

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation for a Waiver of the Distribution System improvement Charge Cap of 5% of Billed Revenues	:	P-2024-3048732
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	:	
Michael L. Sperazza	:	C-2024-3049979
Paula Mercuri	:	C-2024-3050027
Angela Pesola	:	C-2024-3050205
John Theisen	:	C-2024-3050443
Sharon Frankenfield	:	C-2024-3050646
John Gadomski	:	C-2024-3050661
	:	
	:	
	:	
v.	:	
	:	
	:	
PPL Electric Utilities Corporation	:	

RECOMMENDED DECISION

Before
Arlene Ashton
Administrative Law Judge

INTRODUCTION

This Decision recommends that the Commission deny PPL Electric Utilities Corporation’s request to waive its Distribution System Improvement Charge cap and increase its Distribution System Improvement Charge cap to 9.0% of billed distribution revenue. PPL Electric Utilities Corporation’s DSIC is presently capped at the statutory limit of 5% of billed distribution revenue.

HISTORY OF THE PROCEEDING

On April 26, 2024, PPL Electric Utilities Corporation (PPL Electric or Company) filed a Petition (Petition) requesting that the Pennsylvania Public Utility Commission (Commission) waive the Company's Distribution System Improvement Charge (DSIC) cap of 5% of billed distribution revenues and increase the maximum allowable DSIC from 5% to 9% for bills rendered on or after January 1, 2025.

On May 16, 2024, the Bureau of Investigation and Enforcement (I&E) and the Office of Consumer Advocate (OCA) filed Answers to the Petition. On May 16, 2024, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention, Public Statement, and Notice of Appearance.

A telephonic prehearing conference was held on June 3, 2024, before Administrative Law Judge (ALJ) Arlene Ashton during which the procedural schedule and dates for evidentiary hearings were discussed and later memorialized in the Prehearing Order dated June 18, 2024.¹

On July 10, 2024, the PP&L Industrial Customer Alliance (PPLICA) filed a Petition to Intervene.

From July 5-19, 2024, six individuals filed separate Formal Complaints in response to PPL Electric's Petition: Michael L. Sperazza, Paula Mercuri, Angela Pesola, John Theisen, Sharon Frankenfield, and John Gadomski.

¹ An Errata to the Prehearing Order was issued on June 18, 2024 correcting the due date for Reply Briefs to October 15, 2024.

On July 25, 2024, an Order was issued granting PPLICA's Petition to Intervene and consolidating the Formal Complaints filed by Mr. Sperazza, Ms. Mercuri, and Ms. Pesola with the instant proceeding. On August 28, 2024, an Order was issued consolidating the Formal Complaints filed by Mr. Theisen, Ms. Frankenfield, and Mr. Gadomski with the instant proceeding.

A telephonic evidentiary hearing scheduled for September 4, 2024 was held during which the testimony and exhibits listed on Appendix A (attached to this Recommended Decision) were admitted into the record. All cross-examination was waived by the parties and the telephonic evidentiary hearing scheduled for September 5, 2024 was cancelled.

Consistent with the Prehearing Order, on October 1, 2024, PPL Electric, I&E, OCA, and OSBA filed Main Briefs. Likewise, Reply Briefs were filed by PPL Electric, I&E, OCA, and PPLICA on October 15, 2024. OSBA filed a letter indicating that it would not be submitting a Reply Brief.

On October 18, 2024, PPL Electric filed a Motion to Strike the Reply Brief filed by PPLICA. The Motion to Strike was accompanied by a Notice to Plead advising PPLICA that an Answer was due within 20 days of the date of service i.e., November 7, 2024. PPLICA failed to file an Answer to the Motion. By Order dated November 14 2024, the Motion to Strike was denied.

The record in this proceeding consists of the transcripts of the prehearing conference and the evidentiary hearing, and the statements and exhibits sponsored by the parties during the September 4, 2024 hearing. The record closed on October 15, 2024 after I received Reply Briefs or notice of the intent not to file a Reply Brief from all the parties.

FINDINGS OF FACT

1. PPL Electric is a public utility that provides electric distribution, transmission and provider of last resort services to approximately 1.5 million customers in eastern and central Pennsylvania. Petition at 7.

2. PPL Electric owns and operates approximately 28,144 miles of overhead distribution lines, 8,017 miles of underground distribution lines and 368 substations. Petition at 7.

3. PPL Electric's DSIC was approved by the Commission on May 23, 2013, when its cap was set at the statutory limit of 5% of billed distribution revenues. OCA St. No. 1 at 3.

4. PPL Electric has operated with a 5% DSIC cap since July 2013. OCA St. No. 1 at 7.

5. PPL Electric's third long-term infrastructure improvement plan (Third LTIIIP) was approved by the Commission on December 22, 2022 for the period of 2023-2027. OCA St. No. 1 at 4.

6. PPL Electric filed a Petition to Modify its Third LTIIIP on January 17, 2024 which was approved by the Commission on July 11, 2024. OCA St. No. 1 at 4.

7. On April 26, 2024, PPL Electric filed a Petition requesting that the Commission waive the Company's current DSIC cap of 5% of billed distribution revenue and increase the maximum allowable DSIC charge to 9% of billed distribution revenue. PPL Electric Exh. 1.

8. PPL Electric requested the DSIC cap waiver and increase to address the reliability challenges on its system. PPL Electric St. No. 1-R at 2.

9. The most important factor impacting PPL Electric system reliability is more frequent and severe weather events. PPL Electric St. No. 1 at 8.

10. Since filing the Petition, PPL Electric's reliability performance has deteriorated, causing it to miss certain reliability benchmarks. PPL Electric St. No. 1 at 7.

11. On July 11, 2024, the Commission released the results of its Management and Operations Audit of PPL Electric at Docket No. D-2023-3039488, which included 19 recommendations for improving the Company's operations. PPL Electric St. No. 1-R at 7.

12. PPL Electric accepted the Commission's recommendations and developed a plan for addressing them consisting of additional reliability programs or acceleration of existing mitigation programs and/or projects for reliability or other investments to minimize outages associated with increased storm activity. PPL Electric St. No. 1-R at 8.

13. PPL Electric's current annual distribution revenue is approximately \$1.136 billion; the existing 5% DSIC cap allows the Company to collect approximately \$56.8 million in DSIC revenue annually. I&E St. 1 at 16.

14. The DSIC cap increase from 5% to 9% as requested by the Company is estimated to recover approximately \$45 million per year more than the existing 5% cap. PPL Electric St. No. 2-R at 9.

15. For a residential customer using 1,000 kilowatt hours (kWh) per month, the current monthly cost of the Company's 5% DSIC is approximately \$2.96 per month. PPL Electric St. No. 2 at 6.

16. PPL Electric estimates that for a residential customer using 1,000 kWh per month, increasing the maximum DSIC rate to 9% will increase the DSIC cost by approximately \$2.37 raising the DSIC charge from \$2.96 to \$5.33 per month. PPL Electric St. No. 2 at 6.

17. PPL Electric estimates that for a Rate LP-4 customer using 200,000 kWh, 1,000 kW, and ICAP demand of 1,000 kW, increasing the maximum DSIC rate to 9% will result in a distribution bill increase of 3.8%. PPL Electric St. No. 2-R at 20-21.

18. PPL Electric estimates that for a Rate GS-1 customer using 1,500 kWh, increasing the maximum DSIC rate to 9% will result in a total bill increase of \$1.14 per month or a total bill increase of 0.6%. PPL Electric St. No. 2-R at 21.

19. PPL Electric estimates that a Rate GS-3 customer using 10,000 kWh and 40 kW, increasing the maximum DSIC rate to 9% will cause a \$9.51 per month increase or a total bill increase of 0.7%. PPL Electric St. No. 2-R at 21.

20. PPL Electric's most recent base rate case was filed on March 31, 2015 at Docket No. R-2015-2469275; its new rates became effective on January 1, 2016. I&E St. No. 1 at 16.

21. PPL Electric did not reach the 5% DSIC cap until April 2021. OCA St. No. 1 at 4.

22. The Company's rate of return has not been below 8.12% since its last rate case in 2015. OCA St. No. 1 at Exh. JDM-5 (PPL Electric's Response to OCA-I-14).

23. The Company's current class cost of service has not been reviewed by the Commission since PPL Electric's last base rate filing in 2015. PPL Electric St. No. 2-R at 11-12.

24. PPL Electric does not expect to file a distribution base rate case before 2026, with or without approval of a DSIC cap increase. OCA St. No. 1 at Exh. JDM-2 (PPL Electric's Response to OCA-I-9).

25. PPL Electric will comply with its modified Third LTIIP regardless of whether the DSIC cap is waived. OCA St. No. 1 at Exh. JDM-1 (PPL Electric's Response to OCA-I-9).

BURDEN OF PROOF AND LEGAL STANDARDS

Under the Pennsylvania Public Utility Code (Code), in any proceeding involving a utility's existing or proposed rates, the burden of proof is on the utility.² This is explicitly stated in Section 315(a) of the Code, which provides:

Reasonableness of rates – In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceedings upon the complaint involving any proposed increase in

² See 66 Pa.C.S. §§ 315(a), 1301; *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981) (*Brockway*); *Lower Frederick Twp. v. Pa. Pub. Util. Comm'n*, 409 A.2d 505 (Pa. Cmwlth. 1980) (*Lower Frederick*).

rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.^[3]

As the Commonwealth Court has stated: Section 315(a) of the Public Utility Code⁴ places the burden of proving the justness and reasonableness of a proposed rate hike “squarely on the utility.” It is well-established that the evidence adduced by a utility to meet this burden must be substantial.⁵

The party with the burden of proof has a formidable task to show that the Commission may lawfully adopt its position, which cannot be met by merely presenting a *prima facie* case. Rather, the party with the burden of proof must establish that “the elements of that cause of action are proven with substantial evidence which enables the party asserting the cause of action to prevail, precluding all reasonable inferences to the contrary.”⁶ Furthermore, the “degree of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of the evidence.”⁷ Also, the evidence must be substantial and legally credible and cannot be mere “suspicion” or a “scintilla” of evidence.⁸ Additionally, under Section 1301 of the Code, a public utility’s rates must be just and reasonable and in conformity with the regulations or orders of the Commission.⁹ Thus, a public utility has an affirmative burden to establish the justness and reasonableness of its rate request.

Act 11 of 2012, effective April 16, 2012 (Act 11) amended Chapters 3, 13 and 33 of the Code.¹⁰ Act 11 establishes a mechanism that upon Commission

³ 66 Pa.C.S. § 315(a).

⁴ *Id.*

⁵ *Lower Frederick* at 507 (citations omitted); *see also Brockway*.

⁶ *Burleson v. Pa. Pub. Util. Comm’n*, 461 A.2d 1234, 1236 (Pa. 1983).

⁷ *Lansberry v. Pa. Pub. Util. Comm’n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

⁸ *Id.*

⁹ 66 Pa.C.S. § 1301(a).

¹⁰ 66 Pa.C.S. chs. 3, 13, 22.

approval, allows certain utilities, including electric distribution companies such as PPL Electric to recover reasonable and prudent costs incurred to repair, improve, or replace certain eligible property that is part of the utility’s distribution system outside of a rate case.¹¹ The mechanism is known as a distribution system improvement charge and is commonly referred to as a “DSIC.” Section 1353(a) of the Code provides as follows:

(a) Authority—Except as provided under this subchapter, after January 1, 2013, a utility may petition the commission, or the commission, after notice and hearing may approve the establishment of a distribution system improvement charge to provide for the timely recovery of the reasonable and prudent costs incurred to repair, improve or replace eligible property in order to ensure and maintain adequate, efficient, safe, reliable and reasonable service.^[12]

As a precondition to the implementation of a DSIC, Act 11 requires that a utility must file a long-term infrastructure improvement plan with the Commission and specifies the information to be included in the LTIIP.¹³ Not all property may be included in a utility’s DSIC. Section 1351 of the Code sets forth the definitions for “eligible property” for each utility type, including electric utilities.¹⁴

Section 1358 of the Code provides various customer protections.¹⁵ Section 1358(a)(1), limits or caps the total amount of billed distribution revenues that can be collected at 5%.¹⁶ The DSIC for electric distribution companies has been capped at 5% of billed revenue since it became effective in 2012.¹⁷

¹¹ See, 66 Pa.C.S. §§ 1350-1360.

¹² 66 Pa.C.S. § 1353(a).

¹³ 66 Pa.C.S. § 1352.

¹⁴ 66 Pa.C.S. § 1351.

¹⁵ 66 Pa.C.S. § 1358.

¹⁶ 66 Pa.C.S. § 1358(a)(1).

¹⁷ *Id.*

Under certain circumstances, Section 1358(b) requires that a DSIC rate be reset to zero. After a reset, only fixed costs of new eligible property not previously reflected in base rates may be reflected in a quarterly DSIC update. The DSIC rate is reset to zero if new base rates are established.¹⁸ For investor-owned utilities, reset is also required if, in any quarter, data filed with the Commission in the utility's most recent annual or quarterly earnings report show that the utility will earn a rate of return that would exceed the allowable rate of return used to calculate its fixed costs under the DSIC.¹⁹

On August 2, 2012, the Commission entered its Order in *Implementation of Act 11 of 2012*, Docket Number M-2012-2293611 (*Final Implementation Order*), which established procedures and guidelines necessary to implement Act 11.

Section 1358(c) of the Code provides that, absent an express limitation on existing ratemaking authority, the Commission retains its full and existing ratemaking authority.²⁰ Accordingly, the Commission has the full power and authority under the Code to examine, investigate, and audit any and all aspects regarding the data, operation, and implementation of the DSIC to the same extent that it would review a non-DSIC rate matter. Indeed, Section 1301 of the Code requires that in exercising its ratemaking authority, the Commission determine “[e]very rate made, demanded, or received by any public utility ... shall be just and reasonable, and in conformity with regulations or orders of the commission.”²¹ This mandate applies to the DSIC rate in this proceeding. Thus, in this proceeding PPL Electric has the burden of producing evidence to support its argument that (1) a waiver of the 5% statutory DSIC cap is necessary “to ensure and

¹⁸ 66 Pa.C.S. § 1358(b)(1).

¹⁹ 66 Pa.C.S. § 1358(b)(3).

²⁰ 66 Pa.C.S. § 1358(c).

²¹ 66 Pa.C.S. § 1301.

maintain adequate, efficient, safe, reliable and reasonable service”²² and (2) that a DSIC rate up to 9% of billed distribution revenues is “just and reasonable.”²³ Furthermore, this burden must be satisfied with substantial evidence that outweighs the substantial evidence produced by the opposing parties.

V. POSITIONS OF THE PARTIES

A. The Company’s Position

PPL Electric is a public utility subject to the regulatory jurisdiction of the Commission. PPL Electric provides electric distribution, transmission and provider of last resort services to approximately 1.5 million customers in eastern and central Pennsylvania. PPL Electric owns and operates approximately 28,144 miles of overhead distribution lines, 8,017 miles of underground distribution lines and 368 substations.²⁴

PPL Electric has had an approved DSIC mechanism for over a decade. In December 2022, the Commission approved PPL Electric’s Petition for Approval of its LTIP for the period January 1, 2023 through December 2027.²⁵ In July 2024, the Commission approved certain modifications to the Company’s LTIP, including an

²² 66 Pa.C.S. § 1358(a)(1); *see also* I&E MB at 4.

²³ 66 Pa.C.S. § 315(a); *see also* I&E MB at 4.

²⁴ Petition at 7.

²⁵ *See Petition of PPL Elec. Utils. Corp. for Approval of its Third Long-Term Infrastructure Improvement Plan*, Docket No. P-2022-3034972 (Order entered Dec. 22, 2022). PPL Electric’s LTIP covers the years 2023 through 2027. *Id.*

increase in the overall LTIIIP budget.²⁶ The Company’s DSIC rate has been at the 5% cap from the first quarter of 2023 to present.²⁷

PPL Electric maintains that since the Company’s DSIC was first implemented in March 2013, it has utilized the DSIC to accelerate its repair and replacement of aging infrastructure. PPL Electric indicates that its investments have been focused on safety and reliability of service, including automation and reliability improvement programs, underground, overhead infrastructure and substation infrastructure and its system’s pole plant.²⁸

The Company maintains that its reliability performance has been deteriorating, largely due to more frequent and severe weather events and aging infrastructure. The Company asserts that it must accelerate its investments in both LTIIIP and non-LTIIIP projects to “harden” its distribution system and improve electric service reliability and that rising supply costs present a significant hurdle to pursuing and accelerating those investments within existing budgets.²⁹

PPL Electric contends that its ability to respond to these reliability challenges and price pressures is unduly constrained by the 5% cap on the DSIC rate.³⁰ The Company asserts that to “optimize” the potential of the DSIC, the statutory 5% cap should be waived and its DSIC rate raised to 9% because the increase is needed to

²⁶ See *Petition of PPL Elec. Utils. Corp. for Approval of Major Modifications to its Existing Long-Term Infrastructure Improvement Plan*, Docket No. P-2022-3034972 (Order entered July 11, 2024). Unless otherwise noted, all references herein to the Company’s LTIIIP will refer to the LTIIIP, as modified. The modifications approved by the Commission did not extend the duration of PPL Electric’s LTIIIP.

²⁷ PPL Electric MB at 6.

²⁸ Petition at 11.

²⁹ PPL Electric MB at 6.

³⁰ PPL Electric MB at 5-6.

improve and maintain service reliability to its customers.³¹ Furthermore, the Company argues the DSIC has helped reduce the frequency of its base rate case filings, thereby reducing the time and expenses parties and the Commission must dedicate to those proceedings.³² PPL Electric affirms that its last base rate case was filed in 2015.³³

To demonstrate the deterioration in its reliability performance in recent years, PPL Electric observes that it missed the Commission’s System Average Interruption Duration Index (SAIDI) benchmark for nine quarters since 2021 and failed to meet the Commission’s Customer Average Interruption Duration Index (CAIDI) benchmark every quarter since 2020.³⁴

The Company notes that system reliability issues continued after the Petition was filed in April 2024. PPL indicates that due to this continuing downward trend, it revised the system performance estimates supplied at the time of application downward. Based on actual performance through August 7, 2024, the Company indicates that it anticipates that it will not achieve Commission-established 2024 benchmarks for SAIDI, CAIDI, and System Average Interruption Frequency Index (SAIFI). PPL Electric also indicates that its most recent estimates reflect a doubling of its projection for Customers Experiencing Multiple Interruptions (CEMI) performance projection from that shown in its original estimates from 4% to 8%.³⁵

PPL Electric also indicates that it currently exceeds the 5% cap on a “regular basis.”³⁶ The Company points to three key factors driving the decline in reliability: sever weather events, aging infrastructure and rising supply costs.

³¹ PPL Electric MB at 10.

³² PPL Electric MB at 8, 10.

³³ Docket No. R-2015-2469275. *See* PPL Electric Exh. 1 at 11.

³⁴ PPL Electric MB at 5.

³⁵ PPL Electric MB at 13.

³⁶ PPL Electric MB at 14.

PPL Electric contends that its service territory is being particularly impacted by more frequent and severe weather events.³⁷ The Company contends that cost of materials is also an important factor, noting that it is forced to “absorb these increased costs within its existing budgets for projects that are designed to improve service reliability.”³⁸

PPL Electric asserts that the DSIC cap waiver will help facilitate the acceleration of these circuit hardening projects and put the Company in a much better position to implement the recommendations from the Commission’s Management and Operations Audit.³⁹ PPL Electric also submits that approval of its Petition would also provide funding for PPL Electric to pursue projects not in the Company’s LTIP which will improve the reliability and customer experience, such as additional vegetation management, installation of grid modernization devices, new substations, batteries, and 3-phase tie lines.⁴⁰

In support of its request, the Company highlighted recommendations made in a recent Management and Operations Audit which urged PPL to “[i]mprove SAIDI and CAIDI performance to consistently achieve the minimum thresholds set by the Commission benchmarks and standards on reliability; and [m]odify or expand existing

³⁷ PPL Electric MB at 13.

³⁸ PPL Electric MB at 14.

³⁹ PPL Electric MB at 16. According to PPL, under its implementation plan, the Company will [use revenues generated by the DSIC increase to] expand and increase programs to address and eliminate CEMI10+ and accelerate circuit hardening projects, including: an approximately 1.5 mile reconductor from a section running through the woods to Hendrix cable along the road, additional 3-phase ties built on radial sections, reconductoring and installation of stronger poles in areas that see high quantities of vegetation related outages, and installation and upgrading of sectionalizing devices to allow for additional remote restoration capabilities have been added to the Company’s business plan.

⁴⁰ PPL Electric MB 15.

reliability programs to eliminate CEMI10+ and set goals for reducing CEMI4.”⁴¹ The Company indicates that it accepted and created a plan for addressing the Commission’s recommendations and observes that the DSIC cap waiver will “put the Company in a much better position to implement the recommendations from the Commission’s Management and Operations Audit.”⁴²

The Company indicates that an increase in the DSIC cap to 9% will have a minimal impact on customers’ bills. To demonstrate the impact of the requested increase, PPL Electric indicates that the current monthly cost of the DSIC at the maximum surcharge rate of 5% for a residential customer using 1,000 kWh per month is approximately \$2.96 per month. The Company estimates that increasing the maximum DSIC rate to 9%, will increase such a customer’s DSIC by approximately \$2.37 per month to \$5.33. Turning to commercial and industrial customers, PPL Electric calculated that the bill impact of a DSIC increase to 9% would be small, estimating that a Rate GS-1 customer using 1,500 kWh would see a \$1.14/month increase, and a Rate GS-3 customer using 10,000 kWh and 40 kW would see a \$9.51/month increase or a total bill increase of 0.7%⁴³

The Company also asserts that a waiver of the DSIC cap supports the theory of gradualism in that customers may see an increase up to 9% over time and that while the requested DSIC increase will increase revenues by \$45 million per year, this is “a far cry from the approximately \$133 million to \$502 million base rate increases requested by PPL Electric’s peer utilities in 2024.”⁴⁴

⁴¹ PPL Electric MB at 16.

⁴² PPL Electric MB at 11.

⁴³ PPL Electric MB at 8.

⁴⁴ PPL Electric MB at 22.

As further support for its position, PPL Electric asserts that its customers would be more negatively impacted by a base distribution rate case because in a rate case, “the Company would seek to recover all costs and not just those related to the LTIP.”⁴⁵

The Company emphasizes that it is also important to recognize that while an increase in the DSIC cap results in a higher cap on *revenues* under Section 1358(a)(1) of the Public Utility Code; it does not increase Section 1358(b)(3)’s cap on *earnings* at which point the DSIC would reset to zero. PPL Electric underscores that under its proposal, the DSIC would still reset to zero “if in any quarter, data filed with the commission in” PPL Electric’s “most recent annual or quarterly earnings report show that the utility will earn a rate of return that would exceed the allowable rate of return used to calculate its fixed costs under the distribution system improvement charge.”⁴⁶ On this basis, the Company contends, approval of the DSIC cap waiver and increase would be more effective and less burdensome (on both the Commission, stakeholders, and customers) than a base rate case.

Responding to criticism that the term of the waiver request is open ended, PPL Electric indicated that it would be amenable to a specified period of either the duration of the Company’s Third LTIP or the effective date of new distribution rates resulting from a distribution base rate case, whichever were to occur first.⁴⁷ Additionally, while arguing that a 9% increase in the DSIC cap is warranted, the Company acknowledges the possibility that the Commission could award a lesser DSIC increase and cites several cases in which “the Commission has demonstrated its willingness to grant an increase in the DSIC cap to as high as 7.5% . . . when it has determined that such

⁴⁵ PPL Electric MB at 26.

⁴⁶ PPL Electric MB at 22.

⁴⁷ PPL Electric MB, p. 12. The Company’s LTIP is applicable through December 31, 2027.

an increase would still help the utilities meaningfully respond to safety and reliability challenges.”⁴⁸

B. I&E’s Position

I&E argues that PPL Electric’s request for a waiver of the DSIC cap should be denied because the Company failed to meet its burden of proving that a waiver of the 5% DSIC cap is necessary to ensure that it will be able to provide and maintain safe and reliable service to its customers.⁴⁹

I&E asserts that this is eminently clear from the admission by the Company’s own witness that a waiver of its DSIC cap is not necessary to provide and

⁴⁸ PPL Electric MB, p. 28 (citing *Pa. PUC v. Aqua Pa., Inc.*, Docket No. R-2008-2079310 (Order and Opinion entered July 23, 2009) (*Aqua*); *Petition of Pa.-Am. Water Co. for Approval to Implement a Tariff Supplement to Tariff Water-PA P.U.C. No. 4 Revising the Distrib. Sys. Improvement Charge*, Docket No. P-00062241 (Opinion and Order entered Aug. 14, 2007) (*PAWC 2007*); *Petition of Pa. Power Co. for a Waiver of the Distrib. Sys. Improvement Charge Cap of 5% of Billed Distrib. Rate Revenue and Approval to Increase the Maximum Allowable Distrib. Sys. Improvement Charge Cap to 11.81%*, Docket No. P-2019-3012628 (Recommended Decision issued Feb. 11, 2020), *adopted without modification* (Order entered Mar. 12, 2020) (*Penn Power*); *Petition of Phila. Gas Works for Waiver of Provisions of Act 11 to Increase the Distrib. Sys. Improvement Charge CAP and to Permit Levelization of DSIC Charges*, Docket No. P-2015-2501500 (Opinion and Order entered Jan. 28, 2016), *reconsideration granted* (Opinion and Order entered July 6, 2016) (*PGW Waiver*); *Petition of UGI Central Penn Gas, Inc. for a Waiver of the Distrib. Sys. Improvement Charge Cap of 5% of Billed Distrib. Revenues and Approval to Increase the Maximum Allowable DSIC to 10% of Billed Distrib. Revenues*, Docket No. P-2016-2537609 (Opinion and Order entered May 10, 2017) (Opinion and Order entered Sept. 21, 2017) (*UGI CPG Waiver*); *Petition of UGI Penn Nat. Gas, Inc. for a Waiver of the Distrib. Sys. Improvement Charge Cap of 5% of Billed Distrib. Revenues and Approval to Increase the Maximum Allowable DSIC to 10% of Billed Distrib. Revenues*, Docket No. P-2016-2537594 (Opinion and Order entered May 10, 2017)).

⁴⁹ I&E MB at 5.

maintain safe and reliable service.⁵⁰ I&E points to the testimony of its witness, Joseph Kubas and OCA witness Jerome Mierzwa who both concluded that “there is no indication that the Company will not be able to continue to provide safe and reliable service to customers if the requested DSIC increase is not approved or that LTIIIP investments will not be made if the waiver is not granted.”⁵¹

I&E’s position in this case rests on the fundamental understanding shared by all parties that under the Code, the Company could achieve its stated goals through two alternative financing mechanisms i.e., a base rate increase or a DSIC waiver and increase. I&E contends that the key distinctions between the mechanisms are: (a) the scope of review each filing commands; and (b) the intended purpose of each mechanism.

PPL Electric does not dispute that a base rate increase filing commands a greater level of scrutiny than a DSIC filing; therefore, I&E’s argument rests primarily on its analysis of the purpose of each financing alternative. I&E asserts that “[s]ince the DSIC’s inception, the Commission has stated that the DSIC is not a substitute for base rate filings.”⁵²

I&E observes that in its 1996 decision establishing the DSIC for water utilities, the Commission recognized the distinction between these mechanisms and emphasized that the statutory 5% DSIC cap serves as an important guardrail ensuring that the DSIC mechanism is not used as a substitute for a base rate filing. In the words of the Commission:

[T]he provision of a 5% of billed revenues cap on the maximum amount of any DSIC insures that the surcharges

⁵⁰ I&E MB at 5, OCA Exh. JDM-2; OCA Exh. JDM-1SR.

⁵¹ I&E St. No. 1, p. 8.

⁵² I&E MB at 6, 10 (citing *Petition of Pa.-Am. Water Co. for Approval to Implement a Tariff Supplement Establishing a Distrib. Sys. Improvement Charge*, Docket No. P-00961031, p. 15 (Order entered Aug. 26, 1996) (*PAWC 1996*)).

mechanism will not evade the Section 1308 base rate process and its intensive top-to-bottom review of all company revenue, expense, rate base and return claims . . . In other words, the 5% cap will insure that the surcharge will not allow the company to avoid a base rate review of eligible property in perpetuity.⁵³

Additionally, I&E cites a 2012 Commission Order that examined and specifically discussed the rationale for the statutory link between DSIC filings and base rate filings found in Section 1353(b)(4) of the Code. The statement provides as follows:

The DSIC filing must also include certification that a Section 1308(d) base rate case has been filed within the past 5 years. *See* 66 Pa. C.S. § 1353(b)(4). This ensures that a full presentation of the utility's current revenues, expenses, rate base, and rate of return has been provided to the Commission and the public for review, potential challenge, and settlement or adjudication. If no rate base case has been filed within five years prior to the date the DSIC petition is filed, the utility must file a Section 1308(d) base rate case to become DSIC eligible. *See* 66 Pa. C.S. § 1353(b)(5). These provisions ensure that the DSIC process is not used to avoid the comprehensive financial review that takes place in the context of a base rate case.^[54]

While acknowledging that there is no statutory requirement that a utility must file a base rate case prior to obtaining a DSIC cap waiver and no statutory or regulatory standard that dictates when a utility must file for a rate increase, I&E strenuously argues that the recency of a utility's last base rate case is a factor worth considering when assessing whether a utility's DSIC cap should be waived. In support of its argument, I&E points to a 2018 Commission decision that rejected a request by Newtown Artesian Water Company (NAWC) to increase its DSIC Cap from 5% to 7.5%.

⁵³ *PAWC 1996*.

⁵⁴ I&E MB at 10 (citing *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 at 12 (Tentative Implementation Order entered May 11, 2012) (*Tentative Implementation Order*)).

In that case, NAWC had not filed a base rate case in six years. I&E points out that in that case, the Commission underscored the importance of regular filing of base rate cases and clearly articulated its view that DSIC cap waivers should not be allowed to lengthen the interval between base rate cases.⁵⁵

We are not persuaded that NAWC is entitled to a DSIC cap increase simply because it will encounter a shortfall if the cap is not increased. We agree with the ALJ that NAWC **has the option to file a base rate case to recover the under-recovery but has decided not to do so.** NAWC argues that increasing the cap will allow it to further delay the filing of a base rate case until 2021 or ten years after its last filing. We are persuaded by the OCA's argument that **lengthening the interval between rate cases by waiving the DSIC cap is not consistent with our past policy or the intent of the statutory cap waiver provision.**⁵⁶

I&E also observes that in its ruling, the Commission distinguished NAWC's request from other cases in which a waiver and increase to 7.5% had been granted based on the other utilities' filing of base rate cases "regularly and in a timely manner."⁵⁷

Observing that PPL Electric's most recent base rate case was filed over nine years ago on March 31, 2015, I&E argues that its request for a DSIC waiver and increase is "driven by the Company's failure to file a base rate case."⁵⁸ I&E asserts that there is nothing preventing PPL Electric from filing a base rate case; and emphasizes that it was the Company's affirmative choice to try to obtain additional funding through the instant proceeding rather than a base rate case. I&E strenuously argues that "[t]he DSIC was intended to provide recovery of allowable system improvements between base rate

⁵⁵ I&E MB at 10-11.

⁵⁶ *Pa. PUC v. Newtown Artesian Water Co.*, Docket No. R-2017-2624240 at 20 (Opinion and Order on Remand entered July 12, 2018) (NAWC) (emphasis added).

⁵⁷ I&E MB, p. 11.

⁵⁸ I&E MB, p. 12.

filings . . . it was not intended to replace base rate proceedings or circumvent base rate case scrutiny.”⁵⁹

I&E rejects PPL Electric’s effort to distinguish its request from the NAWC case because PPL Electric has been meeting its overall LTIP project completions and accelerating them, has exceeded the DSIC cap, and has base rates designed based on a Fully Projected Future Test Year (FPFTY).⁶⁰ I&E points out that PPL Electric is in a much stronger financial position than NAWC at the time of its waiver request, noting that while the Company’s DSIC spending may have exceeded the 5% cap for 14 quarters, its earnings made it ineligible to charge a DSIC for seven of those quarters. I&E does not dispute that PPL Electric’s base rates are based on a FPFTY; however, I&E counters that the FPFTY in the Company’s last base rate proceeding ended on December 31, 2016, almost 8 years ago.⁶¹

I&E adamantly rejects PPL Electric’s assertion that I&E considers the 5% cap “immovable”⁶² and distinguishes the Company’s request from those of other utilities approved by the Commission. Initially, I&E notes that in the *PGW Waiver* case, it supported PGW’s request to increase its DSIC. I&E highlights two key issues that distinguish PGW’s request from that of PPL Electric. First, I&E observes that as a municipal gas utility regulated by the Commission under a cash flow formula, PGW’s DSIC does not include a profit component, whereas PPL Electric is an investor-owned profit-driven utility. According to I&E, the second distinguishing factor is that PGW made the request after a Commission report found that “significant portion of PGW’s distribution system was comprised of at-risk main and PGW’s hazardous leak rates that

⁵⁹ I&E MB, p. 12.

⁶⁰ *Id.* at 11-12; *see* PPL Electric MB, p. 23-24.

⁶¹ I&E MB at 11-12.

⁶² PPL Electric St. No. 2-R, p. 2.

were more than double of any other regulated natural gas distribution company.”⁶³ I&E notes that despite the urgent need for pipeline replacement underlying PGW’s request, the Commission only permitted PGW to increase its DSIC to 7.5%.⁶⁴

Turning to Penn Power, I&E notes that it was a party to the settlement authorizing a waiver and increase to 7.5%. I&E observes that again, the waiver request was filed after a Commission determination that changes to Penn Power’s LTIIP were necessary due to the deterioration in reliability in its performance.⁶⁵

As to the UGI-CPG case, I&E indicates that, there too, it supported a waiver of the DSIC cap to address extensive and urgent safety concerns that had been identified by I&E’s Gas Safety Division.⁶⁶ I&E also observes that consistent with the previous waivers, the Commission permitted an increase to 7.5%, not 10% as requested by UGI-CPG.⁶⁷

I&E also questions whether the DSIC rate requested by PPL meets the statutory requirement that rates be “just and reasonable.” I&E rejects the Company’s characterization of the impact of the proposed increase on residential consumers as “minimal” noting that record evidence indicates that if the maximum DSIC rate is increased to 9%, the average residential customer’s bill would increase by \$2.37 per month, or \$28.44 per year, for residential customers using 1,000 kWh per month.⁶⁸ Similarly, I&E notes that “under the requested maximum DSIC rate of 9%, the average LP-4 customer would pay \$3,059.84 . . . which is an additional \$1,359.92 per year.”⁶⁹ In

⁶³ I&E MB at 14 (citing *PGW Waiver* at 13-14).

⁶⁴ I&E MB at 14 (citing *PGW Waiver* at 71).

⁶⁵ I&E MB at 14-15.

⁶⁶ *UGI-CPG* at 16.

⁶⁷ *Id.* at 73.

⁶⁸ I&E MB at 16; Petition at 21.

⁶⁹ I&E MB at 16; I&E St. No. 1 at 21; I&E St. No. 1-SR at 27.

light of these increases, I&E also urges the Commission to carefully consider whether the requested waiver and DSIC increase would result in just and reasonable rates for PPL Electric's customers, as required by Section 1301 of the Code.⁷⁰

While I&E contends that the evidence presented in this proceeding supports a denial of PPL Electric's waiver request, I&E strongly recommends that *if* the Commission grants the Company a waiver of the 5% DSIC cap, any waiver granted by the Commission *should be of limited duration and limited to 7.5% or less*, rather than the Company's requested 9.0%.

C. OCA's Position

OCA also urges the Commission to reject PPL Electric's request to waive the DSIC's statutory 5% cap of billed distribution revenues and increase PPL Electric's DSIC to 9% of billed distribution revenues. Like I&E, OCA argues that there is no foundation or evidentiary basis for finding that a 9% or a 7.5% DSIC cap is necessary for the Company to ensure and maintain system reliability.

OCA posits that the fundamental issue presented by PPL Electric's waiver request is "ratemaking" *i.e.*, how PPL should meet its continued and ongoing obligations to provide adequate, efficient, safe, reliable and reasonable service. OCA contends that the statutory 5% DSIC cap is an important consumer protection that prevents the DSIC from supplanting the traditional ratemaking process of filing for base rate increases.

OCA emphasizes that PPL Electric intentionally chose to petition for a DSIC waiver rather than to file a section 1308(d) rate case and the higher level of scrutiny it commands. OCA also asserts that PPL Electric's argument that additional

⁷⁰ I&E MB at 16-18; 66 Pa.C.S. § 1301(a).

DSIC revenues are necessary to improve benchmark reliability metrics performance is unfounded. OCA contends that a waiver of the DSIC statutory cap is not a reasonable or appropriate remedy for PPL Electric given the Company has not faced base rate case scrutiny from the Commission and other parties in nearly 10 years.

OCA calculates that an increase of the DSIC cap from 5% to 9% will cost consumers approximately \$45 million annually as long as it is in effect.⁷¹ OCA argues strenuously that PPL Electric has not met its burden of demonstrating the need for the waiver of the 5% statutory cap or that its request to increase it to 9% is appropriate or just and reasonable.⁷²

OCA rejects PPL Electric's claim that it has experienced a decline in reliability. In OCA's view, the record in this proceeding demonstrates that the Company:

(1) has generally positive reliability metrics; (2) to improve reliability, needs to increase its vegetation management spending, which is not DSIC-eligible; (3) has a desire to invest in a [Predictive Failure Technology] program, which is not DSIC-eligible; (4) can file a base rate case for rate relief to provide the opportunity for simultaneous review of all aspects of its revenues, expenses and capital costs for the same time period; and (5) demonstrates a clear history of earning excess or sufficient returns on investment.^[73]

As additional support of its conclusions concerning the Company's service reliability, OCA cites the Commission's 2023 Pennsylvania Electric Reliability Report, in which it is stated "PPL Electric is considered an excellent SAIFI benchmark performer, due in part to its increased use of system automation (Smart Grid) devices."⁷⁴

⁷¹ OCA MB at 8; OCA St. No. 1SR at 13.

⁷² OCA MB at 6, 24-25.

⁷³ OCA MB at 7.

⁷⁴ OCA MB at 11.

OCA also rejects PPL Electric’s claims that its need for additional DSIC revenue can be attributable to more frequent and severe storms, contending that this is a vegetation management issue, which cannot be addressed by use of DSIC revenues. OCA comments that such a claim “ignores and/or glosses over” the fact that trees are a top outage cause that negatively affects electrical reliability to PPL Electric customers.⁷⁵

Although OCA commends PPL Electric’s efforts to increase its vegetation management as a means for improving system reliability, OCA notes that PPL Electric’s planned investment of approximately \$84.4 million in predictive failure technology is not DSIC-eligible.⁷⁶ Further, OCA asserts that the Commission’s Reliability Report specifically signaled to PPL Electric that a base rate proceeding is the proper setting in which to evaluate the linkage between vegetation management efforts and expenditures and reliability metrics. OCA underscores that the aforementioned linkage will not be addressed in this proceeding.⁷⁷

OCA contends that the financial data presented in this proceeding demonstrates PPL Electric has sufficient revenue and funding to ensure and maintain adequate, efficient, safe, reliable and reasonable service, without increasing rates by \$45 million annually.⁷⁸ OCA observes that PPL has consistently earned a rate of return of at least 8.12% since 2015 and argues that the Company holds the capital necessary to address any challenges it faces in reaching acceptable reliability metrics. OCA finds additional support for its position in PPL Electric’s admission that with or without a waiver, it will continue to fulfill the requirements of its modified LTIIP. Finally, OCA cautions that an increase in DSIC funds would free up other rate base funds that PPL Electric could direct anywhere, including to shareholder return. OCA St. No. 1SR at 11.

⁷⁵ OCA MB at 13.

⁷⁶ OCA MB at 6-7, 11.

⁷⁷ OCA MB at 13.

⁷⁸ OCA MB at 8.

OCA also compared PPL Electric’s request with instances where the Commission has previously authorized a waiver. OCA concludes that “the Commission has only utilized the cap waiver to provide relief where utilities were in poor financial condition and/or demonstrably unsafe operating conditions, filing base rate cases on a frequent basis and still reaching the 5% DSIC cap.”⁷⁹

Based on its analysis, OCA urges the Commission to deny PPL Electric’s request to waive the statutory 5% DSIC cap and emphasizes that the Commission should deny *any* increase in PPL Electric’s currently authorized statutory cap. OCA does not endorse the 7.5% cap proffered by I&E, asserting that the proposal is “rooted in collaring the harm” that would be caused should the Commission grant a DSIC cap increase to the Company.⁸⁰

D. OSBA

OSBA also argues that PPL Electric’s request to waive the 5% DSIC cap should be denied. The foundation for OSBA’s position is grounded in PPL Electric’s fundamental duty as an electric distribution company its customers under Section 1501 of the Public Utility Code. As OSBA observes, Section 1501 provides

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be

⁷⁹ OCA MB, p. 21 (citing *Aqua; PAWC; Petition of United Water Pa., Inc. for Approval of a Tariff Supplement to Revise its Maximum DSIC To 7.5% of Billed Revenues*, Docket No. P-2013-2389331 (Order entered Dec. 19, 2013)).

⁸⁰ OCA RB, p. 11-12.

reasonably continuous and without unreasonable interruptions or delay.^[81, 82]

OSBA underscores that although Act 11 established an alternative financing mechanism, it did not modify the duties placed upon an electric distribution company such as PPL Electric.⁸³

OSBA's position is also based on its detailed analysis and interpretation of Section 1358(a)(1). In OSBA's view the "plain language of this provision implies that the Company must demonstrate that the waiver is necessary in order for the utility to provide reasonable service, and therefore the utility has no other options for providing the necessary service."⁸⁴

According to OSBA, its interpretation is consistent with and supported by Pennsylvania statutory rules of construction found at Title 1, Section V ("Statutory Construction"), of the Pennsylvania Consolidated Statutes, and more specifically provisions pertaining to legislative intent, presumptions regarding legislative intent, and the use of titles and preambles in statutory interpretation.⁸⁵ Homing in on Section 1358, OSBA concludes that "a waiver can only be granted 'in order to ensure and maintain adequate, efficient, safe, reliable and reasonable service' when a utility cannot meet that standard without the waiving of the five percent DSIC cap." OSBA asserts that its interpretation of Section 1358 is consistent with the language of the statute and the legislative intent that led to its passage. Moreover, OSBA asserts that the Commission must exercise extreme care when considering waiving the five percent DSIC cap for an

81 OCA MB at 3, citing 66 Pa. C.S. § 1501 (emphasis in original).

82 66 Pa. C.S. § 1501 (emphasis added).

83 *Id.*

84 OSBA MB, p. at 5.

85 OSBA MB, p. 5-7.

investor-owned utility such as PPL Electric, warning that a 9% request today can easily be a 25% request tomorrow.”⁸⁶

OSBA also asserts that the Company admits that it does not meet that standard for a waiver of the DSIC cap. Like I&E and OCA, OSBA urges that the waiver request be denied in its entirety.⁸⁷

E. PPLICA’s Position

PPLICA, an intervenor provided no independent testimony or evidence in this proceeding. However, in its Reply Brief, PPLICA indicates that it supports the “arguments raised by I&E, OCA, and OSBA in opposition to [PPL Electric’s] Petition.” PPLICA aligns itself with the key arguments presented by I&E, OCA, and OSBA that “the 5% DSIC cap serves as a critical customer protection and should not be cast aside where the Company has not taken advantage of the preferred mechanism of filing a base rate case.”⁸⁸ PPLICA also agrees that “PPL failed to carry its burden of proof in supporting the waiver and appropriately requests that the Commission deny the Petition.”⁸⁹

PPLICA contends that the Commission must consider the impact on jurisdictional distribution rates⁹⁰ and highlights the testimony as to the financial impact of PPL Electric’s proposed increase on its large general service (LP-4) customers provided

⁸⁶ OSBA MB at 10.

⁸⁷ OSBA MB at 1, 5, 11. OSBA did not file a Reply Brief; therefore, it took no position on the suggestion that if granted, any waiver should be limited to a 2.5% increase above the statutory limit.

⁸⁸ See I&E MB at 11, 20; see also OCA MB at 18; OSBA MB at 10.

⁸⁹ PPLICA RB at 2.

⁹⁰ See *Lloyd v. Pa. Pub. Util. Comm’n*, 904 A.2d 1010, 1020 (rejecting evaluation of PPL Electric’s cost of service on total bill basis as contrary to the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. § 1308(d)).

by I&E witness Joseph Kubas. PPLICA observes that in his statement, Mr. Kubas opined that “increasing the DSIC cap to 9% would add an additional \$1,359.92 of annual costs for the *average* LP-4 customer.”⁹¹ PPLICA also cautions that his quantified average impact would be magnified for the larger LP-4 customers, again citing Mr. Kubas’ testimony.⁹²

PPLICA rejects I&E’s suggestion that if the Commission approves the Petition, the Commission do so on a temporary basis, limiting any waiver to the duration of the Company’s Third LTIP (applicable through December 31, 2027) or the effective date of new distribution rates resulting from a distribution base rate case, whichever occurs first, stating:

PPLICA contends that parties’ well-reasoned arguments against PPL’s proposal for a permanent DSIC waiver apply with equal force to the alternative proposal for a temporary DSIC waiver. Granting a waiver of the DSIC cap on a temporary basis would still require customers to pay higher rates without any opportunity to comprehensively examine PPL’s financial condition through a base rate case.⁹³

DISCUSSION AND CONCLUSIONS

In this proceeding, PPL Electric has the burden of producing a preponderance of substantial evidence to support its argument that (1) a waiver of the 5% statutory DSIC cap is necessary to ensure and maintain adequate, efficient, safe, reliable and reasonable service;⁹⁴ and (2) that a DSIC rate up to 9% of billed distribution revenues is just and reasonable.⁹⁵ Additionally, PPL must carry this burden of producing

⁹¹ PPLICA RB at 3; I&E St. No. 2 at 16.

⁹² PPLICA RB at 3.

⁹³ *Id.*

⁹⁴ 66 Pa.C.S. § 1358(a)(1).

⁹⁵ 66 Pa.C.S. § 315(a).

substantial evidence in the face of all of the substantial evidence produced by the opposing parties.

The Company argues that its request for a waiver and DSIC increase is firmly grounded in its obligation to provide reliable and reasonable service to its customers. PPL contends that its request meets the standards for granting a DSIC waiver and increase and asserts that its request is “the most effective, efficient, and targeted solution to address the electric service reliability challenges on PPL Electric’s distribution system, all while having a minimal impact on customers’ bills.”⁹⁶

I&E, OCA and OSBA vehemently disagree and urge the Commission to deny the requested waiver and increase. PPLICA, through its support of the arguments made by I&E, OCA and OSBA, adds its voice to the chorus urging denial of the Company’s request.

A. Is a waiver of the 5% DSIC cap necessary for PPL Electric to ensure and maintain adequate, efficient, safe, reliable and reasonable service?

The Company’s arguments in support of its waiver and cap increase request are squarely focused on whether it meets the standards for a DSIC waiver set forth in Section 1358 of the Code. Indeed, in the very first sentence of summarizing its position in this matter, PPL asserts that “The Commission should increase the Company’s DSIC cap from 5% to 9% so that PPL Electric can ensure and maintain adequate, efficient, safe, reliable, and reasonable service.”⁹⁷ The Company asserts that it must “harden [its]

⁹⁶ PPL Electric MB at 1.

⁹⁷ PPL Electric MB at 5 (emphasis added).

distribution system and improve electric service reliability” and contends that its ability to optimize the potential of the DSIC is limited by the 5% cap.⁹⁸

OSBA interprets the waiver provisions of Act 11 as conditioning the grant of a waiver on a demonstration by the utility that it has no other option for providing the necessary service.⁹⁹

OSBA’s interpretation of Act 11’s waiver provisions could be read as setting a standard for granting a DSIC waiver. While OSBA’s interpretation appears to be supported by statutory rules of construction and interpretation, OSBA did not demonstrate that the Commission has ever adopted this interpretation. Further, while the other opponents of the Petition also concluded that the Company had failed to sustain its burden of proof in this matter, they did not embrace OSBA’s interpretation and presented other arguments in support of their position. Accordingly, I decline to adopt OSBA’s interpretation of the standard for granting a waiver.

In contrast to OSBA’s limited statutory interpretation argument, I&E and OCA assert that that PPL Electric has clearly and simply failed to meet its burden of proving that the waiver is necessary to ensure that it will be able to provide and maintain safe and reliable service.¹⁰⁰ These opponents presented several arguments in support of their position.

1. PPL Electric’s Financial Position

After analyzing the Company’s operations and financial position, witnesses for I&E and OCA concluded that the Company would be able to continue to provide safe

⁹⁸ PPL Electric MB at 6, 10.

⁹⁹ OSBA MB at 5.

¹⁰⁰ I&E MB at 5, 7-10, OCA MB 8-11.

and reliable service to customers without a waiver.¹⁰¹ Indeed, I&E’s witness, Mr. Kubas explicitly stated “there is no indication that the Company will not be able to continue to provide safe and reliable service to customers if the requested DSIC increase is not approved or that LTIP investments will not be made if the waiver is not granted.”¹⁰² To reinforce that position, I&E observes,

the Company did not dispute that it could satisfy its safety and reliability concerns and the Commission’s concerns described in the 2024 Audit by filing a base rate case . . . most telling[ly,] the Company stated that it will comply with its Modified Third LTIP regardless of whether the DSIC cap is waived.¹⁰³

Although the opposing parties suggest that PPL Electric’s admission that it will comply with its Modified Third LTIP regardless of whether the DSIC cap is waived may alone be sufficient evidence to support the conclusion that PPL Electric has not met its burden of proof, they presented additional arguments for denying a waiver and increase under the facts presented here. These arguments are discussed in more detail below.

2. The Timing of PPL Electric’s Most Recent Base Rate Filing Relevant to Evaluating PPL Electric’s DSIC Waiver Request

PPL asserts that by arguing that a base rate case should be filed instead of a DSIC waiver and increase request, the other parties are “turning the DSIC’s purpose on its head.” PPL articulates its position as follows “Act 11 contains no requirement that a rate case be filed for a waiver to be granted. Instead, it is within the Commission’s

¹⁰¹ I&E witness Joseph Kubas and OCA witness Jerome Mierzwa.

¹⁰² I&E Statement No. 1, at 8.

¹⁰³ I&E MB at 9 (citing OCA Exh. JDM-2 (PPL Electric’s Response to OCA-I-9); OCA Exh. JDM-1SR)).

authority and discretion to grant PPL Electric a waiver of the 5% limit “in order to *ensure and maintain* adequate, efficient, safe, reliable and reasonable service.”¹⁰⁴

The Company contends that OCA and I&E’s arguments in opposition to the waiver request effectively condition eligibility for a DSIC cap waiver on the timing of a utility’s latest rate case. In support of its argument, the Company observes that “Although Act 11 requires a public utility to file a base rate case within the past five years before petitioning **to establish a DSIC, it contains no similar requirement** [for] a waiver of the DSIC cap.” Therefore, according to PPL, “the statute confirms that the General Assembly considered if and when rate cases should be filed and if and under what conditions there should be opportunity for a waiver [and] the General Assembly chose not to condition a DSIC cap waiver on the timing of a utility’s most recent rate case filing.”¹⁰⁵

I&E and OCA forcefully argue that PPL Electric’s request is fundamentally inconsistent with Commission ratemaking policy because it disregards the purpose and intent of the DSIC program and undermines the critical consumer protection afforded by the statutory 5% cap. As described in more detail below, both I&E and OCA focused their argument on the consumer protection afforded by the 5% cap and the Company’s ability to satisfy its objectives through the filing of a base rate case, which would also necessitate and allow for a more comprehensive review of PPL Electric’s financial condition and operations.

OCA outright rejects PPL Electric’s argument that the time since its last rate filing is irrelevant, emphasizing that “[t]he issue in this proceeding is ratemaking *i.e.*, how PPL Electric should meet its continued and ongoing obligations to provide adequate,

¹⁰⁴ PPL Electric MB at 20 (emphasis added) (citing 66 Pa.C.S. § 1358(a)(1)).

¹⁰⁵ PPL Electric MB at 21; *see* 66 Pa.C.S. §§ 1353(b)(4), 1358(a)(1).

efficient, safe, reliable and reasonable service.”¹⁰⁶ OCA emphasizes the Commission’s broad discretion in determining whether rates are reasonable and what factors it will consider in setting or evaluating a utility’s rates. OCA observes that the Pennsylvania Supreme Court has held, “The Commission’s discretion to determine if a requested rate is just and reasonable includes the ‘power to make and apply policy’ concerning the appropriate balance between rates charged to consumers and returns allowed to utility investors.”¹⁰⁷

OCA urges the Commission to prevent the Company from bypassing the full, traditional ratemaking process. OCA contends that “the 5% revenue cap is a statutory limitation to protect consumers from unbridled spending . . . This limitation ensures that the DSIC serves its intended, statutory function, which is to supplement – rather than supplant – base rate proceedings in the maintenance of reliable service.”¹⁰⁸ Further, OCA notes that this is consistent with the Commission’s ruling in Penn Power where it commented on the intent of the 5% DSIC cap and observed that its purpose “is to limit public utilities and prevent substantial increases to base rates on a customer’s bill without first engaging in a thorough evaluation in a base rate proceeding.”¹⁰⁹

OCA contends that “[a]fter nearly ten years, transparency and accountability are better achieved by the Company filing a base rate case so that all

¹⁰⁶ OCA MB at 8.

¹⁰⁷ OCA MB at 4.

¹⁰⁸ OCA MB at 10 (citing *Petition of PPL Elec. Utils. Corp. for Approval of Major Modifications to its Existing Long-Term Infrastructure Improvement Plan*, Docket No. P-2022-3034972 at 21 (Opinion and Order entered July 11, 2024); 66 Pa.C.S. §§ 1350, 1353, 1357(a)(1)(i)).

¹⁰⁹ OCA MB at 10-11 (citing *Petition of Pa. Power Co. for a Waiver of the Distrib. Sys. Improvement Charge Cap of 5% of Billed Distrib. Rate Revenue and Approval to Increase the Maximum Allowable Distrib. Sys. Improvement Charge Cap to 11.81%*, Docket No. P-2019-3012628 at 22 (Recommended Decision entered Feb. 11, 2020)).

aspects of its operations are reviewed before revenue is increased, as opposed to simply granting a rider rate increase.”¹¹⁰

I&E concurs with and reinforces OCA’s position, adding “[s]ince the DSIC’s inception, the Commission has stated that the DSIC is not a substitute for base rate filings.”¹¹¹ I&E points to the 1996 Commission decision establishing the DSIC for water utilities and the DSIC Tentative Implementation Order to demonstrate its point. I&E observes that the Commission opined that:

[T]he provision of a 5% of billed revenues cap on the maximum amount of any DSIC insures that the surcharges mechanism will not evade the Section 1308 base rate process and its intensive top-to-bottom review of all company revenue, expense, rate base and return claims. . . In other words, the 5% cap will insure that the surcharge will not allow the company to avoid a base rate review of eligible property in perpetuity.¹¹²

Further, I&E notes that the Commission’s position remained unchanged 16 years later when, commenting on the purpose of Act 11’s requirement regarding certification of a recent base rate filing for the grant of a waiver,¹¹³ the Commission stated,

This ensures that a full presentation of the utility’s current revenues, expenses, rate base, and rate of return has been provided to the Commission and the public for review, potential challenge, and settlement or adjudication. If no rate base case has been filed within five years prior to the date the DSIC petition is filed, the utility must file a Section 1308(d) base rate case to become DSIC eligible. See 66 Pa. C.S. § 1353(b)(5). These provisions ensure that the DSIC

¹¹⁰ OCA MB at 16.

¹¹¹ I&E MB at 5.

¹¹² I&E MB at 10 (citing *PAWC 1996* at 15).

¹¹³ See 66 Pa.C.S. § 1353(b)(4).

process is not used to avoid the comprehensive financial review that takes place in the context of a base rate case.¹¹⁴

I&E does not dispute that the DSIC was intended to provide recovery of allowable system improvements between base rate filings. However, I&E maintains that the DSIC was not intended to replace base rate proceedings or circumvent base rate case scrutiny. I&E notes that PPL had the option to file a base rate case and thereby reset the DSIC as far back as April 2021, when it was approaching the 5% cap and yet chose not to do so. I&E asserts that while that choice is entirely within PPL Electric’s discretion, the Company’s decision to not seek base rate relief cannot be allowed to undermine the important statutory consumer protection afforded by the statutory 5% DSIC cap.¹¹⁵

In support of their argument regarding the value of a recent base rate case filing, OCA and I&E point to the Commission’s 2018 denial of a request by Newtown Artesian Water Company to increase its DSIC cap from 5% to 7.5%.¹¹⁶ In that case, NAWC argued that its request for a DSIC cap increase should not be distinguished from the requests by three water utilities (Aqua Pennsylvania, Inc., Pennsylvania American Water Company, and United Water Pennsylvania, Inc.) that had been granted an increase to 7.5%. The Commission disagreed with NAWC, noting that those other utilities “have been filing base rates cases regularly and in a timely manner.”¹¹⁷

I&E highlighted the following statement by the Commission for the denial of NAWC’s request “**lengthening the interval between rate cases by waiving the DSIC cap is not consistent with our past policy or the intent of the statutory cap waiver provision.**”¹¹⁸ I&E concedes that the length of time since NAWC’s last base rate

¹¹⁴ *Tentative Implementation Order* at 12.

¹¹⁵ I&E MB at 12.

¹¹⁶ OCA MB at 17; I&E MB at 10. *See NAWC* at 20.

¹¹⁷ *NAWC*.

¹¹⁸ *NAWC* (emphasis added).

case was just one of many factors the Commission considered before denying the request; however, it urges the Commission to also consider that factor in this proceeding.

PPL Electric acknowledges that it last filed a base rate case in 2015. However, the Company urges the Commission to reject this line of argument, noting that “[n]othing in the Public Utility Code requires a public utility to file a base rate case within a certain number of years before being granted a waiver and increase of the DSIC cap of 5%.”¹¹⁹ The Company argues that “the DSIC cap waiver is more efficient and effective than a base rate case” observing that “an increase in the DSIC rate would only affect the recovery of DSIC-eligible projects, whereas a base rate case would involve an increase in distribution base rates to recover all of the Company’s jurisdictional capital costs and expenses.”¹²⁰

Company witness Bethany L. Johnson endeavored to distinguish PPL Electric’s request in this proceeding from the NAWC case based on PPL Electric’s better record of LTIP project completions, a historical record of exceeding the DSIC cap in 14 quarters versus two for NAWC, and base rates that are designed based on a FPFTY.¹²¹ I&E sought to show that there was even more cause for PPL Electric’s waiver request to be denied than there was for NAWC, pointing to PPL Electric’s stronger financial and operational history, the high level of its earnings, the length of time before PPL Electric reached the 5% cap, and the ending of the FPFTY in PPL Electric’s last base rate proceeding on December 31, 2016, nearly 8 years ago.¹²²

While I agree with PPL that filing a rate case is not a condition to the filing of a DSIC waiver request, in light of the legislative history relating to the passage of Act

¹¹⁹ PPL Electric MB at 7

¹²⁰ *Id.*

¹²¹ PPL Electric St. No. 2-R at 7-8.

¹²² I&E MB at 11-12.

11 and the Commission's consistent policy statements I must conclude that the DSIC mechanism and waiver process should not be used a means to avoid the more comprehensive scrutiny of a base rate filing. Consequently, I also conclude that the timing of PPL Electric's most recent base rate filing is a factor that should and will be considered in evaluating PPL Electric's Petition.

The record in this matter demonstrates that PPL last filed a base rate case in March 2015, with new rates effective January 1, 2016. In addition, undisputed evidence indicates that PPL approached the 5% DSIC cap in April 2021. Although PPL had the option to file a subsequent base rate case to reset the DSIC when it was approaching the 5% cap it did not file a base rate case and has chosen not to do so. While timing of a base rate filing is wholly within PPL Electric's control, the Company's choice not to do so is relevant here, particularly in light of the PPL Electric's indication that with or without a waiver, it does not plan to file a base rate case before 2026.

The Company's decision to file for a waiver and delay a base rate filing until 2026 calls into question its need for a DSIC waiver and lends credibility to I&E's claim that PPL Electric's waiver request was driven by the Company's failure to file a base rate case. Moreover, by the Company's own admission, a waiver in this proceeding would extend the period from its last rate filing until 2026, at the earliest, with new rates likely to be effective in 2027.

Considering the Commission's numerous pronouncements on the timing of rate filings, the consumer protection afforded by the scrutiny of the Company's finances and operations in a base rate case, and the lesser and more limited scrutiny available in this proceeding, I find that it would be more appropriate for the Company to seek additional revenues to fund system enhancements through a base rate filing.

3. Will PPL Electric’s Rates Be Reasonable If a DSIC Waiver Is Granted?

Under Section 1301(a) of the Code, the statutory requirement that rates be just and reasonable also applies to the DSIC rate.¹²³ I&E, OCA and OSBA assert that (1) PPL failed to demonstrate that if its waiver request is approved, the higher DSIC rates would be just and reasonable; and (2) despite the requested increase in the DSIC, PPL Electric’s rates would remain just and reasonable.

PPL acknowledges that a DSIC cap increase from 5% to 9% would generate approximately \$45 million in additional revenues annually and estimates that the average residential consumer bill would increase by \$2.37 a month or \$28.44 a year. However, the Company contends that approval of the DSIC cap waiver and increase would be more effective and less burdensome on the Commission, stakeholders, and customers than a base rate case.

First, PPL observes that \$45 million is “a far cry” from the base rate increases requested by its peer utilities in 2024.¹²⁴ In addition, PPL contends that waiver of the DSIC cap supports the theory of gradualism because the timing of the DSIC increase may occur “over time.”¹²⁵ The Company also contends that a base rate case would be more costly, time-intensive, and burdensome for the Company, interested stakeholders, and the Company’s customers. Finally, PPL observes that “an increase in the DSIC rate would only affect the recovery of DSIC-eligible projects, whereas a base rate case would involve an increase in distribution base rates to recover all of the Company’s jurisdictional capital costs and expenses.”¹²⁶

¹²³ 66 Pa.C.S. § 1301(a).

¹²⁴ PPL Electric MB at 22.

¹²⁵ *Id.*

¹²⁶ PPL Electric MB at 7.

Noting that PPL Electric's request for a 9% DSIC cap is nearly twice the statutory cap, OCA sharply critiques PPL Electric's claim that its request appropriately balances the need for timely cost recovery of investments with the impact on customers' bills. OCA asserts that PPL Electric's estimated monthly increase of \$2.37 for residential consumers has raised serious concerns among them as to whether they will be unable to afford their utility bill. OCA points to the testimony of a consumer who urged the Commission to consider PPL Electric's request in the context of the existing financial dilemma being faced by seniors

It's a very bad hardship for seniors. Medicare, everything has gone up. Our insurances, Blue Cross and Blue Shield . . . I know ourselves; we pay between \$14,000 and \$15,000 a year. Your medicine costs how much more. Your house taxes. Ours are at least up to \$4,500. Car insurance has gone up over \$2,800. Gas for your vehicles, at least 20 to 30 percent. Your groceries are outrageous, from at least 28 to 50 percent or more. You have cable. You have phone. You have Internet. You have heating. You have of course, PP&L and it is a hardship. And we end up being in the red at the end of every month. And I don't know where all these utilities and companies expect seniors, who are hit the hardest, to actually – to keep getting this money from. We would not like to have to move out of our homes because of constant people raising prices that really are not really attainable for us.^[127]

¹²⁷ OCA MB at 23 (citing Tr. at 119). OCA did not limit its critique of the waiver request to its impact on residential customers and specifically pointed to the testimony of I&E witness Kubas regarding the impact of the requested waiver and increase on large usage customers.

I&E essentially agrees with OCA's position; however, it underscored the value of the 5% DSIC rate cap serves as a means of preventing cost of service disparity issues from becoming worse over time. I&E maintains that¹²⁸

an extended period between base rate cases could result in a class bearing a disproportionate and unreasonable share of DSIC charges because the calculations for each class are just projections in a base rate case and change over time, meaning that while base rates are "frozen," the disparity that existed when rates were established could change over nine years, such that applying a surcharge percentage to existing revenues could aggravate a scenario where subsequent changes were causing a particular class to now be substantially exceeding its cost of service.^[129]

PPL urges the Commission to reject these arguments, asserting that there is no evidence that the Company's current class cost of service is unreasonable and that the length of time between base rate cases does not suddenly transform existing rates from being presumed just and reasonable to being presumed unjust and unreasonable.¹³⁰

I&E acknowledges that rates previously approved by the Commission are *prima facie* just and reasonable and there is no statutory requirement that a utility must conduct a class cost of service study prior to obtaining a DSIC cap waiver.¹³¹ However, I&E contends that it is reasonable to think that the class costs of service may have changed in the nine years since the Company's last rate case.¹³²

¹²⁸ I&E MB at 17. OCA and PPLICA also recognized this concern. OCA MB at 24; PPLICA RB at 3-4.

¹²⁹ I&E St. No. 1-SR at 11-12.

¹³⁰ PPL Electric St. No. 2-R at 11-12.

¹³¹ I&E MB at 18 (citing *Zucker v. Pa. Pub. Util. Comm'n*, 401 A.2d 1377 (Pa. 1979)).

¹³² I&E MB at 18.

I find the arguments presented by OCA and I&E on this issue persuasive and conclude that PPL failed to meet its burden of proving that the DSIC waiver to 9% is just and reasonable. Likewise, I find that PPL failed to meet its burden of proving that its rates will remain just and reasonable if a DSIC cap increase is approved.

Summarizing all of the above, I conclude that while Act 11 provides a mechanism for a utility's DSIC cap to be increased above 5%, a waiver is not automatic, nor is it an entitlement. While the grant of a waiver is not conditioned upon the timing of the petitioner's most recent base rate case, it cannot be ignored that PPL Electric's base rates and operations have not undergone comprehensive and detailed scrutiny since 2015 when it last filed a base rate case.

Furthermore, the DSIC cap increase requested in the proceeding is exceptional. The increase from 5% to 9% of distribution revenues is an 80% increase over PPL Electric's current DSIC. All parties agree that annually, such an increase would generate more than \$45 Million in additional revenues for PPL Electric. That figure represents a significant increase in the burden of monthly and annual utility costs to be borne by the Company's customers.

4. Is a Waiver to a DSIC cap other than 9.0% appropriate?

The arguments cited by I&E and OCA against the grant of a waiver also support the denial of a lesser increase in PPL Electric's DSIC to 7.5%. While it is true that an increase of PPL Electric's DSIC to a level less than 9.0% would reduce the financial impact of the increase on PPL Electric's customers, it would not be premised on a rigorous and complete analysis of the Company's operations and financial condition. Given PPL Electric's indication that it does not intend to file a base rate case before 2026 with or without the DSIC waiver, current rates and surcharges would likely remain in effect until sometime in 2027, some 12 years after the Company's last rate filing. Such a

period exceeds by far the relevant period presented in previous waiver cases approved by the Commission and those articulated by the Commission in policy statements relating to the timing of rate filings.¹³³ As a result, I conclude that an increase in PPL Electric's DSIC to a percentage less than 9.0% is not warranted here.

Although PPL Electric's commitment to improving system reliability is laudable, given the Company's strong financial condition and its assurances that it will meet its LTIIP obligations without a waiver, I must conclude that it has failed to present evidence to demonstrate that an increase to the DSIC cap is necessary and in the public interest at this time. The Company is, of course, free to renew its request for a DSIC cap waiver and increase in the context of its next base rate case filing or thereafter, in either case, the timing of such a filing would be entirely in its control.

VII. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding pursuant to 66 Pa.C.S. §§ 1350-1360.

2. In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceeding upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. 66 Pa.C.S. § 315(a).

3. A party proposing an adjustment to a ratemaking claim bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437

¹³³ See Section A. 2. above.

A.2d 1067 (Pa. Cmwlth. 1981); *Lower Frederick Twp. v. Pa. Pub. Util. Comm'n*, 409 A.2d 505 (Pa. Cmwlth. 1980).

4. Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the Commission. 66 Pa.C.S. § 1301.

5. Absent an express limitation on existing ratemaking authority, the Commission retains its full and existing ratemaking authority. 66 Pa.C.S. § 1358(c).

6. A distribution system improvement charge for an electricity distribution company “may not exceed 5.0% of the amount billed to customers.” 66 Pa.C.S. § 1358(a)(1).

7. PPL Electric Utilities Corp. has the burden of proving that a waiver of the 5% statutory DSIC cap is necessary “to ensure and maintain adequate, efficient, safe, reliable and reasonable service.” 66 Pa.C.S. §§ 315(a); 1358(a)(1).

8. PPL Electric Utilities Corporation has failed to sustain its burden of proving that waiver of the 5% statutory DSIC cap is necessary “to ensure and maintain adequate, efficient, safe, reliable and reasonable service.” 66 Pa.C.S. §§ 315(a); 1358(a)(1).

9. The burden of proving that an increase of the Company’s DSIC cap from 5.0% to 9.0% is on PPL Electric Utilities Corporation. 66 Pa.C.S. § 315(a).

10. PPL Electric Utilities Corporation has failed to sustain its burden of proving that an increase of the DSIC cap from 5.0% to 9.0% is just and reasonable. 66 Pa.C.S. § 315(a).

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That PPL Electric Utilities Corporation's Petition requesting that the Commission waive its DSIC cap of 5% of billed distribution revenues and increase the maximum allowable DSIC from 5% to 9% for bills rendered on or after January 1, 2025 is denied.

2. That the *pro se* Formal Complaints filed by Michael L. Sperazza at Docket No. C-2024-3049979, Paula Mercuri at Docket No. C-2024-3050027, Angela Pesola at Docket No. C-2024-3050205, John Theisen at Docket No. C-2024-3050443, Sharon Frankenfield at Docket No. C-2024-3050646, and John Gadomski at Docket No. C-2024-3050661, are granted.

3. That upon acceptance and approval by the Commission of this Recommended Decision, these proceedings shall be marked closed.

Date: November 21, 2024

/s/
Arlene Ashton
Administrative Law Judge

Appendix A

LIST OF PPL ELECTRIC SPONSORED TESTIMONY AND EXHIBITS

1. PPL Electric Exhibit 1 – PPL Electric Utilities Corporation’s (“PPL Electric” or “Company”) April 26, 2024 initial filing, which included:
 - Petition of PPL Electric Utilities Corporation for a Waiver of the Distribution System Improvement Charge Cap of 5% of Billed Revenues.
 - Appendix A, PPL Electric’s current Commission-approved DSIC tariff; and
 - Appendix B, *pro forma* tariff supplement reflecting the requested increase to the Company’s DSIC cap from 5% to 9%.
 - PPL Electric St. No. 1, the Direct Testimony of Steven D. Selkregg, with PPL Electric Exhibits SDS-1 through SDS-3.
 - PPL Electric St. No. 2, the Direct Testimony of Bethany L. Johnson, with PPL Electric Exhibits BLJ-1 and BLJ-2.
2. PPL Electric St. No. 1-R, the Rebuttal Testimony of Steven D. Selkregg, with PPL Electric Exhibits SDS-1R through SDS-3R.
3. PPL Electric St. No. 2-R, the Rebuttal Testimony of Bethany L. Johnson, with PPL Electric Exhibits BLJ-1R and BLJ-2R.
4. PPL Electric St. No. 1-RJ, the Rejoinder Testimony of Steven D. Selkregg.
5. PPL Electric St. No. 2-RJ, the Rejoinder Testimony of Bethany L. Johnson.

LIST OF I&E SPONSORED TESTIMONY AND EXHIBITS

1. I&E Statement No. 1 – Direct Testimony of Joseph Kubas
2. I&E Statement No. 1-SR – Surrebuttal Testimony of Joseph Kubas]

LIST OF OCA SPONSORED TESTIMONY AND EXHIBITS

1. OCA Statement 1, Direct Testimony of Jerome D. Mierzwa with Exhibits JDM-1 through JDM-6, filed on July 18, 2024.
2. OCA Statement 1SR, Surrebuttal Testimony of Jerome D. Mierzwa with Exhibit JDM-1SR, filed on August 27, 2024.
3. OCA's Errata to the Surrebuttal Testimony of Jerome D. Mierzwa, filed on August 29, 2024.
4. OCA Hearing Exhibit 1, Pennsylvania Electric Reliability Report (Reliability Report) of 2023 Authored by the Commission's Bureau of Technical Utility Services.