Should Be Adopted. (R.D. at 47-51; OCA R.B. at 10-13).

RESA, *et al.* and Dominion also except to the ALJ's approval of PPL's proposal that its Generation Supply Charge be reconcilable. RESA, *et al.* Exc. at 10; Dominion Exc. at 7-13. RESA, *et al.* and Dominion argue that reconciliation is not legally permitted by the Act and that it is bad public policy. Under PPL's proposal, the reconciliation mechanism is to provide for the over-recovery or under-recovery associated with the differences between the Company's estimated cost to acquire generation supply and its actual costs to acquire supply. PPL St. 3 at 4. For residential customers, except for a supplier default not fully covered by the security requirements, the reconciliation will primarily reflect the imprecision inherent in estimating the billing determinants for each rate schedule, particularly since a differential between the rate schedules is being maintained.

The OCA submits that Dominion's argument that reconciliation is not allowed under the Act cannot be supported. The Act does not specifically prohibit reconciliation of any costs associated with POLR service or address the recovery mechanism of these costs. Rather, the Act provides that the EDC shall recover fully its reasonable costs of POLR service.[3] One of those costs is the cost of complying with the Alternative Energy Portfolio Standards Act (AEPS Act). 73 P.S. § 1648.1 et seq. The AEPS Act specifically allows for the recovery of the costs of compliance with the AEPS Act through a reconcilable surcharge.

[3] The Commission recently concluded in a Policy Statement that language in Section 2804(9) that allows an EDC to "fully recover" universal service costs permits a reconcilable mechanism. Final Investigatory Order, Docket M-00051923, *slip op.* at 15 (Order entered December 18, 2006).

73 P.S. § 1648.3. Allowing reconciliation of the limited POLR costs in this proceeding is not at odds with Section 2807(e)(3), particularly in light of the AEPS Act.

Moreover, as the ALJ stated: "Not only is reconciliation not prohibited by the statute, there are compelling reasons why it should be permitted in this proceeding." R.D. at 48. The ALJ then went on to identify the following benefits: 1) reconciliation represents the best mechanism to ensure full cost recovery; 2) reconciliation assures that customers will pay the actual costs incurred by PPL; 3) customers will not pay a profit on POLR service resulting in lower rates for regulated POLR service; 4) PPL can retain certain risks for defaults, thus reducing the risk premium; and 5) PPL can phase-in rate changes to the legacy rate designs without concern of under-recovery that could occur during the transition. R.D. at 48-49. The OCA agrees that in this proceeding, these benefits argue in favor of the reconciliation proposed by PPL.

The OCA would also note that PPL's reconciliation mechanism is intended to address sales volume changes between rate schedules, which are expected to be minor. PPL's default service rate will be the blended rate of all of its procurements plus the cost of administering the procurements. The design is intended to recover all costs across the projected sales volumes. PPL St. 3 at 3-4. RESA, *et al.* and Dominion claim that this will harm competition. RESA, *et al.* Exc. at 10; Dominion Exc. at 10-12. The ALJ recognized that this argument is overstated. The ALJ stated:

> This concern is overstated, as there can be little doubt that this limited proposal will not have a substantive effect on the development of retail competition. First, the reconciliation is only for a one-year period. In addition, the amount to be reconciled will probably, in the words of Dominion's own witness, "present minimal rate impact for customers in PPL's service territory . . ." Dominion St. 1-SR at 6.

R.D. at 50. The ALJ also found that there was no evidence to support any conclusion that the EGS would be put at a disadvantage. The ALJ recognized that an EGS could adopt a reconciliation mechanism of its own or market itself as having a competitive advantage because it does not have a reconciliation mechanism. R.D. at 50-51.

The OCA submits that the ALJ properly concluded that there is no basis in this proceeding to reject the reconciliation of the GSC for the interim one-year period. The ALJ's decision should be adopted.

III. CONCLUSION

For the reasons set forth above, and in the OCA's Main Brief and Reply Brief, the OCA submits that the Exceptions of RESA, *et al.* and Dominion should be rejected, and that ALJ Chestnut's Recommended Decision should be adopted in its entirety.

Respectfully Submitted,

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Dated: March 26, 2007

00093213

CERTIFICATE OF SERVICE

Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan	:	Docket No. P-00062227

I hereby certify that I have this day served a true copy of the foregoing letter that the Reply Exceptions of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 26th day of March, 2007.

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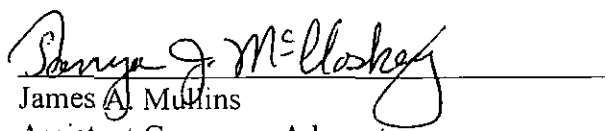

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March 26, 2007

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James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan
Docket No. P-00062227

Dear Secretary McNulty:

Enclosed for filing are the original and nine (9) copies of the Reply Exceptions on behalf of the Office of Small Business Advocate in the above-docketed proceeding. As evidenced by the enclosed certificate of service, two copies have been served on all active parties in this case.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Steven C. Gray
Assistant Small Business Advocate
Attorney ID No. 77538

Enclosures

cc: Cheryl Walker Davis
Office of Special Assistants

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PPL ELECTRIC UTILITIES CORPORATION FOR APPROVAL OF A COMPETITIVE BRIDGE PLAN	: : : :	DOCKET NO. P-00062227

ORIGINAL

REPLY EXCEPTIONS ON BEHALF OF THE OFFICE OF SMALL BUSINESS ADVOCATE

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For:

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Dated: March 26, 2007

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TABLE OF AUTHORITIES

Statutes

I. Introduction

On August 2, 2006, PPL Electric Utilities Corporation ("PPL" or the "Company") filed a Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan ("Petition"). According to the Company, the Petition was filed "to establish the terms and conditions under which PPL will supply Provider of Last Resort ('POLR') service during 2010, as a transition to a fully competitive statewide market beginning January 1, 2011." Petition, at 1. By its Petition, the Company is requesting approval of its Competitive Bridge Plan ("CBP") under Chapter 28 of the Public Utility Code, 66 Pa. C.S. §§ 2801-2812.

II. Procedural History

On August 2, 2006, PPL filed the Petition.

On August 12, 2006, Notice of the Petition was provided in the *Pennsylvania Bulletin*.

On August 28, 2006, the Office of Small Business Advocate ("OSBA") filed a Notice of Intervention.

On September 15, 2006, PPL served the direct testimony of Douglas Krall, Joseph Cavicchi, Joseph Kleha, and Timothy Dahl.

On September 22, 2006, a prehearing conference was held before Administrative Law Judge ("ALJ") Marlane Chestnut.

Also on September 22, 2006, ALJ Chestnut issued her Prehearing Order # 2.

On November 14, 2006, the OSBA served the direct testimony of Brian Kalcic.

On December 6, 2006, PPL served the rebuttal testimony of Douglas Krall, Joseph Cavicchi, Joseph Kleha, and Timothy Dahl.

Also on December 6, 2006, the OSBA served the rebuttal testimony of Brian Kalcic.

On December 15, 2006, the OSBA served the surrebuttal testimony of Brian Kalcic.

Evidentiary hearings were held before ALJ Chestnut on December 19 and 20, 2006.

On December 20, 2006, PPL served the written rejoinder testimony of Joseph Cavicchi.

On January 12, 2007, the OSBA submitted a main brief.

On January 19, 2007, the OSBA submitted a reply brief.

On February 23, 2007, the ALJ issued her Recommended Decision ("RD").

On March 15, 2007, Dominion Retail, Inc. ("Dominion") and Retail Energy Supply Association, Direct Energy Services LLC, and Strategic Energy LLC (collectively, "RESA *et al.*") submitted their Exceptions to the RD.

The OSBA submits these Reply Exceptions in response to the Exceptions filed by Dominion and RESA *et al.*

III. Reply Exceptions

Reply to Dominion Exception No. 1 and RESA *et al.* Exception No. 2: The ALJ properly held that the CBP contained a reasonable plan for procuring the supply for residential and small commercial and industrial customers for 2010.

In her RD, the ALJ correctly determined that:

> In conclusion, PPL Electric's proposal to conduct six solicitations over three years for residential and small C&I POLR service in 2010 should be approved by the Commission for the interim period prior to statewide competition in 2011.
>
> * * *
>
> PPL Electric has presented a prudent and reasonable approach to incorporating prevailing market rates while attempting to eliminate the effect of abnormal market conditions. I recommend that it be approved by the Commission.

RD, at 39.

Dominion, in its Exceptions, claimed that the ALJ's holding is incorrect because the Electricity Generation Customer Choice and Competition Act ("Act") prohibits PPL's procurement approach; rate shock and volatility will not be addressed; and the plan contradicts the goals of the Act. Dominion Exceptions, at 3-4. RESA *et al.* reached the same conclusion. RESA *et al.* Exceptions, at 6-8.

The ALJ's analysis and legal conclusions are correct. The CBP proposes that PPL will conduct its RFP process through six separate bids spread out over three years for all customer classes except for the large commercial and industrial ("Large C&I") class. Petition, at 16, Paragraph 32. The OSBA agrees with the ALJ that this is a reasonable methodology by which the CBP can mitigate the price volatility associated with purchasing electrical energy in the current marketplace.

To be clear, the OSBA does not advocate the adoption of PPL's proposed "six bids over three years" as a paradigm that should serve in any way as precedent for any other proceeding before the Commission. The proposal set forth in the Petition is simply one way to avoid, in as reasonable a manner as possible, a reoccurrence of the "Pike" incident: conducting one POLR solicitation that would put the final price at risk of being significantly higher than normal due to an unexpected convergence of random market forces on that single date. OSBA witness Kalcic explained:

> Recent experience has shown that energy prices can be quite volatile, and that obtaining 12 months of POLR supply at prices determined by market conditions on a single day is unnecessarily risky. While I cannot state that six (6) RFPs equate to the 'optimum' amount of diversity to build into a POLR procurement process, I find that PPL's proposal is reasonable, and clearly superior to waiting until 2009 to acquire all of the Company's 2010 POLR requirements.

OSBA Statement No. 1, at 5.

Furthermore, nothing in Section 2807(e)(3) of the Public Utility Code, 66 Pa. C.S. § 2807(e)(3), prohibits the use of a multi-year procurement strategy as set forth in the CBP. Specifically, under Section 2807(e)(3), an electric distribution company ("EDC") such as PPL must "acquire electric energy at prevailing market prices." Section 2807(e)(3) does not define "prevailing market prices"; it does not spell out how those "prevailing market prices" are to be determined; it does not state the procurement methodology that must be used; and it does not specify the time period for which default service rates are to be set.

In addition, Section 2807(e)(2) requires the Commission to "promulgate regulations to define the electric distribution company's obligation to . . . acquire

electricity" at prevailing market prices. In promulgating those regulations, the Commission has the authority to set the procurement methodology by which an EDC may acquire energy. For example, the Commission could, by regulation, determine that default service rates that are based upon a one-year procurement process are acceptable, but that rates based upon a longer procurement process are not. However, until those regulations have been promulgated, there is no limit on the timeframe for the procurement of POLR energy as long as each procurement occurs through a competitive process.

In addition, Dominion disputed the RD's rejection of its alternative procurement plan. Dominion Exceptions, at 5. The OSBA believes that Dominion is referring to the second alternative proposed by Dominion witness Butler (whereby PPL would procure its supply in 2009 and fix the price for that supply for at least three years). *See* Dominion Statement No. 1, at 5-6. *See also* RD, at 38. RESA *et al.* also disputed the RD's rejection of its monthly pricing plan for residential and small commercial customers. RESA *et al.* Exceptions, at 7. *See also* RD, at 36-37.

The ALJ ruled correctly in rejecting both procurement proposals. First, OSBA witness Kalcic responded to the RESA *et al.* procurement proposal as follows:

> Ironically, such an approach would expose POLR customers to more, rather than less, price volatility than PPL's proposed CBP since virtually all short-term movements in energy prices would be reflected in monthly POLR prices. In addition, a monthly procurement plan would result in higher administrative costs (due to the frequency of the required POLR supply auctions), which would presumably need to be recovered from POLR customers.

OSBA Statement No. 2, at 2. The OSBA submits that introducing more price volatility while simultaneously raising the cost of procurement is not an appropriate POLR supply solution for PPL's small commercial and industrial ("Small C&I") customers.

Second, Mr. Kalcic responded to the second procurement option set forth by Dominion:

> With respect to Mr. Butler's second alternative, I would note that PPL would be required to obtain three (3) years of POLR supply via competitive procurements beginning no earlier than January 1, 2009. While Mr. Butler explicitly allows for 2-3 solicitations, it is not clear that such few solicitations would be sufficient to protect POLR customers from the outcome experienced by Pike customers, particularly given the fact that all solicitations would be constrained to take place within one year. Moreover, to the extent that PPL is not able to avoid price spikes in the wholesale market, POLR customers could be saddled with a Pike-like outcome for multiple years.

OSBA Statement No. 2, at 3. Mr. Kalcic recommended the rejection of both the Dominion and RESA *et al.* procurement proposals. *Id.*, at 4.

The OSBA submits that the CBP procurement proposal complies with the requirements of Section 2807(e)(3), and is the most reasonable plan for obtaining supply for PPL's Small C&I customers for 2010.

IV. Conclusion

Wherefore, the OSBA respectfully requests that the Commission deny Dominion Exception No. 1 and RESA *et al.* Exception No. 2, and uphold the RD.

Respectfully submitted,

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Dated: March 26, 2007

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan	:	Docket No. P-00062227

CERTIFICATE OF SERVICE

I certify that I am serving two copies of the Reply Exceptions, on behalf of the Office of Small Business Advocate, by e-mail and first-class mail (unless otherwise indicated) upon the persons addressed below:

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Date: March 26, 2007

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March 26, 2007

VIA HAND DELIVERY

James J. McNulty, Secretary
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Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

DOCUMENT FOLDER

Re: Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan; Docket No. P-00062227

Dear Secretary McNulty:

Enclosed for filing with the Commission are the original and nine (9) copies of the Reply Exceptions of the PP&L Industrial Customer Alliance ("PPLICA") in the above-referenced proceeding. In addition, please find an electronic version of the Reply Exceptions on diskette in Word Format.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document. Please date stamp the extra copies of this letter and the Reply Exceptions, and kindly return them to our messenger for our filing purposes. Thank you.

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Very truly yours,

McNEES WALLACE & NURICK LLC

By Adam L. Benshoff
Adam L. Benshoff

Counsel to the PP&L Industrial
Customer Alliance

ALB/lhi
c: Administrative Law Judge Marlane R. Chestnut (via First Class Mail)
Cheryl Walker Davis, Esq., Director, Office of Special Assistants (via hand delivery w/ diskette in Word Format)
Certificate of Service

82

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation :
: Docket No. R-00062227
For Approval of a Competitive Bridge Plan :

REPLY EXCEPTIONS OF
PP&L INDUSTRIAL CUSTOMER ALLIANCE

Air Products and Chemicals, Inc.
Alcoa, Inc.
Binkley & Ober, Inc.
BOC Gases
Buckeye Pipe Line Company, L.P.
CertainTeed Corporation
Chamberlain Manufacturing Corp.
Cinram Manufacturing Inc.
Hercules Cement Company
The Hershey Company
High Industries, Inc.
Lafarge Whitehall Cement
Magee Rieter Automotive Systems
Mount Joy Wire Corporation
Praxair, Inc.
Stroehmann Bakeries
TIMET North America
Wegmans Food Markets, Inc.

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Counsel to the PP&L Industrial Customer Alliance

Dated: March 26, 2007

I. INTRODUCTION

On August 2, 2006, PPL Electric Utilities Corporation ("PPL" or "Company") submitted to the Pennsylvania Public Utility Commission ("PUC" or "Commission") a Petition for Approval of a Competitive Bridge Plan ("Petition"). In the Petition, PPL requests permission to institute a Competitive Bridge Plan ("CBP") to establish the terms and conditions under which PPL will supply Provider of Last Resort ("POLR") service during 2010. Because of the potentially detrimental impact that an improperly designed CBP may have on large customers in the Company's service territory, on August 28, 2006, the PP&L Industrial Customer Alliance ("PPLICA") filed a Protest and Petition to Intervene in this proceeding. On February 23, 2007, Administrative Law Judge ("ALJ") Marlane R. Chestnut issued a Recommended Decision ("R.D.") in this proceeding.[1]

On March 15, 2007, PPLICA filed limited Exceptions to the ALJ's R.D. PPLICA received Exceptions from the Retail Energy Supply Association, Direct Energy Services LLC and Strategic Energy LLC ("RESA EGSs"); Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. ("Constellation"); and, Dominion Retail, Inc. ("Dominion"). PPLICA files these limited Reply Exceptions to respond to a specific Exception raised by the RESA EGSs. In particular, PPLICA submits that the R.D. correctly rejected the RESA EGSs' unfounded arguments with regard to limiting large commercial and industrial ("Large C&I") customers to only an hourly priced POLR product. As detailed below, the Commission should reject the RESA EGSs' Exception and adopt the appropriate recommendation of the ALJ to approve PPL's Large C&I POLR plan.

[1] PPLICA submitted both a Main Brief (hereinafter, "M.B.") and a Reply Brief (hereinafter, "R.B.").

II. REPLY EXCEPTIONS

1. *Reply to RESA EGSs' Exception No. 3: The Administrative Law Judge Correctly Determined that PPL's Competitive Bridge Plan Should Appropriately Include a Fixed-Price Option for Large C&I Customers.*

The ALJ correctly determined that PPL's inclusion of a fixed-price option in the CBP for Large C&I customers was necessary and appropriate. See R.D. at 42. The RESA EGSs except to the ALJ's well-reasoned decision, stating that the ALJ has "misconstrued the evidence." See RESA EGSs Exc., p. 8. In fact, as detailed below, even with regard to the minute evidence put forth by the RESA EGSs in this proceeding, the exact opposite continues to hold true.

In Exceptions, the RESA EGSs essentially reiterate two of the unpersuasive arguments the ALJ properly rejected in her R.D. First, that Duquesne Light Company's ("Duquesne") Large C&I customers will not have a fixed-price option during PPL's CBP in 2010. Id. Second, that in service territories where hourly-priced service is the only POLR option for Large C&I customers, robust competition has developed. Id. Based on these claims, the RESA EGSs recommend the elimination of the fixed-price POLR option from PPL's CBP. Id. As discussed below, the R.D. correctly rejected these arguments and properly concluded that PPL should not be required to be the only major Pennsylvania utility to offer only hourly-priced POLR service in the first year after expiration of their rate caps. See R.D. at 42.

Irrespective of the status of Duquesne's Large C&I customers in 2010, and contrary to the allusions of the RESA EGSs, Duquesne has provided its Large C&I customers with a transitional fixed-price POLR product. See R.D. at 41-42; see PPLICA R.B., p. 4; see also Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period Provider of Last Resort Service, Docket No. P-00032071 (Oct. 5, 2006)(hereinafter, "Duquesne POLR III"). In fact, as discussed in PPLICA's R.B., in Duquesne's service territory, that fixed-price option is not scheduled to terminate until June 1, 2007, nearly five years after the expiration of Duquesne's

rate caps. See R.D. at 42; see PPLICA R.B., p. 4; see Duquesne POLR III, p. 32. In addition, the Commission's final POLR regulations will eventually govern whether Duquesne, PPL or any EDC offers a fixed-price POLR alternative to Large C&I customers. Those regulations may in fact modify the PUC's non-precedential decision in Duquesne's POLR III case. Therefore, contrary to the claims of the RESA EGSs, the comparison to Duquesne's service territory actually supports a transitional fixed-priced POLR option.

In addition, the R.D. appropriately recognized that in PPL's service territory there are Large C&I customers who are simply unable to respond to volatile hourly market prices at this time. R.D. at 41; see also PPLICA M.B., pp. 7-8. The ALJ recommends adoption of PPL's proposed Large C&I plan as it properly ensures that all customers who have not elected to obtain service from an electric generation supplier ("EGS") can continue to obtain this necessary fixed-price POLR service from the Company. See PPL St. 1-R, p. 12. The RESA EGSs claim that competitive suppliers would enter the market to offer fixed-price service if PPL's hourly-priced service is the only POLR service option for Large C&I customers. See RESA EGSs Exc. p. 8. While not disputing the veracity of the statement, it remains irrelevant.

The record in this proceeding is clear. To date, there are very few EGSs currently operating in the PPL territory, making it all the more important for PPL to offer this necessary fixed-price option during the next stage, and future stages, of retail market development. See PPLICA R.B., p. 4. The RESA EGSs' Exceptions once again fail to provide any explanation, or cite any record evidence, indicating why they, or any other EGS, would be unable to compete with PPL's fixed-price POLR service. As such, the RESA EGSs' arguments continue to ring hollow as it becomes even clearer that they simply want the opportunity to offer the only fixed-price alternative. This forced shopping, can hardly be cloaked in the spirit of "competition".

Thus, the R.D.'s acceptance of PPL's proposal to offer a fixed-price option for Large C&I customers is appropriate and necessary. See R.D. at 41-42. Accordingly, the RESA EGSs' Exception on the fixed-price alternative must be rejected, and the Commission should affirm the ALJ's well-reasoned R.D. in this important respect.

III. CONCLUSION

WHEREFORE, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission deny the aforementioned Exception, accept the Reply Exception of PPLICA, and adopt the relevant portions of Administrative Law Judge Chestnut's well-reasoned Recommended Decision with respect to the inclusion of a fixed-price option in PPL Electric Utilities Competitive Bridge Plan consistent with PPLICA's Exceptions.

Respectfully submitted,

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Dated: March 26, 2007

CERTIFICATE OF SERVICE

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

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March 26, 2007

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RE: Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation Re: Petition of PPL Electric Utilities Corporation for Approval of A Competitive Bridge Plan, Docket No. P-00062227

Dear Mr. McNulty:

Enclosed, please find the original and nine (9) copies of the Replies to Exceptions of PPL Electric Utilities Corporation, in the above-referenced proceeding. I have also enclosed a disk with the Replies in Word format. As indicated on the enclosed certificate of service, copies have been served on the parties in the manner indicated.

Respectfully submitted,

Michael W. Hassell

MWH/skr
Enclosures
cc: Honorable Marlane R. Chestnut
Cheryl Walker Davis (via Hand Delivery w/disk)
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan	: : :	Docket No. P-00062227

REPLIES TO EXCEPTIONS
OF PPL ELECTRIC UTILITIES CORPORATION

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TABLE OF AUTHORITIES

CASES

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I. INTRODUCTION

PPL Electric Utilities Corporation ("PPL Electric") submits these Replies to Exceptions in response to the Exceptions filed by Dominion Retail, Inc. ("Dominion"), Retail Energy Supply Association, Direct Energy Services LLC and Strategic Energy LLC (collectively, "RESA, et al."), Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. (collectively, "Constellation") and PP&L Industrial Customer Alliance ("PPLICA") to the Recommended Decision ("R.D.") of Administrative Law Judge Marlane R. Chestnut (the "ALJ") issued February 21, 2007.

On August 2, 2006, PPL Electric filed a Petition with the Pennsylvania Public Utility Commission ("Commission") requesting approval of a Competitive Bridge Plan ("CBP") to establish terms and procedures for PPL Electric to procure supply and to establish rates for Provider of Last Resort ("POLR" or "default") service during 2010, the first year following the expiration of PPL Electric's generation rate caps. During the proceeding, PPL Electric and the parties undertook substantial efforts to resolve differences concerning the CBP. The Company made various modifications to its CBP to accommodate concerns of parties, and as a result achieved stipulations or statements in support for its Revised CBP from a number of major parties. Although not a complete listing of all of the terms of the Revised CBP, the following is a summary of its major components:

- A three-year competitive procurement program, beginning in 2007, to meet residential and small commercial and industrial ("Small C&I") POLR requirements in 2010;
- A single procurement in 2009 to offer an optional, fixed rate service to large commercial and industrial ("Large C&I") customers, with a default real-time hourly program;

- Reconciliation of POLR revenues and costs for 2010, to assure that customers pay the actual cost of providing POLR service, no more and no less;
- The elimination, with limited exceptions in the Residential class to avoid rate dislocation, of demand charges and block rates for generation;
- Enhancements to existing Demand Side Management ("DSM") programs and commitments to explore and increase conservation and energy efficiency programs;
- A three-year consumer education program, to be developed in collaboration with interested parties; and
- A commitment to increase assistance for low-income customers, to be implemented in future proceedings.

Of the filed Exceptions, only those from Dominion and RESA, et al. object to any of these major components of the Revised CBP. These parties ask the Commission, in effect, to throw out the Revised CBP and start over after new POLR regulations are effective. Alternatively, these parties insist that PPL Electric's laddered POLR acquisition approach be replaced with either a single year POLR acquisition process (Dominion) (R.D. 29) or a monthly supply acquisition and pricing approach (RESA, et al.) (R.D. 29-30). These proposals, as the ALJ properly recognized, (R.D. 35-39) will expose POLR customers to substantial price risk and volatility, to which customers clearly are not ready to adapt. Dominion and RESA, et al. also would prevent PPL Electric from offering an optional fixed rate service to Large C&I customers, in addition to a default real time hourly service, even though a fixed rate service for large C&I customers is, and will be, the norm for such customers throughout most of Pennsylvania. The ALJ correctly rejected this proposal. (R.D. 42) Dominion and RESA, et al. further object to reconciliation of PPL Electric's POLR costs and revenues, even though PPL Electric has included no compensation for the increased risk it would incur if POLR service revenues and costs are not reconciled. The ALJ properly concluded that reconciliation should be permitted. (R.D. 48-51).

The Exceptions of Constellation and PPLICA concern important, though limited, issues related to operation of the Revised CBP. The ALJ considered and correctly rejected each of the arguments presented by Constellation and PPLICA. (R.D. 51-54).

For reasons explained herein and in PPL Electric's Main and Reply Briefs, the ALJ's well-reasoned R.D. should be adopted in its entirety and the Exceptions should be denied.

II. ARGUMENT

A. The ALJ Correctly Concluded That The Revised CBP Is A Reasonable Plan Designed To Obtain Supply Through A Series Of Ladder Contracts For The Initial Year Following Conclusion Of PPL Electric's Generation Rate Caps (RESA et al. Exception 1).

RESA, et al. object to the ALJ's approval of the Revised CBP on the basis that PPL Electric's filing is both premature and unnecessary (RESA, et al. Exc., p. 3). RESA, et al. contend that because the Commission has issued its *Advance Notice of Final Rulemaking Order, Rulemaking Re: Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. § 2807(e)(2)*, Docket No. L-00040169 (February 8, 2007) ("*ANFRO*") with an intention to submit final form regulations to the Independent Regulatory Review Commission ("IRRC") by mid-2007, there is no need for the Commission to consider PPL Electric's Revised CBP.

RESA, et al.'s contentions are erroneous and should be rejected. RESA, et al. acknowledge that their own timeline for final adoption of the Commission's proposed final regulations would not result in Commission approval of a PPL Electric filing under the regulations until March 31, 2009 (RESA et al. Exc. p. 4). Such a timeline would compress PPL Electric's procurements into a period of less than one year before January 1, 2010, when generation rate caps are removed. As the ALJ recognized, delaying consideration of a POLR procurement plan for PPL Electric until after POLR regulations become effective would not be

prudent (R.D. 30-32). Such an approach would substantially increase the risk that an unusual event would adversely affect POLR prices, as occurred with Pike County Light & Power Company (PPL Electric St. 1, p. 6). As the Commission's *ANFRO* recognizes, a practice of procuring all POLR supplies for a period of service at a single point in time should be discouraged. (*ANFRO*, p. 4). PPL Electric and the other parties who have supported the Revised CBP recognize the problem of single point procurement and the risks inherent in awaiting completion of the administrative process for adoption of final POLR regulations, and therefore acted prudently to develop a consensus plan for multiple solicitations over a three-year period to cover POLR requirements for 2010. With such a proposal, neither the Commission nor the Company will be open to criticism for waiting until the last second to obtain POLR power. PPL Electric should be praised, rather than criticized by a limited group of Electric Generation Suppliers ("EGSs"), for being proactive on this issue.[1]

Moreover, the Commission should take into account that the Revised CBP recognizes, and facilitates, the long awaited transition from administratively-based pricing to market based pricing. At the time PPL Electric's CBP rates become effective in 2010, PPL Electric's generation rates will have been subject to administratively determined rate caps for 14 years (1996-2009). (PPL Electric St. 1, p. 6). PPL Electric's laddering approach captures the benefits of less volatile forward markets and encourages the development of longer-term forward markets, which will provide appropriate market signals regarding the need for new generation and reasoned, cost-based decisions related to DSM and improved energy efficiency. (PPL Electric St. 2-R, pp. 6-7).

[1] This is especially the case where the *ANFRO* encourages multiple year solicitations. (*ANFRO*, p. 4).

Waiting until the last minute to acquire generation for 2010 is not wise utility planning; it is rolling the dice and hoping for good luck. (Tr. 88). The proper course is to approve PPL Electric's Revised CBP now and permit the Company to begin the acquisition process, recognizing that if final POLR regulations are adopted to become effective prior to 2010, the acquisition process can be modified prospectively if needed to reflect the new regulations.[2]

For all of the reasons set forth in the R.D., in PPL Electric's Main Brief ("M.B.") pages 3-32 and Reply Brief ("R.B.") pages 6-10, RESA, et al. Exception 1 should be denied.

B. The Use of Laddered Solicitations For Residential And Small C&I Customers Is Legal And Appropriate (RESA, et al. Exception 2; Dominion Exception 1).

RESA, et al. and Dominion contend that the use of laddered solicitations is contrary to the Electricity Generation Customer Choice and Competition Act ("Competition Act"). They also contend, for various alternative reasons, that a laddered approach is not in the best interest of customers. The ALJ, in a detailed analysis of these parties' contentions, rejected RESA, et al.'s and Dominion's arguments and recommended approval of PPL Electric's proposal for a series of six laddered solicitations over three years.

With respect to the contention that multi-year, laddered solicitations are illegal under the Competition Act, the ALJ succinctly set forth the positions of various parties, including PPL Electric, OCA and OSBA, on this issue:

> I disagree. In the absence of the Commission's adoption of final POLR regulations, there is no legal impediment to the use of multiple solicitations as proposed. Nothing in Section 2807(e)(3) of the Competition Act prohibits use of a multi-year procurement strategy as proposed by PPL Electric. The statute at Section 2807(e)(3) provides that an electric distribution company must "acquire electric energy at prevailing market prices" but does not define how those prevailing market prices are to be determined.

[2] PPL Electric notes that the major aspects of its CBP – multi-year acquisitions, acquisitions of supply by customer class, substantial elimination of rate blocks and demand charges, and reconciliation – are all consistent with the *ANFRO*.

> No limitation on the timeframe for the procurement of POLR energy is provided, as long as the procurement occurs through a competitive process.

(R.D. 33). PPL Electric's M.B., pp. 25-30, offers a further expansive analysis of this legal issue, and PPL Electric respectfully requests that the Commission refer to that portion of its briefs for further arguments on this legal issue. In summary, PPL Electric explains:

- The term "prevailing market prices" is undefined in the statute, leaving it to the Commission to define the term;
- The plural use of the term "prevailing market prices" recognizes that electric markets offer a number of prevailing market prices, both in product term and product type;
- Section 2807(e)(3) of the Competition Act directs the POLR provider to recover all reasonable costs, indicating an intent for a reasoned purchase strategy;
- While customer choice and competition are important objectives of the Competition Act, the Competition Act's Declaration of Policy identifies other important policy objectives that may be better advanced through longer term procurement strategies.

For all of the foregoing reasons, PPL Electric's laddered procurement strategy for 2010 is not contrary to law.

RESA, et al. further contend that the ALJ erred in concluding that PPL Electric's Revised CBP would mitigate risks of locking in wholesale price spikes (RESA et al. Exc. 6-7). RESA, et al. misstate PPL Electric's explanations and the ALJ's reasoning. PPL Electric has consistently explained that the six solicitations over three years under the Revised CBP would mitigate the risk of a single solicitation over (or under) stating 2010 prices. These six procurements for 2010 should provide a reasonable 2010 POLR price, even if one or two of the solicitations are higher or lower due to unusual events. (PPL Electric St. 2, p. 4; PPL Electric M.B., p. 24; PPL Electric R.B., pp. 11-12).

RESA, et al. continue to argue in favor of monthly pricing for residential and small C&I customers. (RESA, et al. Exc., p. 7). As PPL Electric explained, and as the ALJ concurred, forcing all customers onto monthly POLR pricing in January 2010, after 14 years of capped generation rates, is a prescription for chaos and customer revolt. (R.D. 37). As PPL Electric explained, such approach would expose customers to extreme price volatility. PPL Electric's witness Mr. Krall demonstrated this volatility by examining monthly average LMPs for the years 2002-2005. (PPL Electric Exh. DAK-3). This data demonstrates that month-to-month LMP can increase by as much as 2.2 cents per kWh and decrease as much as 2 cents per kWh. On a percentage basis, month-to-month increases can be as high as 52% and decreases can be as much as 32 percent. Within a calendar year, the difference can vary as much as 4.4 cents per kWh and 200 percent. (PPL Electric St. 1-R, p. 22). The vast majority of customers unquestionably are not prepared to manage this level of price volatility.[3]

RESA, et al. also continue to assert, incorrectly, that these monthly average LMP prices, properly adjusted, were less than the 2006 average PPL Electric POLR price. However, as PPL Electric conclusively demonstrated, RESA, et al.'s attempted comparison is inaccurate because their witness compared LMP, an energy-only price, to PPL Electric's tariffed charges, which include additional costs for capacity, gross receipts tax, energy losses and load following costs. After correcting for these errors, PPL Electric demonstrated that at no time in the last 25 months shown on PPL Electric's Exhibit DAK-3 was the monthly LMP a preferable rate to small customers and in only 16 months of the 49 shown on that exhibit was the actual monthly LMP lower than the energy component in PPL's 2006 tariffed rates. (Tr. 65-68).

[3] RESA et al.'s "solution" to this volatility is to have the Commission convene a "workshop", thereby presumably administratively overriding market prices (RESA et al. Exc. p. 8).

As the ALJ further recognized (R.D. 37-38), other problems with RESA, et al.'s monthly approach include the difficulties in advising customers of monthly POLR rates due to cycle billing, the cost of providing monthly notices of POLR rate changes, and the treatment of CAP and budget billing customers. (PPL Electric M.B., pp. 34-36; PPL Electric R.B., pp. 11-13).

Monthly POLR solicitations and rate changes for all residential and Small C&I customers benefit only one group: EGSs. Forced monthly rate changes may lead customers to elect EGS service, but for the wrong reason. Customers will not be making educated decisions about the lowest cost or most appropriate service for their needs, but will take the first fixed price offer that comes along because they dislike monthly rate changes and receiving notices of further rate changes every month, for changes to be made two months in the future. Add to this the uncertainty of how many EGS may voluntarily choose to market annual fixed price services to small customers (Tr. 222), and the risk of a "train wreck" is obvious. A one-year bridge period to statewide competition is not the time to force all small customers to monthly market pricing. The ALJ properly rejected the RESA, et al. monthly market pricing proposal for residential and small C&I customers.

Dominion's Exceptions continue to argue in favor of two extreme proposals. Dominion first asserts that, under the Competition Act, the only authorized mechanism is for the POLR provider to buy all energy on a real time basis to serve customers: "If and when there is a need to buy electricity for customers then the utility buys the energy...." (Dominion Exc., p. 4). PPL Electric respectfully asserts that it is completely unreasonable to suggest that the vast majority of residential customers will ever have the required combination of sophistication, time and desire to monitor and respond to real time energy prices. As PPL Electric explained, its CBP plan was designed to be simple and understandable for all participants – customers, wholesale suppliers

and marketers. (PPL Electric St. 2, pp. 3-4). If Dominion believes there is a market for real time energy products, it should offer such services, and not suggest that such a complex mechanism be the default service.

Alternatively, Dominion asserts that PPL Electric should undertake one or two solicitations in 2009 for a three to five year fixed price product. (Dominion Exc. p. 5; R.D. p. 38). The ALJ correctly rejected this proposal (R.D. 39).

Dominion's defense of this proposal in its Exception is, at the very least, inconsistent. After appearing to assert that the only legal compliance with the Competition Act is for the POLR supplier to purchase on a daily basis, Dominion contends that a solicitation for a single price for three years is legal. (Dominion Exc., p. 5). The logic of this escapes PPL Electric.

The ALJ appropriately summarizes all of the flaws of this 3-5 year fixed rate proposal in her recommended rejection of it. (R.D. 38-39). PPL Electric concurs with the ALJ, and references pages 36-38 of its M.B. for further explanations.

Dominion continues to misstate PPL Electric's testimony in asserting that PPL Electric's plan is not "transparent" in that it will not provide marketers with the results of each of PPL Electric's solicitations. (Dominion Exc., p. 6). The fact is that PPL Electric never said that marketers could not know the results of each solicitation, but stated that it would leave to the plan's independent third party evaluator and the Commission to decide whether bid results may be released, to avoid questions of the involvement of PPL Electric in the process. (Tr. 92-3; PPL Electric R.B., p. 15).

For reasons explained above and in PPL Electric's briefs, RESA, et al. Exception 2 and Dominion Exception 1 should be denied.

C. The ALJ Correctly Recommends Approval Of A Fixed Rate Option For Large C&I Customers In Addition To A Default Real Time Hourly Service (RESA, et al., Exception 3).

RESA, et al. excepts to the ALJ's recommended approval of an optional fixed rate service for Large C&I customers, in addition to a default real time hourly priced service. The ALJ's recommendation should be upheld. (R.D. 41-42).

RESA, et al.'s sole support for its contention that a fixed rate option should not be provided to PPL Electric's Large C&I customers is that Duquesne's Large C&I customer fixed rate option will expire in May of 2007, and that competitive suppliers have provided fixed rate services for Large C&I customers in PPL Electric's service territory (RESA et al. Exc., p. 8).

RESA, et al.'s citation to what Duquesne intends to provide to Large C&I customers after five years of post-rate cap POLR service is not relevant to what PPL Electric should provide in its first year of post-rate cap POLR service. RESA et al.'s contention ignores the fact that no Pennsylvania EDC has been required to offer only hourly service to Large C&I customers in the initial years following conclusion of the generation rate cap. (PPL M.B. p. 39). Furthermore, in 2010, the major EDCs surrounding PPL Electric's service territory will still be subject to rate caps and thus will continue to provide annual fixed rates for Large C&I customers.

Therefore, for the reasons set forth in the R.D., and PPL Electric's M.B. at pp. 39-40 and R.B. at pp. 22-23, the optional fixed rate service for Large C&I customers should be approved.

D. PPLICA's Proposal For A Third Rate Option For Large C&I Customers Should Be Rejected (PPLICA Exception 1).

PPLICA contends that, in addition to a default real time hourly service and an optional fixed rate service, Large C&I customers should be offered a third, day-ahead hourly price option (PPLICA Exc. pp.2-3). The ALJ rejected this proposal, holding that it was never developed on the record (R.D. 53).

Initially, PPL Electric notes that PPLICA's position on this issue continues to evolve in each filing in this case. In direct testimony, PPLICA focused upon the need for a fixed rate option. (PPLICA St. 1, pp. 3 and 5). In its Main Brief, PPLICA asserted that this third, day-ahead option should be developed only in the event that the Revised CBP is modified by the Commission to eliminate a fixed-rate option. (PPLICA M.B., p. 10). The ALJ recommended approval of the CBP without modification, and yet now, in Exceptions, PPLICA asserts that a day-ahead hourly price option should be offered to Large C&I customers in addition to the fixed price and real-time hourly services offered under the Revised CBP. There is no record evidence justifying three pricing options for large customers.

PPLICA asserts that a day-ahead price service may be a workable option for some large customers who cannot "adequately respond" to real time price but do not opt-in to the fixed price option under the terms of that rate. Respectfully, this is much more of an excuse than a valid reason for a third rate option for these customers. Large C&I customers will be extensively educated about their options as part of the Revised CBP (PPL R.B., pp. 19-21), and there is no reason why they cannot choose between marketer offers (which may include fixed rate and day-ahead hourly services), the PPL Electric fixed rate option and the real time hourly default service in a timely manner.

As the ALJ recognized, day-ahead service is a much more complex service than real time hourly service, involving important issues regarding forecasting and/or nominating of next-day requirements, responsibility for reconciling to actual requirements and real time pricing. Several PJM charges are based upon differences between day-ahead forecasts and real time outcomes, and there would need to be a process to track and allocate these costs. (R.D. 53). None of these

issues were explored on the record, and the suggestion of a "stakeholder" process to examine these issues seeks to sidestep the litigation process.

PPLICA seeks to justify the use of a post-decision "stakeholder" process in lieu of presenting record evidence by asserting that the Revised CBP already includes several collaborative processes, such as will be used for education programs, demand side response programs and transmission service charge language. However, PPLICA overlooks that, with respect to each of these matters, there were litigated positions presented on the issues, and there were developed agreements between PPL Electric and opposing parties to resolve the basic underlying issues on each of these matters. The parties further agreed to defer the clarification of details to a collaborative process. That is not the case with respect to PPLICA's day ahead hourly proposal. None of the basic concepts has been agreed to among the parties, or litigated on the record. Thus the proposal should not be adopted. The ALJ's determination should be affirmed, and PPLICA's Exception 1 should be dismissed.

E. The ALJ Was Correct In Approving Reconciliation For The One Year CBP (Dominion Exception 2, RESA, et al. Exception 5).

1. Introduction

The ALJ approved reconciliation of the Generation Supply Charge ("GSC") as contained in the Revised CBP.[4] (R.D. 47 – 51). Dominion and RESA et al. have filed Exceptions.

Before responding specifically to Dominion's and RESA et al.'s Exceptions, PPL Electric will summarize several important points about its reconciliation proposal.

First, the proposed reconciliation mechanism relates solely to 2010 costs incurred under the Revised CBP, and is not offered as precedent for future POLR mechanisms. (PPL Electric St. 1-R, p. 8; PPL Electric C.E. Exh. 2; PPL Electric C.E. Exh. 3; PPL Electric C.E. Exh. 4; PPL

[4] As explained in detail in PPL Electric's M.B., transmission charges are recovered through PPL Electric's previously approved, reconcilable Transmission Supply Charge ("TSC") (PPL Electric M.B., pp. 16-17).

Electric C.E. Exh. 6). Second, the reconciliation proposal cannot be viewed in isolation from the remainder of the Revised CBP. Reconciliation is essential to several parts of the CPB, including: PPL Electric's proposal to charge POLR rates that do not include an element of profit to reflect risk of under recovery; its proposal to shift certain risks to the POLR supplier; its proposal to phase-in rate changes to Rate RTS customers who could otherwise see very large rate increases in 2010; and its stipulation with OCA, under which PPL Electric agrees to meet with OCA to discuss alternative rate designs for Rate RS if the average increase in rates for that class exceeds 30% on a total bill basis. (PPL Electric M.B. 14; PPL Electric C.E. Exh. 4). Without reconciliation, none of these provisions can be maintained. (PPL Electric St. 3-R, pp. 7-14). Third, reconciliation, like the POLR acquisition process itself, will be undertaken on a customer class basis, to avoid cost shifting. Finally, although reconciliation is critically important to PPL Electric's agreement to the foregoing aspects of the Revised CBP, the expected deviation between revenues and costs is anticipated to be relatively small. This is because PPL Electric's acquisition process will obtain fixed price load-following services, thus shifting a major cause for differences between revenues and costs to the wholesale suppliers.[5] (PPL Electric St. 3, p. 4). Thus, reconciliation in the Revised CBP should not cause any substantial disconnect between billed rates and current incurred costs in either 2010 or 2011.

2. Reconciliation of POLR Costs and Revenues Are Permitted Under The Public Utility Code

Dominion argues at pages 8-10 of its Exceptions that reconciliation of POLR costs is not authorized under the Competition Act. Dominion's argument is incorrect, for reasons explained

[5] Not only does this approach substantially reduce the likely amount of over/undercollections, it also means that the wholesale providers should be expected to price this risk in their rates, thereby increasing the POLR prices against which EGS prices will be compared.

in detail in PPL Electric's M.B., pp. 43-45, 48-51, and R.B. at pp. 23-27, and as summarized below.

Section 2807(e)(3) of the Competition Act specifically states that the POLR provider "shall recover fully all reasonable costs." 66 Pa.C.S. § 2807(e)(3). The issue presented is whether the specific Revised CBP rate proposal meets this statutory mandate. It is undisputed that PPL Electric's reconciliation proposal satisfies this "recover fully" statutory requirement. It also is undisputed that Dominion's proposal, which excludes reconciliation, does not. Indeed, Dominion's own witness, Mr. Butler, specifically testified that his proposal would eliminate "most" risk of underrecovery, but not all risk (Tr. 238) and, therefore, would put PPL Electric at some risk of under recovery of its reasonable POLR costs. This clearly does not comply with the plain language of Section 2807(e)(3), and Dominion has failed to demonstrate how any purchase and pricing mechanism without reconciliation will satisfy PPL Electric's right to fully recover all reasonable POLR costs.

Dominion continues to assert that, because reconciliation is not mentioned specifically in Section 2807(e)(3), the Commission does not have authority to allow reconciliation. However, reconciliation is the only method that ensures full recovery. Moreover, Dominion overlooks the fact that the Competition Act is part and parcel of the Public Utility Code. Under Section 1307 of the Public Utility Code, the Commission has the statutory authority to authorize reconciliation of the costs of POLR service.

Dominion's claim that the Commission does not have authority to allow reconciliation of POLR costs is erroneous and was properly rejected by the ALJ.

3. Reconciliation of POLR Revenues and Costs Is a Reasonable Policy

Dominion and RESA et al. also contend that the reconciliation mechanism in the Revised CBP will harm competition. The record does not support these claims.

Dominion asserts that with reconciliation "there will never be a match or even a close connection" between the costs of default services and the rates customers pay. There are several problems with this argument. First, it ignores the fact that PPL Electric's proposal is for a one-year period, *i.e.*, 2010. Thus, it is difficult to understand Dominion's use of the word "never" in its argument. Second, the undisputed record evidence shows that the amount to be reconciled will most likely be extremely small. (*See*, PPL Electric M.B., p. 47). Dominion asserts that this contention is "speculative", but its own witness stated that: "The reconciliation proposed by PPL, on its face, appears to present minimal rate impact for customers in PPL's service territory." (Dominion St. 1-SR, p. 6). Dominion does not and presumably cannot explain how a one-year reconciliation adjustment, which its own witness described as "minimal", can substantially "harm" competition.

Dominion also objects to the ALJ's conclusion that reconciliation will ensure that customers do not pay excessive POLR rates. (Dominion Exc., p. 11). PPL Electric is baffled by Dominion's objection to this statement. Reconciliation clearly ensures that POLR rates cannot recover more than actual costs. This should be self-evident. In a statement that is cryptic at best, Dominion asserts that the ALJ's statement implies that the phrase "recover fully all reasonable costs implies dollar for dollar recovery, which begs the question of whether the EDC should be entitled to recovery at all." (Dominion Exc., p. 11). PPL Electric seriously doubts that any party believes that a POLR supplier can be forced to provide POLR service without rate recovery.

Dominion also argues that allowing PPL Electric reconciliation will provide it with an unfair competitive advantage over EGSs who do not have this option. (Dominion Exc., pp. 10-12). There are several problems with this argument. First, despite Dominion's and RESA et al.'s denials in Exceptions (Dominion Exc., p. 12; RESA et al. Exc., p. 10), there is no record

evidence to support the conclusion that EGSs cannot include a reconciliation provision in their contracts with customers if they wish to do so. And, in any event, the absence of reconciliation can provide EGSs with a competitive advantage they could market to customers over POLR service. Second, Dominion's argument is premised on the assumption that EGSs "must acquire energy at prevailing market prices and pass those prevailing market prices . . . to customers in their prices to customers." (Dominion Exc., p. 10). This is not necessarily true. There is nothing to stop EGSs, or their affiliates, from owning power plants, in which case their cost of acquiring power would be the underlying cost of the particular generating facility used to supply load. The difference between generating costs and prices offered to customers provides any EGS an opportunity to profit. In contrast, PPL Electric owns no generation, and thus will be subject to market forces in its solicitation process. Finally, Dominion's argument assumes that the service provided by PPL Electric as POLR provider and the service provided by Dominion as an EGS are the same. They are not. PPL Electric must stand ready to serve all customers who desire POLR service and must have a ready supply contract capable of meeting this load. Dominion's claim that a POLR provider can adjust to these monthly load changes through monthly contracts, while still fully recovering its costs without reconciliation, is a fantasy. In contrast, EGSs have no such obligation to serve any customer at all times. They can serve who they wish, when they wish, and can exit the market at any time of their choosing. Obviously, PPL Electric, as the POLR provider, is in a much different situation in terms of acquiring POLR supply and has a fundamentally different and greater risk of under recovering its costs and, therefore, has a clear need for reconciliation, which Dominion does not.

For all of the reasons explained above, and in PPL Electric's briefs (M.B., pp. 42-51; R.B., pp. 23-26), the Exceptions of Dominion and RESA et al. should be rejected and the ALJ's recommendation to approve reconciliation should be adopted.

F. The ALJ Correctly Concluded That Base Rate Issues Concerning Rate Schedules IS-P and IS-T Are Not a Subject of These Proceedings (PPLICA Exception 2).

PPLICA has filed an exception to the ALJ's finding that PPLICA's proposal to continue the base rate portions of Rate Schedules IS-P and IS-T was unnecessary. PPLICA does not except to the ALJ's conclusion that this is an issue to be considered in PPL Electric's future base rate proceedings.

PPLICA's Exception, just as its initial contention, is unnecessary. PPL Electric's CBP is a POLR plan, not a base rate proceeding. PPL Electric submitted no tariffs that proposed to alter or eliminate any base rate schedule. Thus, there was no reason for PPLICA to claim a concern that the base rate portions of Rate Schedules IS-P and IS-T would be changed. PPLICA's Exception 2 should be denied.[6]

G. PPLICA's Exception to the ALJ's Conclusion Regarding the Effect of Final POLR Regulations Upon the Revised CBP is Unnecessary (PPLICA Exc. 3).

PPLICA states, at page 4 of its Exceptions, that it *supports* the ALJ's conclusion regarding the effect of final POLR regulations upon the Revised CBP. Nonetheless, PPLICA feels compelled to file an Exception to "clarify" its original position.

PPL Electric does not believe any further clarification is needed. Depending upon the effective date of final regulations, and whether the final regulations differ dramatically from the present ANFRO, PPL Electric does not anticipate that a substantial time period would be needed to adjust PPL Electric's CBP to be in compliance with the new regulations. If and when new

[6] PPL Electric notes that PPLICA's M.B. proposed that the ALJ rule that any elimination of the IS-P and IS-T Rate Schedules could not be considered until after 2010 (PPLICA M.B., p. 15), and it was this affirmative attempt by PPLICA to use this proceeding to limit future base rate changes that the ALJ specifically rejected.

regulations become effective, PPL Electric expects that the Commission will provide appropriate guidance to all utilities with approved interim plans regarding adoption of the new regulations.

H. The ALJ Properly Concluded That PPL Electric's Existing GRA Should Be Retained (RESA et al. Exception 4).

RESA et al. excepts to the ALJ's recommendation that PPL Electric's existing Generation Rate Adjustment charge be retained as part of the Revised CPB (R.D. 42-47). RESA et al.'s exception should be denied.

At Docket Nos. C-00003811 and R-00006034, the Commission approved PPL Electric's adoption of a Generation Rate Adjustment ("GRA") mechanism. The GRA was developed in response to guidelines set forth in the Commission's Order issued June 22, 2000, at Docket No. M-00960890F0017, in which the Commission authorized EDCs to adopt tariff provisions to protect against seasonal gaming, (*i.e.*, customers switching from EGS to fixed rate POLR service for a short time period to obtain a price advantage). The GRA provides such protection by charging customers the difference between market prices and fixed annual POLR prices if the customer leaves an EGS, returns to POLR service and then leaves POLR service again within a one-year term (PPL M.B., pp. 55-56). Effective for service rendered during the year 2010, any GRA revenues received will be paid to the successful POLR supply bidders, in recognition that this seasonal gaming increases their cost (PPL Electric St. 3-R, pp. 17-19). It would be expected that wholesale bidders will reflect this risk reduction in their POLR bids.

RESA et al. relies upon the Commission's Decision in *Petition of Duquesne Light Co.*, Docket No. P-00032071, 2004 Pa. PUC LEXIS 42 ("*Duquesne's POLR III*") as support for the proposition that PPL Electric's existing GRA should be eliminated. However, as explained in PPL Electric M.B. at pp. 55-56 and R.B. at pp. 27-31, PPL Electric's GRA is substantially different from the GRA and switching restrictions rejected by the Commission in *Duquesne's*

POLR III case.[7] First, there is no minimum stay required (or GRA) on residential customers. PPL Electric Utilities Corporation, Supplement No. 17, Electric Pa. P.U.C. No. 201, Fourth Revised Page No. 5 (Generation Rate Adjustment Rider) ("This Rider is applicable to service under all rate schedules contained in this Tariff, except Rate Schedules RS, RTS and RTD"). Second, PPL Electric does not have an annually-renewing minimum stay requirement for either Small C&I customers or Large C&I customers, nor does it have an annually-renewing GRA for any customers, unlike what Duquesne had proposed. In PPL Electric's GRA, a customer may freely switch at any time to an EGS. If the customer returns from the EGS, it must pay a GRA only if it subsequently switches from PPL Electric to an EGS within twelve months of returning to PPL Electric. Once the one-year anniversary date on POLR service is met, the customer is again free to switch to an EGS, without paying a GRA. (Tr. 88-89).

As a result of these differences, PPL Electric's GRA does not violate the anti-discrimination provisions of Section 2807(e)(4) of the Act with respect to Small C&I customers. New customers and existing customers are treated the same under PPL Electric's GRA. In either case, it is only when a customer leaves POLR service, and then subsequently returns to POLR service for a short term (*i.e.*, less than 12 months) that the GRA applies.

The GRA likewise is not discriminatory to Large C&I customers under PPL Electric's revised plan. Because the Revised CBP plan makes real time hourly service the default service, any new customer, or any existing customer receiving service from an EGS, will be placed on hourly default service if they seek POLR service in 2010. (PPL Electric St. 1-R, p. 14).

For the reasons explained in the ALJ's R.D., and as set forth above, RESA et al.'s Exception 4 should be denied.

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[7] Moreover, as the Commission specifically noted in *Duquesne POLR III*, its decision on Duquesne's switching rules was not to be interpreted as precedent for disallowance of all rules restricting unreasonable switching (PPL Electric R.B., p. 28).

I. The ALJ Properly Rejected Constellation's Proposal That Defaulting Parties Receive Payment For a Forward Income Stream (Constellation Exception 1).

Constellation objects to the ALJ's approval of PPL Electric's proposal, contained in its POLR Supply Master Agreement ("POLR SMA"), that the termination payment, in the event of a default, is a "one-way" payment, *i.e.*, it calculates the amount to be paid by the defaulting party to the non-defaulting party (PPL Electric St. 2, Exh. JC-1, p. 25-26).[8] Constellation seeks to have the Commission approve a "two way" default provision, whereby a defaulting party can receive a payment for the future value of the contract without providing the contracted-for services.

PPL Electric previously has responded in detail to the arguments presented by Constellation (PPL Electric M.B., pp. 52-54; PPL Electric R.B., pp. 32-36). PPL Electric requests that the Commission review PPL Electric's briefs for the principal arguments in response to Constellation's contentions. Herein, PPL Electric will provide limited responses.

Constellation asserts that a two-way default provision should be adopted because a two way default provision was adopted in the Pennsylvania Power Company ("*Penn Power*") POLR proceeding (Constellation Exc., p.3). However, the Commission clearly indicated that its *Penn Power* decision is not controlling precedent. *Petition of Penn Power Company*, P-00052188, 2006 Pa. PUC LEXIS 56, *13. Moreover, there is no indication in the Commission's order that any party even focused upon, let alone challenged, the default payment provisions, and nothing in the Commission's order indicates that the Commission considered whether a defaulting party should be entitled to profits related to future services that will not be provided due to the default. The *Penn Power* decision is not controlling on this issue.

[8] The one exception to this default provision is that payments will be made, or reflected as a set off amount, for services provided by a defaulting party prior to breach.

Constellation continues to assert that a two way default provision is the "industry standard" (Constellation Exc., p.5). However, the record demonstrates this is simply not correct (PPL Electric R.B., pp. 32-33).

Constellation further seeks to defend its proposal on the basis that the buyer (PPL Electric) would never be obligated to pay more than the contracted-for price. However, in the event of a supplier default, PPL Electric's one way default provision already provides that protection. The only thing added by the two way default provision is an assurance that suppliers can receive the future value of their contract even when they default.

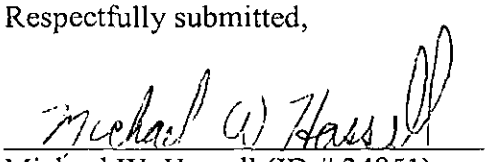
Finally, Constellation contends, in the alternative, that the decision whether to use a one way or two way default provision should be determined in the Commission's stakeholder proceeding to develop standardized SMA-RFP rules. However, those stakeholder proposals will not even be presented to the Commission until July 2007, and it is unknown when the stakeholder recommendations will be considered by the Commission. PPL Electric's first solicitations are planned for the Spring of 2007 under the Revised CBP, and therefore cannot await the results of that stakeholder process.

For the reasons explained in the R.D., PPL Electric's briefs and the arguments set forth above, Constellation's exception should be denied.

III. CONCLUSION

The ALJ's well-reasoned decision approving PPL Electric Revised CBP should be adopted in its entirety. The Exceptions of RESA et al., Dominion, PPLICA and Constellation should be denied.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing **Replies to Exceptions of PPL Electric Utilities Corporation** have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

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