

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17120

Michael L. Sperazza et al.
vs.
PPL Electric Utilities Corporation

Public Meeting held February 20, 2025
3048732-OSA
Docket No. P-2024-3048732
C-2024-3049979 et al.

STATEMENT OF VICE CHAIR KIMBERLY BARROW

Before the Commission for consideration and disposition are the Exceptions of PPL Electric Utilities Corporation (PPL or Company), filed on December 11, 2024. The Exceptions were filed in response to the Recommended Decision of Administrative Law Judge (ALJ) Arlene Ashton which denied PPL’s Petition for a waiver to allow it to raise its distribution system improvement charge (DSIC) cap from 5% to 9% of billed revenues.

Section 1358(a)(1) of the Code, 66 Pa. C.S. § 1358(a)(1), provides that a DSIC may not exceed 5% of distribution rates billed for an electric distribution company. Section 1358(a)(1) of the Code also provides that upon petition, the Commission may grant a waiver of the 5% limit in order “to ensure and maintain adequate, efficient, safe, reliable and reasonable service.”

In the Petition, PPL argues that its requested increase is necessary to ensure and maintain adequate, efficient, safe, reliable, and reasonable service for PPL’s customers, as required by Section 1501 of the Code, 66 Pa. C.S. § 1501. PPL asserted that the Company currently faces issues and challenges to maintain and improve reliability of service, including, *inter alia*: (1) more frequent and severe weather events in its service territory; and (2) increased materials costs, which, in turn, force the Company to absorb such costs within its budgets for projects that are designed to improve service reliability.

ALJ Ashton recommended that the Commission deny the Petition based on her conclusion that PPL failed to sustain its burden of proving that: (1) a waiver of the 5% DSIC cap is necessary to ensure and maintain adequate, efficient, safe, reliable, and reasonable service; and (2) an increase of the DSIC cap, from 5% to 9%, is just and reasonable.

In reaching this conclusion the ALJ *inter alia*, considered the timing of PPL’s most recent base rate filing noting that while a rate case is not a condition to the filing of a DSIC waiver request, in evaluating PPL’s request for a DSIC waiver, and in light of the legislative history relating to the passage of Act 11 and the Commission’s consistent policy statements, the DSIC mechanism and waiver process should not be used to avoid the more comprehensive scrutiny of a base rate filing.¹ The ALJ also noted the record evidence that PPL: (1) last filed a base rate case in March 2015, with new rates effective January 1, 2016; and (2) did not, and chose not to, file a base rate case, even though it had the option to file a subsequent base rate case to reset the DSIC when it was approaching the 5% cap in April 2021. The ALJ pointed out that the Company chose not to file a rate case even though the timing of such a filing is within the Company’s control,

¹ R.D. at 37-38.

especially given PPL's indication that it does not plan to file a base rate case before 2026, with or without a waiver.²

The ALJ further noted that PPL's decision to file for a waiver and delay a base rate filing until 2026 raises the question of the Company's need for a DSIC waiver and lends credibility to the Bureau of Investigation and Enforcement's (I&E) claim that PPL's waiver request was driven by its failure to file a base rate case. Accordingly, the ALJ found that a base rate filing would be more appropriate for PPL to seek additional revenues to fund system enhancements, given the Commission's numerous pronouncements on such filings; the consumer protection afforded by the scrutiny of the Company's finances and operations in a base rate case; and the lesser, more limited scrutiny available in this proceeding.³

ALJ Ashton also found that an increase in PPL's DSIC to a percentage that is greater than 5% but less than 9% is not warranted. The ALJ determined that the arguments cited by I&E and the Office of Consumer Advocate against granting the waiver also support denying a lesser increase in PPL's DSIC to 7.5%. According to the ALJ, an increase of PPL's DSIC to a level greater than 5% but less than 9% would not be premised on a thorough and complete analysis of PPL's financial condition and operations. Further, the ALJ recognized that current rates and surcharges would likely remain in effect until 2027, given PPL's indication that, with or without the waiver, it does not intend to file a base rate case before 2026.⁴

Undoubtedly, the DSIC has been a useful mechanism for Pennsylvania. Every utility should continue to avail itself to the DSIC to sustain infrastructure work in between rate cases. I agree that properly implemented, a DSIC keeps utilities from filing back-to-back base rate cases while providing needed dollars for infrastructure improvement. The mechanism has worked. However, it is possible to overuse a good thing.

The DSIC statute, in recognition that a DSIC is a pass through rate collected outside of the comprehensive review of the utility's finances which occurs in a base rate proceeding, included consumer protections. The requirement that a utility seeking to implement a DSIC must have filed a base rate case within five years is an implicit foundational consumer protection.⁵ A utility must have opened its books for financial review by the Commission before it will be allowed to utilize the DSIC. This prevents a utility that is already sufficiently funded through rates from overburdening ratepayers with additional payment. An explicit consumer protection placed in the statute is the 5% limit on DSIC collection.⁶ Of course, the statute provides some flexibility in that a utility may seek a waiver of the 5% cap.⁷ The statute is silent on what standard must be met to merit a waiver, so I will fall back to a reasonableness standard.⁸

As of today, PPL has not been in for rate review in almost 10 years, and the company states that it will not file for rate review until 2026. There are numerous factors which allow a utility to stay out for long periods of time between rate filings, lack of revenue is usually not one of those

² R.D. at 38.

³ R.D. at 38.

⁴ R.D. at 42-43.

⁵ 66 Pa.C.S. § 1353(b)(4) and (5).

⁶ 66 Pa.C.S. § 1358(a)(1).

⁷ 66 Pa.C.S. § 1358(a)(2).

⁸ 66 Pa.C.S. § 1358(a)(1).

factors. The record before us has not convinced me that a waiver of the 5% DSIC cap is needed to ensure and maintain adequate, efficient, safe, reliable and reasonable service pursuant to Section 1358(a) of the Code.

Between 2014 and 2023, PPL has spent over \$500 million in DSIC-related infrastructure improvements. Based on PPL's 2024 DSIC Report, PPL's revenues at the current 5% DSIC cap is approximately \$57 million, at a 7.5% DSIC cap is approximately \$86 million, and at the requested 9% DSIC cap is approximately \$102 million.

I agree with the ALJ's recommendation to deny the Petition.

February 20, 2025



Kimberly Barrow, Vice Chair