

January 31, 2017

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Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Proceeding regarding the directives of the Commonwealth Court reversing and remanding the Order of Commission entered at Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period of June 1, 2013 through May 31, 2015 [P-2013-2389572]
Docket No. M-2016-2578051

Dear Secretary Chiavetta:

Pursuant to the Secretarial Letter,¹ The Dauphin County Industrial Development Authority (“DCIDA” or “Authority”) respectfully submits reply comments² in this remand proceeding.

Compensation for Excess Generation

“The Alternative Energy Act is focused on the electric utility’s purchase of excess electricity from customer-generators. The purpose of the Alternative Energy Act is to encourage growth and investment in renewable sources of energy.”³ The Alternative Energy Act achieves this goal by requiring that “[e]xcess generation from net-metered customer-generators shall receive full retail value for all energy produced on an annual basis.”⁴ The Commission promulgated a regulation which requires an EDC, such as PPL, to offer net-metering to customer-generators and to compensate customer-generators at the “full retail rate,” which is set at the EDC’s price to compare (“PTC”).⁵

¹ Secretarial Letter dated December 2, 2016 (Docket No. at M-2016-2578051) regarding compliance with the Commonwealth Court’s DCIDA opinion: *Petition of PPL Electric Utilities Corporation*, PUC Docket No. P-2013-2389572, PUC Opinion and Order entered September 11, 2014, reversed, *Dauphin County Industrial Development Authority v. Pennsylvania Public Utility Commission*, 123 A.3d 1124 (Pa.CmwltH 2015) (Commonwealth Court Docket No. 1814 C.D. 2014, Order entered September 9, 2015), *appeal denied*, 140 A.3d 14 (Pa. 2016).

² These comments are in addition to the issues discussed in the earlier letter dated December 22, 2016 from DCIDA, which requested action by the Commission (during the pendency of the remand proceeding) to protect the statutory rights of DCIDA and others.

³ *DCIDA*, 123 A.3d at 1131.

⁴ 73 P.S. § 1648.5.

⁵ 52 Pa. Code § 75.13(d), and renumbered as § 75.13(e).

The TOU design does not clearly state how customer-generators participating in the TOU program would be compensated for excess generation. The Secretarial Letter does not clearly indicate if (a) the customer-generator and selected EGS must negotiate the rate for excess generation or (b) the Commission will be establishing a specific formula to compute the amount to be paid for excess generation. The lack of certainty is highlighted by the comments.⁶ Certain comments⁷ suggest that rate for excess generation should be the actual hourly on-peak or off-peak TOU rates at the time the excess generation is delivered by the customer-generator. In contrast, PPL suggested⁸ that the rate for excess generation should be the yearly average of the price for on-peak and off-peak TOU rates.

Under the EDC contingency rate, the compensation formula for excess generation is unclear. The TOU design provides that, under the EDC contingency rate, net-metered customer-generators shall be reimbursed on a load-weighted basis. It is unclear how the “load” weighting will work, and if it is necessary.⁹ It is anticipated that weight will be given to the rate in effect when the excess generation was actually delivered – so that the customer-generator is compensated in a manner that accurately represents the value of the excess generation at that time it was delivered/generated by the customer-generator. But, nothing in the Secretarial Letter makes this clear. Moreover, the time period of this formula is not stated: it could be hourly, daily, monthly, quarterly or annually.

Compensation paid for excess generation must encourage investment in alternative energy resources. As explained above, the Alternative Energy Act is intended to encourage investment in renewable resources. The Act directs that customer-generators be paid the full retail rate” for excess generation. The operative question is whether the compensation paid for excess generation will facilitate the purpose of encouraging investment. Efforts to reduce payments below the “full retail price” are inconsistent with both the Alternative Energy Act and the Court’s directives in *DCIDA*, and should be rejected.

⁶ OSBA Comments dated January 9, 2017 at ¶¶ 2(a), 3(c) (wherein the OSBA seeks clarity on how averages for purchasing excess generation will be calculated).

⁷ PECO Comments dated January 9, 2017 at p. 7 (PECO understands the DCIDA Order to require that customer-generators on a TOU rate would receive payments from the EGS TOU for excess customer generation equal to the TOU rate); Duquesne Light Comments dated January 9, 2017 at 8 (which asks the question: “Why not use actuals instead of load-weighted values for payment?:).

⁸ PPL Comments dated January 9, 2017 at p. 17. The load-weighted average mentioned in the Secretarial Letter appears to be different than the price methodology used by PPL, which consists of the average of the prices of on-peak and off-peak hours for a year. *Id.*

⁹ *See, e.g.*, OSBA Comments dated January 9, 2017 at ¶¶ 2(a), 3(c). *See also* Duquesne Light Comments dated January 9, 2017 at 8 (which asks the question: Is load-weighting for net-metering even necessary?).

Need For Interim Relief

There is a need to remedy PPL's continuing violation of its statutory duty to offer TOU rates. No justification exists for continued denial of the statutory rights of customer-generators. Given that anticipated implementation schedule,¹⁰ the Commission should take action, as discussed in DCIDA's earlier letter,¹¹ to immediately restore the prior TOU price option in the service area of PPL. As explained in that letter, by returning to the status quo, the Commission will be addressing the problems at hand: The immediate protection of the customer's statutory rights, the need for a remand proceeding, and PPL's continuing failure to comply with its statutory duty.

Conclusion

Any TOU design must be a viable way to bring the full benefit of TOU rates to customer-generators. The TOU design, as written in the Secretarial Letter and discussed in the initial comments, leaves many unanswered questions and should not be adopted by the Commission.

The Commission should focus on resolving PPL's continuing violation of its statutory duty to offer TOU rates (as opposed to creating a state-wide design for TOU rates). Refocusing this proceeding on PPL would allow PPL's customers – who are being denied access to TOU rates - a fair and full opportunity to be heard on the issues currently impacting them.

Thank you for your time and attention to these important issues.

Very truly yours,



Carl R. Shultz

cc: Certificate of Service
Bohdan R. Pankiw, Chief Counsel
James A. Mullins
Joel H. Cheskis, Administrative Law Judge

¹⁰ The Secretarial Letter contemplates that the TOU design, if adopted, would begin on June 1st. Secretarial Letter at 3 ("The lowest off-peak price bidder will win the vendor contract for the ensuing 12-month period beginning June 1st."). The comment period will close on January 31, 2017. Secretarial Letter at 4 ("Comments must be filed no later than Monday, January 9, 2017. Replies to comments shall be filed by Tuesday, January 31, 2017."). "The Commission will review the Comments and Replies and take next steps as appropriate." Secretarial Letter at 4. Even if the TOU design is approved in 2017, time will be needed to implement the auction and the related procedures. So, implementation is not likely to commence before the start of PJM Delivery Year 2018 (from June 1, 2017 to May 31, 2018), and is more likely to begin for PJM Delivery Year 2017 (i.e., from June 1, 2017 to May 31, 2018).

¹¹ See footnote 2, supra.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of The Dauphin County Industrial Development Authority's Reply Comments upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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