



Todd S. Stewart  
717.703.0806  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

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501 Corporate Circle, Suite 302, Harrisburg, PA 17110 Phone: 717.236.1300 Fax: 717.236.4841 [www.hmslegal.com](http://www.hmslegal.com)

June 11, 2025

**VIA ELECTRONIC FILING**

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Filing Room  
Harrisburg, PA 17120

RE: TotalEnergies Distributed Generation USA, LLC v. PPL Electric Utilities Corporation; Docket No. C-2024-3051475; **REPLY BRIEF OF TOTALENERGIES DISTRIBUTED GENERATION USA, LLC**

Dear Secretary Homsher:

Enclosed for filing with the Commission is the Reply Brief of TotalEnergies Distributed Generation USA, LLC in the above-captioned matter. Copies of this Brief have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions related to this filing, please feel free to contact me.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Todd S. Stewart", is written over the closing text.

Todd S. Stewart  
*Counsel for TotalEnergies Distributed  
Generation USA, LLC*

TSS/jld

Enclosure

cc: Administrative Law Judge Steven K. Haas (via electronic mail – [sthaas@pa.gov](mailto:sthaas@pa.gov))  
Administrative Law Judge F. Joseph Brady (via electronic mail – [fbrady@pa.gov](mailto:fbrady@pa.gov))  
Per Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA ELECTRONIC MAIL**

Kimberly A. Klock  
Michael J. Shafer  
PPL Services Corporation  
Two North Ninth Street  
Allentown, PA 18101  
[kklock@pplweb.com](mailto:kklock@pplweb.com)  
[mjshafer@pplweb.com](mailto:mjshafer@pplweb.com)  
*Counsel for PPL Electric Utilities Corporation*

Devin T. Ryan  
Alice Wade  
Post & Schell, P.C.  
One Oxford Centre  
301 Grant Street, Suite 3010  
Pittsburgh, PA 15219  
[dryan@postschell.com](mailto:dryan@postschell.com)  
[alice.wade@postschell.com](mailto:alice.wade@postschell.com)  
*Counsel for PPL Electric Utilities Corporation*

Megan E. Rulli  
Anthony D. Kanagy  
Post & Schell, P.C.  
17 North Second Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101  
[mrulli@postschell.com](mailto:mrulli@postschell.com)  
[akanagy@postschell.com](mailto:akanagy@postschell.com)  
*Counsel for PPL Electric Utilities Corporation*



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Todd S. Stewart

Dated: June 11, 2025

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

TotalEnergies Distributed Generation USA, LLC,	:	
	:	
Complainant,	:	
	:	Docket No. C-2024-3051475
v.	:	
	:	
PPL Electric Utilities Corporation	:	
Respondent.	:	

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**REPLY BRIEF  
OF TOTALENERGIES DISTRIBUTED GENERATION USA, LLC**

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Todd S. Stewart, Attorney ID No. 75556  
HMS Legal LLP  
501 Corporate Circle, Suite 302  
Harrisburg, PA 17110  
(717) 236-1300  
(717) 236-4841 (fax)  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

*Counsel for TotalEnergies Distributed  
Generation USA, LLC*

DATED: June 11, 2025

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## I. INTRODUCTION AND REPLY STATEMENT OF THE CASE

PPL's imposition of a 25% deposit, regardless of whether it is acknowledged to be refundable or non-refundable, is by definition a rate that was never filed with the Commission, was not approved by the Commission and was not included in PPL's tariff. It also is a prepayment or deposit that has not been authorized by a Commission order or regulation. Because PPL has not changed the operative documents - the Notice of Intent to Proceed ("NoIP") and the Interconnection Impact Review ("IIR") - the deposit remains essentially non-refundable and all PPL representations to the contrary should be attributed no weight whatsoever. One can only assume what PPL's motives must have been to change its position several times during the litigation of this matter, but it is this sort of arbitrary inconsistency that the Commission's approval and tariff rules are intended to prevent.

PPL presented copious testimony in this proceeding, but nowhere does it demonstrate that it is authorized to charge interconnection costs before they are actually incurred.<sup>1</sup> In fact, the Public Utility Code<sup>2</sup> does not permit such deposits, and the Regulations require that before any money is paid, that an interconnection agreement is presented to the customer-generator, which PPL does not do.<sup>3</sup> TEDGUSA has not disputed that it must pay the costs of interconnection, but PPL's scheme fails that objective for several reasons. (TEDGUSA St. 1-5, pp. 2-3). First, by paying for equipment before the engineering is completed, PPL runs the risk of purchasing equipment that is not needed. (Tr. 20:10-17) PPL contends that it will try to reuse or return the equipment, but there is no guarantee. That places the deposit at risk. PPL also has made it clear that not only will it charge for the engineering work for a project that moves forward, but that it

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<sup>1</sup> 75 Pa. Code § 75.39(f)(4).

<sup>2</sup> 66 Pa. C.S. § 1305.

<sup>3</sup> Tr. at pp. 32-33.

can charge for engineering work after a project is withdrawn, with no accountability and no limit. (See Exhibit TE 3). This representation was not adjusted in PPL's purported restatement of its policy in its revised discovery response (See Exhibit TE 4) and so it remains as PPL's current policy. Charging a withdrawn project for restudying that will only benefit projects further back in the queue – after the project has been withdrawn – is punitive and not authorized in any regulation or statute and is in direct contradiction that the deposit will be refundable “if not spent” because PPL gets to choose whether to re-study and whether to bill the withdrawn project.

In short, Complainants have shown that PPL has failed to comply with the Public Utility Code and the Commissions regulations promulgated therefrom.

## **II. ARGUMENT**

### **A. PPL's 25% Deposit is Not Reasonable.** (PPL Main Brief, pp. 12-15).

As a public utility PPL is required to provide safe, reliable and reasonable service.<sup>4</sup> PPL's 25% deposit is contrary to this requirement. At the threshold, PPL has made multiple declarations of the refundability of its 25% deposit but has not yet published this “new” policy in any revised agreements, nor does it appear that PPL has made any effort to state this change publicly, leading to the conclusion that PPL could well change its policy again. This sort of arbitrary and capricious behavior, creating a moving target for TEDGUSA, has only increased the already unreasonable level of risk associated with the projects and TEDGUSA has no knowing if there would be any deposit left to refund if for whatever reason a project had to be withdrawn. (TEDGUSA St. 1-R, pp. 2-6).

If the wholesale changes in policy were not enough, the multiple statements about what monies would be refunded, if not spent, what PPL would spend the money on, whether PPL would

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<sup>4</sup> 66 Pa. C.S. § 1501.

be able to have deposits refunded, or whether equipment must be repurposed, etc. simply add to the confusion and risk for TEDGUSA's projects with millions of dollars of deposits in flux. (Id.) This capricious changing of the terms is one of the reasons that § 1303 of the Public Utility Code (requiring adherence to tariffs) was enacted.<sup>5</sup> In this case, as discussed below, PPL did not publish the deposit requirement in its tariff or even seek Commission approval for it. All of this uncertainty about the deposit, which is well beyond the threshold of unreasonable service, coupled with the arbitrary basis for setting the deposit amount – basing it on a study that PPL states, can have a +/- 50% margin of error. That is like trying to buy a car priced at \$50,000 but when you go to pay, you are told that the actual price could be \$25,000, \$50,000 or \$75,000, or somewhere in between, and if you must agree to pay whatever the cost turns out to be within 45 days, or you lose the car and go to the back of the line. PPL's defense of the alleged accuracy of the result of the IIR upon which the deposit amount is calculated notwithstanding, PPL has refused to address the unreasonable margin of error. In short, not only is the deposit process unreasonable, but also the basis for determining the deposit amount. (TEDGUSA St. 1-R, 9).

As Mr. Elias discussed many times in his testimony, TEDGUSA does not disagree with the notion that it is responsible for the actual costs of interconnection, but is concerned about when the costs are collected (Tr. 20:10-17), i.e., before the costs are actually incurred; the basis of the estimate of those costs with its huge margin of error; and, the very large question marks regarding the refundability of money that PPL intends to spend on deposits that may or may not be refundable, for equipment that may or may not be necessary. All of these factors lend to the doubt that the amount of money being demanded and when it is being demanded are accurate as to the actual costs or the necessary timeframe for paying those costs.

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<sup>5</sup> *Kirkwood Partnership v. Pa PUC*, 576 A.2d 1167 (Pa. Cmwlth. 1990).

Standing alone, each of these elements constitutes unreasonable service, and together make it irrefutable that PPL's 25% deposit requirement is unreasonable.

PPL claims that if it did not have a deposit that ratepayers would be responsible for paying costs associated with customer generators. (PPL MB at 13). That statement is provably false. According to Mr. Olsen, the deposit is spent on two things: 1) engineering; and 2) equipment. (Tr. 35:7-12). Mr. Elias questioned whether it was reasonable to encumber deposits before the actual engineering is completed, but regardless, it is PPL that decides when to do so. (TEDGUSA St. No. 1, 3:21-4:9; Tr. 20:10-17). It is not TEDGUSA that is creating unnecessary risk for PPL's customers, rather it is PPL. PPL decides when to buy equipment. TEDGUSA has agreed to pay the costs of the engineering but it has no say in any expenditures and so it is PPL's actions that could cause rate payers to pay for unneeded equipment, not TEDGUSA.

It is PPL's zeal to enforce its unsupported desire that all projects be "shovel ready" (Tr. 34:1-24) when submitted that appears to drive its decision making, despite the lack of any provision in any statute or regulation that mandates that projects be shovel ready when filed. Under the guise of this "shovel ready" goal, PPL has even stated that it would use TEDGUSA's (or some other developer) deposit funds to finance a project further back in the queue, if TEDGUSA's project were withdrawn. Imposing a penalty on a withdrawing project, in the form of charging for studying a project owned by someone else, is illegal under the Commission's regulations that require customer-generator developers to pay only their costs of interconnection – not someone else's.<sup>6</sup>

It is clear from the record that PPL's 25% deposit requirement, with all of its additional parts, is not reasonable. The requirements have been subject to arbitrary re-definition; there is no

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<sup>6</sup> 52 Pa. Code § 75.39(e)(4).

transparency on PPL's use of the deposit nor clarity on whether deposit money's encumbered for deposits might be refundable or not. There is no support for PPL's plan in the AEPSA or the Commission's Regulations and it is unreasonable and must be rejected.

**B. PPL's 25% Deposit is an Illegal Rate. (PPL MB 15-17).**

The 25% deposit requirement is illegal for two independent reasons, contrary to PPL's assertion in its Main Brief. First, it is a rate (demand for payment) and has not been approved by the Commission nor included in PPL's tariff. While it is true that the actual costs will vary, the methodology should not and must be approved and filed.<sup>7</sup> It is also the reason that the General Assembly requires that utilities like PPL adhere to their tariffs, so the rules don't change while a project is midstream, which is what PPL has done here. PPL's deposit fails to comply with any of these requirements and is thus illegal. Also, it is clear that the deposit demand is a rate as defined in 66 Pa. C.S. § 102. Put together, it is clear that PPL's deposit is an un-filed, unapproved, and illegal rate.

PPL's deposit also faces infirmity because it is a "payment of rates in advance", which is prohibited by Section 1305 of the Code. This Section is quite explicit that:

*No public utility shall require the payment of rates in advance, or the making of minimum payments, ready to serve charges, or deposits to secure future payments of rates, **except as the commission, by regulation or order, may permit.** Any deposit made by any domestic consumer, under the provisions of this section or under any repealed statute supplied by this part, shall be returned with any interest due thereon to the consumer making such deposit when he shall have paid undisputed bills for service over a period of 12 consecutive months.<sup>89</sup>*

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<sup>7</sup> 66 Pa. C.S. §§ 1301, 1302, and 1303.

<sup>8</sup> 66 Pa. C.S. § 1305 (emphasis added).

<sup>9</sup> Contrary to PPL's argument, this provision is not limited to residential service deposits used to secure service for those customers who may have a bad payment history. While such deposits, and the refunds for them, are discussed, the wording of the provision makes it clear that it applies to all deposits.

Parsing this provision reveals two requirements; first, that the utility is not permitted to require deposits to secure future payment of rates. In this case, PPL is indeed doing just that and is requiring customer generators to pay for interconnection costs before they are incurred. The second conflict with PPL's deposit is the qualifier that the Commission may, by regulation or order, permit prepayment or deposits. The record is clear, however, that nothing in the net metering regulations or any order of the Commission has approved advance payments, in fact, the regulation that PPL has relied upon, 52 Pa. Code § 75.39(e)(4), does not mention deposits or prepayment, so it cannot lend any support for requiring prepayment or deposits. Contrary to PPL's argument, the deposit is illegal. While PPL goes to some length to argue that this section requires customer generators to pay for the costs of interconnection, it clearly does not authorize the utility to demand payment for those costs before they are incurred, and PPL's argument fails. Likewise, the words "Contribution in Aid of Construction") are not used and the analogy does not and cannot equate to an authorization for prepayment. Nor does PPL's claim of managerial discretion allow it to violate the clear terms of a statute that requires a Commission Order or Regulation, which in this case does not exist.

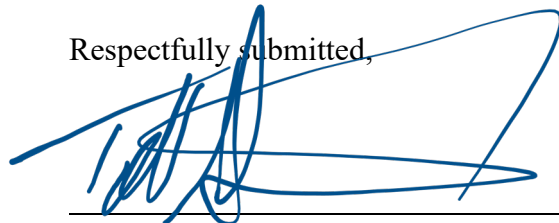
PPL's 25% deposit requirement is an illegal rate, it is not tariffed, it is not Commission approved, it also is a deposit in clear violation of an unambiguous statute that prohibits utilities requiring pre-payment or deposits without a regulation authorizing it, or an order. There is no such regulation or order here. Instead, PPL chose to violate the law and impose an ambiguous deposit requirement and then proceed to change its requirements mid-stream. PPL actions are neither justified, nor just and it should be sanctioned accordingly.

### III. CONCLUSION

PPL's deposit is a rate, it is also a deposit, or prepayment demand. Regardless of how it is characterized, it is contrary to the law. The deposit also is unreasonable service. It has been arbitrarily redefined even during this proceeding, and it appears probable that PPL may change it again. All of the uncertainty created by PPL's imposition of the deposit appears to be intentional considering the other aspects of PPL's efforts as chronicled in this brief and TEDGUSA's Main Brief. Regardless of intent, PPL's deposit requirement must be rejected as illegal, unreasonable and unjust.

TEDGUSA requests that the Commission determine that PPL's 25% tariff requirement be found to be unjust and unreasonable, and contrary to law. TEDGUSA also requests that PPL be permanently enjoined from imposing any deposit for customer generators until such time as it has filed the requirements for such deposit and the Commission has approved such requirements. TEDGUSA asks that the Commission provide such additional relief as the Commission believes to be necessary to ensure PPL's ongoing compliance with the law.

Respectfully submitted,



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Todd S. Stewart, Attorney ID No. 75556  
HMS Legal LLP  
501 Corporate Circle, Suite 302  
Harrisburg, PA 17110  
(717) 236-1300  
(717) 236-4841 (fax)  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

*Counsel for TotalEnergies Distributed  
Generation USA, LLC*

DATED: June 11, 2025