

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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February 26, 2016

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

Re: Petition of Pennsylvania  
Power Company for Approval  
of its Long-Term Infrastructure  
Improvement Plan  
Docket No. P-2015-2508931

Dear Secretary Chiavetta:

Attached for electronic filing is the Office of Consumer Advocate's Answer in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Erin L. Gannon".

Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
E-Mail: EGannon@paoca.org

Attachment

cc: Office of Administrative Law Judge  
Office of Special Assistants  
Certificate of Service

\*217719

CERTIFICATE OF SERVICE

Petition of Pennsylvania Power Company for :  
Approval of its Long Term Infrastructure : Docket No. P-2015-2508931  
Improvement Plan :

I hereby certify that I have this day served a true copy of the following document, Office of Consumer Advocate's Answer, 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 26<sup>th</sup> day of February, 2016.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

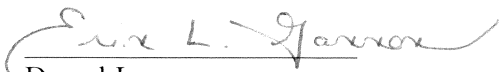
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Pennsylvania Power Company :  
for Approval of a Distribution System : Docket No. P-2015-2508931  
Improvement Charge :

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ANSWER OF THE OFFICE OF CONSUMER ADVOCATE  
TO THE  
PETITION OF PENNSYLVANIA POWER COMPANY

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I. INTRODUCTION

Pursuant to Section 5.61 of the Pennsylvania Code, 52 Pa. Code § 5.61, the Office of Consumer Advocate (OCA) provides the following Answer to the Petition of Pennsylvania Power Company (Penn Power or Company) for Approval of a Distribution System Improvement Charge (DSIC) for its electric operations. Through its Petition, Penn Power seeks permission to implement a surcharge of up to 5% on all customers under Section 1353 of the Public Utility Code, 66 Pa. C.S. § 1353. This surcharge would recover return and depreciation on certain plant placed in service between base rate filings. As set forth more fully below, the Company's Tariff Supplement attached to the Petition may be contrary to Pennsylvania statute, case law, and established Public Utility Commission policy. The Commission should deny Penn Power's Petition and proposed Tariff Supplement as filed. The OCA requests that the Commission refer the matter to the Office of Administrative Law Judge for development of an evidentiary record, pursuant to the OCA complaint filed at this docket against the Petition and Tariff Supplement.

## II. THE OCA'S ANSWER

This is a request by a utility to implement a DSIC under a new statute and the Commission's Final Implementation Order.<sup>1</sup> While the OCA continues to review Penn Power's filing, the OCA has identified the following preliminary concern with the proposed surcharge:

Penn Power proposes that the DSIC will not apply to customers receiving service under Rate Schedules GSDS and GT at voltage levels over 69,000 volts. Petition at 6; Penn Power St. 1 at 6. The Company bases this exclusion on its assertion that its Long Term Infrastructure Improvement Plan (LTIIIP) does not contain any infrastructure improvement projects for distribution facilities operating at transmission-level voltages and, therefore the DSIC rates during the term of the current LTIIIP will not include any additions to such plant.

The OCA submits, first, that it is not sufficient basis to exempt customers from the DSIC because the current LTIIIP does not include additions to the specific distribution facilities serving customers. Under this theory, application of the DSIC would be dictated by the specific projects funded by the DSIC (as determined by a particular 5-year LTIIIP), which is not consistent with Act 11. Rather, the Act requires all customers served by eligible categories of distribution facilities to contribute to the improvement of those facilities by paying a DSIC. Act 11 provides that the DSIC "shall be applied equally to all customer classes as a percentage of each customer's billed revenue." 66 Pa. C.S. § 1358(d)(1).

In its April 9, 2015 Order in Docket No. P-2012-2325034, wherein PPL Electric Utilities filed a Petition for Approval of a DSIC, the Commission determined that it was permissible for PPL to exempt certain customers taking service at transmission voltage rates from the DSIC. It stated:

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<sup>1</sup> Implementation of Act 11 of 2012, Docket No. M-2012-2293611, Order (Aug. 2, 2012) (Final Implementation Order).

After reviewing this record, we concur with the ALJ that PPL has failed to rebut PPLICA's evidence that the LP-5 class does not utilize the facilities repaired, improved or replaced through the DSIC, and that these costs are generally not otherwise allocated to that class. Since PPL has not rebutted this evidence, it has not met its burden of proof as to the justness and reasonableness of this rate as applied to LP-5 customers.

PPL Order at 66. Penn Power has not provided sufficient information to determine if the DSIC should apply to GT and Special Rule GSDS customers. For example, Penn Power follows the Commission's model tariff in identifying costs from Accounts 362, 364, 365, 366, 367 and 368 in its proposed DSIC. See Penn Power Exh. KMS-2. The filing does not indicate whether, in the Company's most recent cost of service study, the GT and GSDS customers (served at higher than 69,000 volts) were allocated costs for distribution plant that is recoverable through the Company's proposed DSIC.

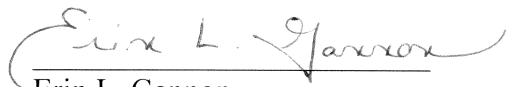
Second, Penn Power's currently approved tariff indicates that both the GT and Special Rule GSDS rate schedules are available to customers receiving service at less than 69,000 volts. Supplement 9 to Electric Pa. P.U.C. No. 36 at 62, 80. It is the OCA's understanding that customers receiving service above 69,000 volts are defined by the Company as "transmission" customers. The Company's filing does not explain the basis for distinguishing these customers from the other GSDS and GT customers for DSIC purposes, however. For example, does Penn Power's current LTIP include additions to plant that serves the other GSDS and GT customers?

The OCA submits that additional information is necessary for Penn Power to show that exemption for GSDS and GT customers receiving service at 69,000 volts is warranted, in the public interest and consistent with Act 11 and prior Commission Orders.

III. CONCLUSION

The surcharge proposed by Penn Power may be contrary to Pennsylvania case law and well-established principles of sound ratemaking and regulatory policy. The OCA respectfully requests that the Commission deny the Company's Petition as filed, suspend the proposed tariff and refer the matter to the Office of Administrative Law Judge for development of an evidentiary record, pursuant to the OCA complaint filed at this docket.

Respectfully submitted,



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Dated: February 26, 2016