BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

TotalEnergies Distributed Generation USA, LLC	:	
	:	
v.	:	C-2024-3051475
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Steven K. Haas
F. Joseph Brady
Administrative Law Judges

INTRODUCTION

This decision sustains a Formal Complaint filed by a developer that designs, builds, finances and operates commercial scale solar and storage facilities against an electric distribution company (EDC) challenging the legality of the EDC's requirement that developers pay a non-refundable deposit to cover certain costs anticipated by the EDC to be incurred to interconnect with the developer's project.

HISTORY OF THE PROCEEDING

On September 30, 2024, TotalEnergies Distributed Generation USA, LLC (TEDGUSA) filed a Formal Complaint (Complaint) against PPL Electric Utilities Corporation (PPL) in which it challenges PPL's non-refundable deposit requirement

under the customer-generator interconnection approval process. TEDGUSA alleges PPL's requirement is unreasonable and violates 66 Pa.C.S. §§ 1305 and 1501.

Also on September 30, 2024, TEDGUSA filed a Petition for Interim Emergency Relief (Petition) with the Commission, which was docketed at P-2024-3051440. In its Petition, TEDGUSA requested that PPL be barred from making a deposit non-refundable pending the disposition of the Complaint. After a hearing held on October 8, 2024, we granted the Petition by Order issued on October 15, 2024 and certified a material question to the Commission.

On October 21, 2024, PPL filed an Answer to the Complaint. In its Answer, PPL argued that its deposit requirement is lawful because PPL is permitted to charge interconnection applicants for the costs to study, engineer, design, and construct the distribution system upgrades necessary to facilitate the alternative energy systems interconnection and the deposit is used to cover those costs.

On October 22, 2024, the parties filed a joint letter setting forth their agreement that PPL would not require non-refundable deposits from TEDGUSA during the pendency of the Complaint proceeding. On November 14, 2024, the Commission entered an Opinion and Order in the Petition proceeding adopting the parties' agreement and deeming the Petition and certified material question moot.

On January 13, 2025, a Call-In Telephone Prehearing Conference Notice was issued setting a prehearing conference for January 30, 2025, at 1:30 p.m., before the undersigned Administrative Law Judges. The prehearing conference was convened as scheduled, at which time a litigation schedule was established. Evidentiary hearings were scheduled for April 29-30, 2025. Main briefs were due by May 29, 2025, and reply briefs were due by June 11, 2025. A scheduling order memorializing the litigation schedule was issued on February 3, 2025.

On February 25, 2025, TEDGUSA submitted the direct testimony of Christopher Elias, who sponsored Exhibits CE-1, CE-2, and CE-3.

On March 27, 2025, PPL submitted the direct testimony of Gregory Olsen, who sponsored Exhibits GO-1, GO-2, GO-3, and GO-4.

On April 14, 2025, TEDGUSA submitted the rebuttal testimony of Christopher Elias and Exhibit CE-1.

On April 29, 2025, a telephonic hearing was convened as scheduled in the Complaint proceeding. During the hearing, the submitted testimony and exhibits were admitted. The hearing scheduled for April 30, 2025, was canceled.

On May 5, 2025, the hearing transcript and exhibits were filed with the Commission.

Both parties filed main briefs on May 29, 2025, and reply briefs on June 11, 2025. The record was closed on June 11, 2025, upon our receipt of the reply briefs.

TEDGUSA's Complaint is ready for disposition. For the reasons discussed below, the Complaint is sustained.

FINDINGS OF FACT

1. The Complainant, TEDGUSA, designs, builds, finances and operates both front of the meter and behind the meter commercial scale solar and storage facilities across the United States. TEDGUSA has 1400 project sites generating 1.4 GW of solar energy. TEDGUSA Stmt. No. 1, p. 2.

2. The Respondent is PPL Electric Utilities Corporation, an electric distribution company and default service provider. PPL Stmt. No. 1, p. 1-2.

3. Once an Applicant submits a successful interconnection application to PPL, the company places the Applicant's project in PPL's interconnection queue. The queue position is determined sequentially by the date and time that PPL received all of the following: valid interconnection request; applicable interconnection application fee; and an approved one-line diagram. PPL Stmt. No. 1, p. 4.

4. The interconnection queue determines the order of projects that are interconnected. PPL Stmt. No. 1, p. 4.

5. PPL's interconnection application review process, which tracks the Commission's regulations, provides four different "levels" of review:

> Level 1 – The Level 1 review process is used when: (a) the small generator facility has an electric nameplate capacity of 10 kW or less; and (b) the customer interconnection equipment proposed for the small generator facility is certified. See 52 Pa. Code §§ 75.34(1), 75.37.
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> Level 2 – The Level 2 review process is used when: (a) the small generator facility uses an inverter for interconnection; (b) the electric nameplate capacity rating is 2 MW or less; (c) the customer interconnection equipment proposed for the small generator facility is certified; (d) the proposed interconnection is to a radial distribution circuit, or a spot network limited to serving one customer; and (e) the small generator facility was reviewed under Level 1 review procedures but not approved. See 52 Pa. Code §§ 75.34(2), 75.38.
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> Level 3 – The Level 3 review process is used when: (a) the small generation facility has a nameplate capacity of 2 MW or less; and (b) the facility did not qualify under the Level

> 1 or Level 2 review procedures or was reviewed under one of those review procedures but was not approved for interconnection. Additionally, the Company uses the Level 3 review process when the small generator facility: (a) has an electric nameplate capacity of 5 MW or less; (b) is less than 5 MW and not certified; or (c) is less than 5 MW and noninverter based. The Level 3 review process also is utilized when the interconnection request was considered but not approved under a Level 2 or Level 4 review if the interconnection customer submits a new interconnection request for consideration under Level 3. See 52 Pa. Code §§ 75.34(3), 75.39.
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> Level 4 – The Level 4 review process is used for interconnection applicants whose projects do not qualify for Level 1 or Level 2 review and do not export power beyond the point of common coupling. See 52 Pa. Code §§ 75.34(4), 23 75.40.

PPL Stmt. No. 1, pp. 3-4.

6. Once the initial application steps are finished, and PPL's engineers review and approve the one-line diagram, the Company begins its Interconnection Impact Review (IIR) process. PPL Stmt. No. 1, p. 2.

7. In its IIR process, PPL's engineers model the impact of the proposed project on the Company's distribution system based on the project's design, location, and size. The Company will perform several load flow and power flow analyses to determine how the distribution system will respond to the project's interconnection. Then, based on the results of those analyses, PPL scopes the system reinforcements, if any, that are required to safely and reliability interconnect the project. PPL Stmt. No. 1, p. 6.

8. The IIR determines the facilities that are needed to interconnect and provides the electrical switching configuration of the equipment, including transformers, switchgear, meters and other station equipment. PPL Stmt. No. 1, p. 7.

9. The IIR provides the cost of the necessary facilities, an estimate of the cost of the equipment, engineering, procurement and construction work, including overheads, and the nature and estimated cost of the EDC's interconnection facilities and distribution upgrades necessary to accomplish the interconnection. PPL Stmt. No. 1, p. 8.

10. The IIR provides the time required to interconnect the small generator facility with the EDC's electric distribution system, and an estimate of the time required to complete the construction and installation of the facilities. PPL Stmt. No. 1, p. 8.

11. PPL requires the interconnection applicant to pay a deposit equal to 25% of the cost estimate provided in the IIR. PPL Stmt. No. 1, p. 9.

12. The 25% deposit requirement became effective on January 1, 2024. PPL Stmt. No. 1, p. 10.

13. PPL Electric applies the deposit to the costs of (1) the engineering for the system reinforcements, and (2) any deposits that must be paid under the relevant vendor agreements to order the long lead time equipment for the system reinforcements. PPL Stmt. No. 1, pp. 11, 15-16.

14. The documents that developers are required to execute and submit provide that the 25% deposit is non-refundable. TEDGUSA Stmt. No. 1, p. 3.

15. Although PPL states in its direct testimony that it is no longer demanding a "non-refundable" deposit, it has not modified any of the documents signed by developers to memorialize this change. PPL Stmt. No. 1, pp. 12-13: Tr. p. 43.

16. If a developer withdraws a project, PPL may "restudy" the project and charge the deposit of the withdrawing developer for the re-study. TEDGUSA Ex. TE-4.

17. TEDGUSA had 10 projects in the PPL service territory for which deposits in the total amount of $2,340,834.00 were paid to PPL. TEDGUSA Stmt. No. 1. p. 2.

18. PPL requires payment of the deposits before PPL has made a commitment to interconnect, in the form of an executed interconnection agreement, or before PPL submits the project to the Commission for review. TEDGUSA Stmt. No. 1-R, p. 4.

DISCUSSION

TEDGUSA's Position

TEDGUSA argues that the non-refundable deposit constitutes a "rate" as defined by the Public Utility Code (Code) at Section 102, 66 Pa.C.S. § 102, and as such, must be approved by the Commission and included in PPL's Commission approved tariff pursuant to Section 1302 of the Code. 66 Pa.C.S. § 1302. TEDGUSA argues that any rate charged must be determined to be just and reasonable by the Commission, which has not occurred here. Lastly, TEDGUSA argues that the deposit requirement is not authorized by the Commission's Regulations at 52 Pa. Code §§ 69.2101 – 2104, 75.21 – 51.

PPL's Position

PPL argues that the non-refundable deposit is not an illegal rate because the Commission's Regulations at 52 Pa. Code §§ 69.2101 – 2104, 75.21 – 51 authorizes it to charge for interconnection costs and are silent as to when those costs will be collected. Thus, PPL argues it is authorized to charge a portion of those costs in advance as a deposit.

Burden of Proof

Section 332(a) of the Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (Opinion and Order entered Feb. 8, 1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (Opinion and Order entered Oct. 6, 1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A complainant can meet that burden if it presents evidence more convincing, by even the smallest amount, than that evidence presented by Respondent. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). The offense must be a violation of the Code, a Commission Regulation or Order, or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701.

The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v.*

Unemployment Comp. Bd. of Rev., 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on the complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *see also*, *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

Non-refundable Deposit

Initially, we note that despite the written contract language that provides for a non-refundable deposit, PPL now argues that the required deposit is refundable as to unused portions. *See* PPL Stmt. No.1, pp. 12-13; PPL MB p. 7, 11, 13-15. We find this argument is immaterial to this proceeding.

"The fundamental rule in interpreting a contract is to ascertain and give effect to the intent of the contracting parties." *Crawford Cent. Sch. Dist. v. Com.*, 888 A.2d 616, 623 (Pa. 2005) (*Crawford*). Moreover, it is well settled law that "[i]n a written contract the intent of the parties is the writing itself and when the words are clear and unambiguous the intent is to be determined only from the express language of the agreement." *Robert F. Felte, Inc. v. White*, 302 A.2d 347, 351 (Pa. 1973). The Commission cannot "modify the plain meaning of [a] contract under the guise of interpretation." *Crawford*.

In this case, the contract language at issue can be found in the IIR, which states: "The Interconnection Customer has 45 calendar days from the receipt of this IIR to make a non-refundable payment of the accompanying upfront invoice." PPL Ex. GO-1, p. 5 (emphasis added). Additionally, in the web instructions provided by PPL, it states:

> Following review of the IIR document, if the customer intends to proceed, the completed Notification of Customer Intent (NaCI) must be returned and the associated invoice (25% of the TEDGUSA Customer Cost Estimate on the IIR) must be paid in full within 45 calendar days of the invoice date. This payment is non-refundable and non-transferable.

PPL Ex. GO-3, p. 2 (emphasis added).

The foregoing contract language is clear and unambiguous. Thus, our analysis and conclusions are based on the finding that the proposed deposit requirement is non-refundable in its entirety, as clearly set forth in the contracting documents.

Non-refundable Deposit is an Illegal Rate

Section 102 of the Code defines the term "rate" as follows:

> **"Rate."** Every individual, or joint fare, toll, charge, rental, *or other compensation whatsoever of any public utility*, or contract carrier by motor vehicle, made, *demanded, or received for any service within this part, offered, rendered, or furnished by such public utility*, or contract carrier by motor vehicle, whether in currency, legal tender, or evidence thereof, in kind, in services or in any other medium or manner whatsoever, and whether received directly or indirectly, and any rules, regulations, practices, classifications or contracts affecting any such compensation, charge, fare, toll, or rental.

66 Pa.C.S. § 102 (emphasis added).

In this case, the 25% non-refundable deposit is clearly compensation being demanded by PPL for interconnection-related services. Thus, we find it constitutes a "rate" as that term is defined in the Code. *Id*. Consequently, we also find that it violates Section 1302 of the Code and is prohibited by Section 1305 of the Code. *See* 66 Pa.C.S. §§ 1302, 1305.

Section 1302 of the Code states:

> Under such regulations as the commission may prescribe, every public utility shall file with the commission, within such time and in such form as the commission may designate, *tariffs showing all rates established by it and collected or enforced, or to be collected or enforced*, within the jurisdiction of the commission. The tariffs of any public utility also subject to the jurisdiction of a Federal regulatory body shall correspond, so far as practicable, to the form of those prescribed by such Federal regulatory body. Every public utility shall keep copies of such tariffs open to public inspection under such rules and regulations as the commission may prescribe. One copy of any rate filing shall be made available, at a convenient location and for a reasonable length of time within each of the utilities' service areas, for inspection and study by customers, upon request to the utility.

66 Pa.C.S. § 1302 (emphasis added). Here, the non-refundable deposit (i.e., "rate") is not included in PPL's Tariff, and therefore, a violation of Section 1302.

Further, both Parties agree that PPL is entitled to recover fees for interconnection applications, as well as any costs actually incurred installing any facilities to accommodate the interconnection of the customer-generator facility pursuant to 52 Pa. Code §§ 69.2104(3), 75.39(e)(4). PPL argues that because these regulations are silent as to when the costs will be collected, it is permitted to exercise "managerial discretion" to

implement the deposit requirement. PPL neither cites to, nor provides, any legal authority for this position. Moreover, this argument is irrelevant because, while these regulations may be silent as to when costs may be recovered, the Code is not. Section 1305 of the Code states:

> *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.

66 Pa.C.S. § 1305 (emphasis added). There are no Commission regulations or orders authorizing PPL to charge the deposit in advance. As a result, PPL is explicitly prohibited from requiring the non-refundable deposit by Section 1305 of the Code.

Just and Reasonable Requirement

Both parties made arguments as to the reasonableness of the deposit requirement pursuant to Section 1301 of the Code, which states in relevant part:

> **§ 1301. Rates to be just and reasonable.**
>
> **(a) Regulation.**--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(a) (emphasis added).

However, since we have determined that the deposit violates Section 1302 of the Code and is prohibited by Section 1305 of the Code, it automatically follows that it is not in conformity with the regulations. Therefore, the deposit cannot be considered just and reasonable under Section 1301 as a matter of law.

There is no dispute that PPL is permitted to recover from developers all costs it actually incurs for such things as application review, equipment, engineering, procurement and construction work, including overheads, deposits that must be paid under relevant vendor agreements to order the long lead time equipment for the system reinforcements and the EDC's interconnection facilities and distribution upgrades necessary to accomplish the interconnection. This decision does not alter developers' liability for payment of such actual costs to PPL. We simply find that deposits required for payment of such costs may not be non-refundable.

Finally, we note that the extensive arguments, testimony, and evidence presented by both parties regarding the purpose, reasonableness, and effects of the deposit requirement demonstrate precisely why a deposit requirement such as this should be included in PPL's tariff so that all of these factors can be properly considered by the Commission, the public, and any other affected parties.

CONCLUSION

Based on the foregoing, we find PPL's proposed non-refundable deposit constitutes a "rate" as defined by Section 102 of the Code, and as such, must be included in PPL's Commission-approved tariff pursuant to Section 1302 of the Code. We further find the deposit is prohibited by Section 1305 of the Code as there are no Commission regulations or orders permitting PPL to charge the deposit in advance. Finally, we find the deposit cannot be considered just and reasonable under Section 1301 because it is not in conformity with the regulations. Accordingly, TEDGUSA's Complaint shall be

sustained and PPL is prohibited from demanding or imposing non-refundable deposit requirements on customer generators seeking to develop renewable energy projects in its service territory unless and until it obtains Commission approval.[1]

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.

2. The Complainant has the burden of proof in this proceeding. 66 Pa.C.S. § 332(a).

3. A Complainant must show, by a preponderance of the evidence, that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa*., 72 Pa.P.U.C. 196 (Opinion and Order entered Feb. 8, 1990); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (Opinion and Order entered Oct. 6, 1976).

4. The decision of the Commission must be supported by substantial evidence or evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. 2 Pa.C.S. § 704; *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr*., 480 A.2d 382 (Pa. Cmwlth. 1984).

[1] As noted in the "History of the Proceeding" section above, PPL agreed not to charge non-refundable deposits pending the outcome of the instant complaint proceeding; therefore, we are not recommending a civil penalty in this case.

5. The fundamental rule in interpreting a contract is to ascertain and give effect to the intent of the contracting parties. *Crawford Cent. Sch. Dist. v. Com.*, 888 A.2d 616 (Pa. 2005).

6. In a written contract the intent of the parties is the writing itself and when the words are clear and unambiguous the intent is to be determined only from the express language of the agreement. *Robert F. Felte, Inc. v. White*, 302 A.2d 347 (Pa. 1973).

7. The Commission cannot "modify the plain meaning of [a] contract under the guise of interpretation." *Crawford Cent. Sch. Dist. v. Com.*, 888 A.2d 616, 623 (Pa. 2005).

8. PPL's non-refundable deposit is a "rate" as defined by the Public Utility Code. 66 Pa.C.S. § 102.

9. PPL's non-refundable deposit is a rate that is not included in its tariff; therefore, it is a violation of the Public Utility Code. 66 Pa.C.S. § 1302.

10. PPL is prohibited from requiring the non-refundable deposit by the Public Utility Code. 66 Pa.C.S. § 1305.

11. PPL's non-refundable deposit is not in conformity with the regulations, and therefore, cannot be considered just and reasonable under the Public Utility Code. 66 Pa.C.S. § 1301(a).

12. The Complainant has carried its burden of proving that PPL's proposed non-refundable deposit is a violation of the Public Utility Code. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by TotalEnergies Distributed Generation USA, LLC in TotalEnergies Distributed Generation USA, LLC v. PPL Electric Utilities Corporation, at Docket No. C-2024-3051475, is sustained.

2. That PPL Electric Utilities Corporation is prohibited from demanding or imposing non-refundable deposit requirements on customer generators seeking to develop renewable energy projects in its service territory unless and until it obtains Commission approval.

3. That Docket No. C-2024-3051475 be marked closed.

Date: September 12, 2025

/s/
Steven K. Haas
F. Joseph Brady
Administrative Law Judges