



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Christopher T. Wright

cwright@postschell.com
717-612-6013 Direct
717-731-1985 Direct Fax
File #: 163476

July 8, 2016

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 through May 31, 2021
Docket No. P-2016-2526627**

Dear Secretary Chiavetta:

Enclosed please find the Initial Brief of PPL Electric Utilities Corporation in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,


Christopher T. Wright

CTW/skr
Enclosure

cc: Honorable Susan D. Colwell
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL AND FIRST CLASS MAIL

Aron J. Beatty
Christy M. Appleby
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101-1923

Gina L. Lauffer
Bureau of Investigation & Enforcement
400 North Street, 2nd Floor West
P.O. Box 3265
Harrisburg, PA 17105-3265

Steven C. Gray
Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, PA 17101

Todd S. Stewart
Hawke McKeon & Sniscak LLP
100 N. 10th Street
Harrisburg, PA 17101
*Counsel for NextEra Energy
Power Marketing, LLC*

Pamela Polacek
Adeolu A. Bakare
Alessandra L. Hylander
McNees, Wallace & Nurick
P.O. Box 1166
100 Pine Street
Harrisburg, PA 17108-1166
Counsel for PPLICA

Kenneth L. Mickens
The Sustainable Energy Fund of Central
Eastern Pennsylvania
316 Yorkshire Drive
Harrisburg, PA 17111

Patrick M. Cicero
Elizabeth R. Marx
Joline Price
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
Counsel for CAUSE-PA

Charles E. Thomas III
Thomas, Niesen & Thomas, LLC
212 Locust Street, Suite 600
Harrisburg, PA 17101
*Counsel for Noble Americas
Energy Solutions LLC*

H. Rachel Smith
Asst. General Counsel
Exelon Business Services Corp.
100 Constellation Way, Suite 500C
Baltimore, MD 21202
Counsel for Exelon Generation Company

Daniel Clearfield
Deanne M. O'Dell
Sarah C. Stoner
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
Counsel for RESA

Robert D. Knecht
Industrial Economics Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140
Consultant for OSBA

Richard Hahn
Daymark Energy Advisors
One Washington Mall
9th Floor
Boston, MA 02108
Consultant for OCA

Barbara Alexander
Consumer Affairs Consultant
83 Wedgewood Drive
Winthrop, ME 04364
Consultant for OCA

John Costlow
1005 Brookside, Suite 210
Allentown, PA 18106
Consultant for SEF

Date: July 8, 2016



Christopher T. Wright

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities :
Corporation for Approval of a Default : Docket No. P-2016-2526627
Service Program and Procurement Plan for :
the Period June 1, 2017 through May 31, :
2021 :

**INITIAL BRIEF OF
PPL ELECTRIC UTILITIES CORPORATION**

TO ADMINISTRATIVE LAW JUDGE SUSAN D. COLWELL:

Paul E. Russell (Pa. Bar I.D. 21643)
Kimberly A. Klock (Pa. Bar I.D. 89716)
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
Phone: 610-774-4254
Fax: 610-774-6726
E-mail: perussell@pplweb.com
E-mail: kklock@pplweb.com

David B. MacGregor (Pa. Bar I.D. 28804)
Michael W. Hassell (Pa. Bar I.D. 34851)
Christopher T. Wright (Pa. Bar I.D. 203412)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-612-6029
Fax: 717-731-1985
E-mail: dmacgregor@postschell.com
E-mail: mhassell@postschell.com
E-mail: cwright@postschell.com

Dated: July 8, 2016

Attorneys for PPL Electric Utilities Corporation

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. STATEMENT OF THE CASE.....	2
III. QUESTIONS INVOLVED.....	6
IV. LEGAL STANDARDS	6
V. SUMMARY OF ARGUMENT	8
VI. ARGUMENT.....	9
A. LEGAL AUTHORITY FOR CAP SHOPPING RESTRICTIONS.....	9
B. THERE ARE SUBSTANTIAL REASONS TO IMPOSE APPROPRIATE CAP SHOPPING RESTRICTIONS	12
1. Overview of PPL Electric CAP	12
2. CAP Shopping Statistics.....	13
C. CAP SHOPPING PROPOSALS	16
VII. CONCLUSION.....	24
Appendix A - Proposed Findings of Fact	
Appendix B - Proposed Conclusions of Law	
Appendix C - Proposed Ordering Paragraphs	

TABLE OF AUTHORITIES

Page

Pennsylvania Court Decisions

Allied Mechanical and Elec., Inc. v. Pa. Prevailing Wage Appeals Board, 923 A.2d 1220,1228 (Pa. Cmwlth. 2007)7

Borough of E. McKeesport v. Special/Temporary Civil Service Commission, 942 A.2d 274, 281 (Pa. Cmwlth. 2008)7

Brown v. Commonwealth of Pa., 940 A.2d 610, 614, n.14 (Pa. Cmwlth. 2008)7

Coalition for Affordable Util. Servs. & Energy Efficiency in Pa. v. Pa. PUC, 120 A.3d 1087 (Pa. Cmwlth. 2015), appeal denied by *Coalition for Affordable Util. Servs. & Energy Efficiency in Pa. v. Pa. PUC*, Pa. PUC, 2016 Pa. LEXIS 723 and 2016 Pa. LEXIS 724 (Pa., Apr. 5, 2016)10, 18

Commonwealth of Pa. v. Williams, 557 Pa. 207, 732 A.2d 1167 (1999)6

District of Columbia’s Appeal, 343 Pa. 65, 21 A.2d 883 (1941)7

Kyu Son Yi v. State Board of Veterinarian Medicine, 960 A.2d 864, 874 (Pa. Cmwlth. 2008)7

McDonald v. Pa. Railroad Co., 348 Pa. 558, 36 A.2d 492 (1940)7

Met-Ed Indus. Users Group v. Pa. PUC, 960 A.2d 189, 193, n.2 (Pa. Cmwlth. 2008)7

PP&L Industrial Customer Alliance v. Pa. PUC, 780 A.2d 773, 782 (Pa. Cmwlth. 2001)12

Samuel J. Lansberry, Inc. v. Pa. PUC, 578 A.2d 600, 602 (Pa. Cmwlth. 1990)6

Pennsylvania Administrative Agency Decisions

Application of Pennsylvania-American Water Company for Approval of the Right To Offer, Render, Furnish or Supply Water Service to the Public in Additional Portions Of Mahoning Township, Lawrence County, Pennsylvania, Docket No. A-212285F0148, 2008 Pa. PUC LEXIS 874 (Opinion and Order entered Oct. 29, 2008)7

PPL Electric Utilities Corporation Universal Service and Energy Conservation Plan for 2014-2016 Submitted in Compliance with 52 Pa. Code § 54.74, Docket No. M-2013-2367021, p. 18 (Final Order entered Sept. 11, 2014)10

I. INTRODUCTION

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) herein submits this Initial Brief on the specific issue reserved for litigation in the above-captioned proceeding. In this proceeding, PPL Electric requests Pennsylvania Public Utility Commission (“Commission”) approval of its fourth Default Service Program and Procurement Plan (“DSP IV Program”) to establish the terms and conditions under which PPL Electric will acquire and supply Default Service or provider of last resort service (“Default Service”), from June 1, 2017 through May 31, 2021 (the “DSP IV Program Period”). PPL Electric’s proposed DSP IV Program, *inter alia*, consists of a proposal for competitive procurement of Default Service supply and related Alternative Energy Credits (“AECs”) during the DSP IV Program Period; an implementation plan; a proposed rate design; a proposal to continue the Company’s current Standard Offer Referral Program (“SOP”); and a contingency plan for the DSP IV Program.

The active parties to this proceeding reached a partial settlement on all issues raised in this proceeding except shopping by customers enrolled in PPL Electric’s Customer Assistance Program (“CAP”). Contemporaneously with the filing of Reply Briefs, a Joint Petition for Partial Settlement (“Partial Settlement”) will be filed on July 19, 2016, by PPL Electric, the Commission’s Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), PP&L Industrial Customer Alliance (“PPLICA”), Retail Energy Supply Association (“RESA”), and Exelon Generation Company, LLC (“ExGen”), all parties to the above-captioned proceeding (hereinafter, collectively “Signatory Parties”).¹ This Partial Settlement resolves all but one of the issues and concerns raised by the active parties in the

¹ Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), the Sustainable Energy Fund (“SEF”), NextEra Energy Power Marketing, LLC (“NextEra”), and Noble Americas Energy Solutions LLC (“Noble”) are not parties to the Partial Settlement but have indicated that they do not object.

instant proceeding and, therefore, the Signatory Parties will request that Administrative Law Judge Susan D. Colwell (“ALJ”) and the Commission approve the proposals set forth in PPL Electric’s proposed DSP IV Program, subject to the terms and conditions of the Partial Settlement and a decision on the issue reserved for litigation.

The Partial Settlement reserves one issue for litigation -- whether there should be limitations on CAP customers’ ability to shop for electric supply from electric generation suppliers (“EGSs”) and, if so, what limitations should be applied to CAP shopping. PPL Electric, I&E, OCA, CAUSE-PA, and RESA all submitted testimony on CAP shopping. PPL Electric, OCA, and CAUSE-PA each initially presented its own separate CAP shopping proposal.² However, as a result of multiple rounds of testimony and discovery in this proceeding, PPL Electric, I&E, OCA, and CAUSE-PA entered into a Joint Litigation Position that formally withdrew the three separate original CAP shopping proposals and supported a single revised CAP shopping proposal set forth in PPL Electric’s rejoinder testimony. RESA, on the other hand, opposed the adoption of any limits on CAP shopping in this proceeding.

Pursuant to Sections 5.501 and 5.502 of the Commission’s regulations, 52 Pa. Code §§ 5.501 and 5.502, and the ALJ’s June 16, 2016 Briefing Order, PPL Electric herein submits this Initial Brief on the single issue reserved for litigation. For the reasons explained below, the revised CAP shopping proposal presented in PPL Electric’s rejoinder testimony, and jointly supported by PPL Electric, I&E, OCA, and CAUSE-PA, should be adopted.

II. STATEMENT OF THE CASE

On January 29, 2016, PPL Electric filed a Petition requesting Commission approval of its proposed DSP IV Program. (PPL Electric Exhibit No. 1) Copies of a *pro forma* Request for

² I&E initially supported PPL Electric’s CAP shopping proposal.

Proposals (“RFP”) Process and Rules and a *pro forma* Default Service Supply Master Agreement (“Default Service SMA”) were included with the Petition. (PPL Electric Exhibit No. 1, Attachments A and B, respectively) The Petition also contained *pro forma* tariff pages for the Generation Supply Charge-1 (“GSC-1), the Generation Supply Charge-2 (“GSC-2), and the Transmission Service Charge (“TSC”) to implement rates under the DSP IV Program. (PPL Electric Exhibit No. 1, Attachment C)

Also on January 29, 2016, PPL Electric filed the following prepared direct testimony, with related exhibits in support of the DSP IV Program: PPL Electric Statement No. 1, Direct Testimony of James R. Rouland; PPL Electric Statement No. 2, Direct Testimony of A. Joseph Cavicchi; and PPL Electric Statement No. 3, Direct Testimony of Michael S. Wukitsch. Therein, PPL Electric more fully explained the details of the proposed DSP IV Program and why the Company believes that the proposed DSP IV Program includes and/or addresses all of the elements prescribed by Section 2807(e) of the Public Utility Code, the Commission’s regulations, and the Commission’s policies for a Default Service plan.

On February 4, 2016, the Commission issued a notice scheduling a prehearing conference in the above-captioned matter on March 9, 2016. On February 13, 2016, notice of PPL Electric’s DSP IV Petition was published in the *Pennsylvania Bulletin*, 46 Pa.B. 836, along with notice of the prehearing conference scheduled for March 9, 2016.

A Notice of Appearance was filed by I&E on February 18, 2016. Notices of Intervention and Answers were filed by the OCA and OSBA on February 29, 2016. Petitions to Intervene were filed by: PPLICA, SEF, CAUSE-PA, NextEra, Noble, RESA, and ExGen.

An initial prehearing conference was held before the ALJ on March 9, 2016. The active parties filed prehearing memoranda identifying potential issues and witnesses. A litigation schedule

was established at the prehearing conference and adopted in a Scheduling Order issued on March 9, 2016.

On March 9, 2016, PPL Electric submitted the following supplemental direct testimony and related exhibits to make corrections to the initial filing: PPL Electric Statement No. 1-Supp., Supplemental Direct Testimony of James R. Rouland; and PPL Electric Statement No. 2-Supp., Supplemental Direct Testimony of A. Joseph Cavicchi.

On March 18, 2016, PPL Electric filed a Motion for Protective Order, which was granted on March 29, 2016.

On April 20, 2016, certain parties other than PPL Electric served the following direct testimony: I&E served the Direct Testimony of D.C. Patel, I&E Statement No. 1; OCA served the Direct Testimony of Richard S. Hahn, OCA Statement No. 1, and the Direct Testimony of Barbara R. Alexander, OCA Statement No. 2; CAUSE-PA served the Direct Testimony of Harry Geller, CAUSE-PA Statement No. 1; and RESA served the Direct Testimony of Matthew White, RESA Statement No. 1. No other party served direct testimony.

On May 23, 2016, the following rebuttal testimony was served by certain parties: PPL Electric served: the Rebuttal Testimony of James R. Rouland, PPL Electric Statement No. 1-R, the Rebuttal Testimony of A. Joseph Cavicchi, PPL Electric Statement No. 2-R, and the Rebuttal Testimony of Michael S. Wukitsch, PPL Electric Statement No. 3-R; OCA served the Rebuttal Testimony of Richard S. Hahn, OCA Statement No. 1-R; OSBA served the Rebuttal Testimony of Robert D. Knecht, OSBA Statement No. 1; CAUSE-PA served the Rebuttal Testimony of Harry Geller, CAUSE-PA Statement No. 1-R; and RESA served the Rebuttal Testimony of Matthew White, RESA Statement No. 1-R. No other parties served rebuttal testimony.

The following surrebuttal testimony was served by certain parties on June 3, 2016: PPL Electric served the Surrebuttal Testimony of James R. Rouland, PPL Electric Statement No. 1-R;

I&E served the Surrebuttal Testimony of D.C. Patel, I&E Statement No. 1-SR; OCA served the Surrebuttal Testimony of Richard S. Hahn, OCA Statement No. 1-SR, and the Surrebuttal Testimony of Barbara R. Alexander, OCA Statement No. 2-SR; CAUSE-PA served the Surrebuttal Testimony of Harry Geller, CAUSE-PA Statement No. 1-SR; and RESA served the Rebuttal Testimony of Matthew White, RESA Statement No. 1-R. No other parties served surrebuttal testimony.

On June 15, 2016, the following rejoinder testimony was served: PPL Electric served the Rejoinder Testimony of James R. Rouland, PPL Electric Statement No. 1-RJ; and RESA served the Rejoinder Testimony of Matthew White, RESA Statement No. 1-RJ. No other parties served surrebuttal testimony.

As a result of settlement discussions, the active parties were able to achieve a partial settlement in principle prior to the June 16, 2016 evidentiary hearings. In addition, prior to the June 16, 2016 evidentiary hearing, PPL Electric, I&E, OCA, and CAUSE-PA entered into a Joint Litigation Position that: (i) withdrew the three separate CAP shopping proposals originally proposed by PPL Electric, OCA, and CAUSE-PA; and (ii) supported a single revised CAP shopping proposal set forth in PPL Electric's rejoinder testimony, PPL Electric Statement No. 1-RJ.

An evidentiary hearing was held on June 16, 2016. The active parties agreed to waive cross examination, and moved their respective testimonies and exhibits into the record. The Joint Litigation Position among PPL, I&E, OCA, and CAUSE-PA was admitted into the record at the evidentiary hearing. (Tr. p. 38) CAUSE-PA and RESA also entered into a Stipulation that was admitted into the record. (Tr. p. 44)

The Partial Settlement will be filed by the Signatory Parties contemporaneously with the filing of Reply Briefs on July 19, 2016. With the exception of CAP shopping, the Partial Settlement represents a resolution of all issues and concerns raised by the parties that actively participated and

presented testimony in this proceeding. The issue of CAP shopping is the only issue reserved for litigation and to be briefed by the parties. For the reasons explained below, PPL Electric respectfully requests that the ALJ and the Commission adopt the CAP shopping proposal set forth in PPL Electric Statement No. 1-RJ.

III. QUESTIONS INVOLVED

1. Does the Commission have legal authority to implement restrictions on CAP shopping?

Suggested answer: in the affirmative.

2. Whether the record evidence supports restrictions on CAP shopping.

Suggested answer: in the affirmative.

3. Whether the CAP shopping proposal jointly supported by PPL, I&E, OCA, and CAUSE-PA should be adopted in this proceeding.

Suggested answer: in the affirmative.

IV. LEGAL STANDARDS

Section 332(a) of the Public Utility Code (“Code”), 66 Pa.C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. It is well established that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth of Pa. v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). This standard is satisfied

by presenting evidence more convincing, by even the smallest amount, than that presented by another party. *Brown v. Commonwealth of Pa.*, 940 A.2d 610, 614, n.14 (Pa. Cmwlth. 2008).

If the party seeking a rule or order from the Commission sets forth a *prima facie* case, then the burden shifts to the opponent. *McDonald v. Pa. Railroad Co.*, 348 Pa. 558, 36 A.2d 492 (1940). Establishing a *prima facie* case requires either evidence sufficient to make a finding of fact permissible or evidence to create a presumption against an opponent which, if not met, results in an obligatory decision for the proponent. Once a *prima facie* case has been established, if contrary evidence is not presented, there is no requirement that the party seeking a rule or order from the Commission produce additional evidence in order to sustain its burden of proof. *District of Columbia's Appeal*, 343 Pa. 65, 21 A.2d 883 (1941); *Application of Pennsylvania-American Water Company for Approval of the Right To Offer, Render, Furnish or Supply Water Service to the Public in Additional Portions Of Mahoning Township, Lawrence County, Pennsylvania*, Docket No. A-212285F0148, 2008 Pa. PUC LEXIS 874 (Opinion and Order entered Oct. 29, 2008).³

In this proceeding, PPL Electric requests Commission approval of the proposals set forth in its DSP IV Program. All of PPL Electric's proposals set forth in its DSP IV Program have been resolved by the Partial Settlement except for the proposal regarding CAP shopping. Therefore, PPL Electric bears the burden of proof on its unsettled proposal regarding CAP shopping.

³ In addition, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence. *Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 193, n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Service Commission*, 942 A.2d 274, 281 (Pa. Cmwlth. 2008). Although substantial evidence must be "more than a scintilla and must do more than create a suspicion of the existence of the fact to be established," *Kyu Son Yi v. State Board of Veterinarian Medicine*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted), the "presence of conflicting evidence in the record does not mean that substantial evidence is lacking." *Allied Mechanical and Elec., Inc. v. Pa. Prevailing Wage Appeals Board*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

V. SUMMARY OF ARGUMENT

The Commonwealth Court of Pennsylvania has explained that the Commission clearly has authority in appropriate circumstances to impose restrictions on CAP customers' ability to shop for competitive electric generation supply. Further, the Commission expressly directed that the issue of CAP shopping should be addressed in this DSP IV proceeding.

The undisputed record in this case clearly provides substantial reasons why appropriate CAP shopping restrictions should be adopted within PPL Electric's service territory. Indeed, it is undisputed that CAP shopping within PPL Electric's service territory has resulted in CAP customers, as a whole, exceeding their CAP credits at a faster pace than they would have if they did not shop and, instead, received default service at PPL Electric's Price to Compare ("PTC"). It also is undisputed that this accelerated use of CAP credits puts these low-income customers at risk of early removal from CAP. Further, undisputed data show that CAP shopping has resulted in increased CAP costs that are paid for by other Residential customers. Clearly, appropriate CAP shopping restrictions/limitations should be adopted to mitigate the impacts that CAP shopping can have CAP credits, the risk of early removal from the OnTrack program, and the CAP costs that are paid for by other Residential customers.

Although RESA did not dispute the record evidence regarding the impacts from CAP shopping, RESA opposed any restrictions on CAP shopping other than perhaps a statewide collaborative or proceeding. However, given the real and present adverse impacts of CAP shopping, RESA's proposal to adopt no limitations at this time is simply not a reasonable or appropriate alternative.

PPL Electric, I&E, OCA, and CAUSE-PA jointly proposed and support the CAP-SOP shopping proposal set forth in the Company's rejoinder statement. The joint proposal endorses a Commission investigation to develop a uniform statewide approach to CAP shopping, as well as an

interim measure to address the impacts of CAP shopping. The proposed CAP-SOP will permit CAP customers to shop while, at the same time, mitigate the adverse impacts that CAP shopping has and likely will continue to have unless and until a uniform, statewide approach to CAP shopping can be developed.

The proposed CAP-SOP is substantially similar to and has many of the same features as the existing, traditional SOP, which has been highly successful both from a customer and EGS participation perspective. Under the CAP-SOP, CAP customers may shop and receive a fixed 12-month price from participating EGSs that is based on a 7% discount off the PTC in effect at the time the CAP customer enrolls in the CAP-SOP. Each year, a CAP customer must re-enroll in the CAP-SOP, at which time they will be able to receive a new shopping price that is 7% off the then-effective PTC. The CAP-SOP will help mitigate the EGSs' concerns about being required to continually lower the contract prices of existing CAP-SOP customers in conjunction with a decreasing PTC. It also will clearly help mitigate the undisputed adverse impacts that CAP shopping can have on CAP credits, risk of early removal from CAP, and the CAP costs that are paid for by other Residential customers.

PPL Electric submits that the jointly proposed CAP-SOP is a reasonable and prudent measure to mitigate the impacts of CAP shopping. For these reasons, as further explained below, PPL Electric respectfully requests that the ALJ and Commission adopt the CAP-SOP shopping program as set forth in PPL Electric Statement No. 1-RJ and the Joint Litigation Position.

VI. ARGUMENT

A. LEGAL AUTHORITY FOR CAP SHOPPING RESTRICTIONS

The Commission expressly directed that the issue of CAP shopping should be addressed in this DSP IV proceeding. In the Company's 2014-2016 Universal Service and Energy Conservation

Plan (“USP Plan”), the Commission directed PPL Electric to address CAP shopping in its next Default Service Program and Procurement Plan proceeding. *See PPL Electric Utilities Corporation Universal Service and Energy Conservation Plan for 2014-2016 Submitted in Compliance with 52 Pa. Code § 54.74*, Docket No. M-2013-2367021, p. 18 (Final Order entered Sept. 11, 2014). Further, in the Company’s 2015 base rate case, the Commission directed PPL Electric to obtain and provide data regarding CAP shopping, and reserved the right of interested parties to “evaluate further revisions to the CAP customer participation in the competitive shopping market and to recommend changes to CAP customer shopping in the Company’s next default service procurement plan proceeding.” *Pa. PUC v. PPL Electric Utilities Corporation*, Docket No. R-2015-2469275, p. 13 (Final Order entered Nov. 19, 2015). Thus, the Commission clearly directed that the issue of CAP shopping should be addressed in this default service proceeding.

Further, any question concerning the Commission’s authority to impose restrictions on CAP customers’ ability to shop for competitive electric generation supply has been fully resolved by the Commonwealth Court of Pennsylvania. In *Coalition for Affordable Util. Servs. & Energy Efficiency in Pa. v. Pa. PUC*, 120 A.3d 1087 (Pa. Cmwlth. 2015), appeal denied by *Coalition for Affordable Util. Servs. & Energy Efficiency in Pa. v. Pa. PUC*, Pa. PUC, 2016 Pa. LEXIS 723 and 2016 Pa. LEXIS 724 (Pa., Apr. 5, 2016), petitioners questioned whether the Commission erred when it held that it lacked the authority to (i) approve a PECO proposed price ceiling and (ii) adopt the OCA’s proposal to prohibit EGSs from charging early cancellation or termination fees as part of a PECO CAP shopping plan. The Commonwealth Court framed the question as “whether the [Commission] has the authority to impose, or in this case approve, certain CAP rules, which would limit a participating customer's ability to choose an EGS and remain eligible for CAP benefits.” *Id.* at 1100.

Recognizing that the authority of the Commission to act is purely a question of law, the Commonwealth Court undertook a statutory construction analysis of the Electricity Generation Customer Choice and Competition Act (“Choice Act”), 66 Pa.C.S. §§ 2801-2815, to determine the Commission’s authority to impose CAP shopping rules. The Commonwealth Court found that, although the overarching goal of the Choice Act is competition through deregulation of the energy supply industry, leading to reduced electricity costs for consumers, this does not mean there must be absolute and unbridled competition. *Id.* at 1101. The Commonwealth Court also found that the Choice Act imposes an obligation on the public utility to provide low-income programs and expressly requires the Commission to administer these programs in a manner that is cost-effective for both the CAP participants and the non-CAP participants, who share the financial consequences of the CAP participants’ EGS choice. *Id.* at 1103.

The Commonwealth Court concluded “that the [Commission] has the authority under Section 2804(9) of the Choice Act, in the interest of ensuring that universal service plans are adequately funded and cost-effective, to impose, or in this case approve, CAP rules that would limit the terms of any offer from an EGS that a customer could accept and remain eligible for CAP benefits.” *Id.* at 1103. The Court found this conclusion to be required by the Choice Act’s legislative declaration of policy, “which both encourages deregulation to allow consumers the opportunity to purchase directly their electric supply from EGSs and emphasizes the need to continue and maintain programs that assist low-income customers to afford electric service.” *Id.* (citing 66 Pa.C.S. §§ 2802(7), (9), (10), (14), (17)). Specifically, the Court held that “[s]o long as it ‘provides substantial reasons why there is no reasonable alternative so competition needs to bend’ to ensure adequately-funded, cost-effective, and affordable programs to assist customers who are of low-income to afford electric service, the [Commission] may impose CAP rules that would limit the terms of any offer from an EGS that a customer could accept and remain eligible for CAP benefits -

- e.g., an EGS rate ceiling, a prohibition against early termination/cancellation fees, etc.” *Id.* at 1104 (quoting *PP&L Industrial Customer Alliance v. Pa. PUC*, 780 A.2d 773, 782 (Pa. Cmwlth. 2001) (*en banc*)).

Based on the foregoing, the Commission clearly has authority to impose restrictions on CAP customers’ ability to shop for competitive electric generation supply.

B. THERE ARE SUBSTANTIAL REASONS TO IMPOSE APPROPRIATE CAP SHOPPING RESTRICTIONS

In this case, PPL Electric introduced substantial and detailed evidence regarding the CAP shopping statistics and data in PPL Electric’s service territory. (PPL Electric Statement Nos. 3 and 3-R, and PPL Electric Exhibits MSW-1 through MSW-3) As explained below, the undisputed record in this case clearly provides substantial reasons why appropriate CAP shopping restrictions should be adopted within PPL Electric’s service territory.

1. Overview of PPL Electric CAP

OnTrack is PPL Electric’s Commission-approved CAP. The OnTrack program is available to qualifying Residential customers. To participate in OnTrack, the customer must be payment-troubled and have a household income at or below 150% of the federal poverty level. Through OnTrack, PPL Electric provides reduced payment amounts based on household income, offers arrearage forgiveness, and refers customers to other assistance programs (*e.g.*, weatherization). Customers enrolled in PPL Electric’s OnTrack pay a fixed amount each month based on household income and ability to pay. (PPL Electric St. No. 3, pp. 3-4)

Customers are removed from the OnTrack program if they miss two consecutive payments or when they exceed their allocation of CAP credits. (PPL Electric St. No. 3, p. 4) The CAP credits

are the difference between the fixed OnTrack payment and the total OnTrack customer electric bill.⁴ Consequently, the higher the total bill, the faster the OnTrack customer will reach the maximum CAP credit and be removed from the OnTrack program. (PPL Electric St. No. 3, p. 4)

The Company's costs associated with its universal service programs, including OnTrack, are recovered through the Commission-approved Universal Service Rider ("USR"). The USR is a reconcilable rider that is applied to and recovered from all Residential customers. (PPL Electric St. No. 3, pp. 4-5) The difference between the fixed OnTrack monthly payment and the CAP customer's monthly energy charges, including EGS charges, are recovered through the USR. (PPL Electric St. No. 3, p. 10) Thus, an increase in the average monthly energy charges incurred by CAP customers will result in an increase in the costs recovered from and paid by all Residential customers through the USR.

2. CAP Shopping Statistics

Within PPL Electric's service territory, OnTrack customers have always had the ability to either (i) receive default service at the Company's PTC, or (ii) shop for and receive electric supply from electric generation suppliers ("EGSs"). The percentage of OnTrack customers that have selected an EGS has risen from 44% in September 2013 to 52% in October 2015 – an increase of 18%. (PPL Electric St. No. 3, pp. 5, 7)

Over a 34-month period (January 2013 through October 2015), an average of 49% of OnTrack customers were shopping. (PPL Electric St. No. 3, p. 8) The average monthly

⁴ The maximum CAP credits are set in the Company's base rate cases and universal service proceedings. The Company's current maximum 18-month CAP credit is \$185 per month for electric heat customers (\$3,328 over 18 months) and \$73 per month for non-electric heat customers (\$1,310 over 18 months), as established by the Commission-approved settlement in the 2015 base rate case at Docket No. R-2015-2469275. (PPL Electric St. No. 3, p. 4)

percentages of OnTrack shopping customers that selected an EGS with a price above, or at/below PPL Electric's PTC during 2013 through 2015⁵ are provided below:

	<u>2013</u>	<u>2014</u>	<u>2015</u>
Above PTC:	67%	50%	46%
At/Below PTC:	33%	50%	54%

(PPL Electric St. No. 3, p. 7) Thus, over a 34-month period (January 2013 through October 2015), an average of 55% of OnTrack shoppers were paying an EGS price above the PTC, and 45% of OnTrack shoppers were paying an EGS price at or below the PTC. (PPL Electric St. No. 3, p. 8) However, percentages of OnTrack customers who were paying prices above or below the PTC are not the only relevant statistic. It is also important to understand the amounts being paid above or below the PTC because of shopping.

To determine these amounts, PPL Electric conducted an analysis, by month, of OnTrack shoppers that paid EGS prices above the PTC from January 1, 2012 through October 30, 2015 – a period of 46 months. (See PPL Electric Exhibit MSW-2, p. 3) These OnTrack shopping customers' average monthly energy charges were \$31 higher (each month) than they would have been had they not shopped. The total average monthly difference for all OnTrack shopping customers above the PTC was \$298,406. Extrapolated over 12 months, the estimated impact for all OnTrack shopping customers above the PTC would be \$3,580,872. (PPL Electric St. No. 3, p. 9)

Although these shopping customers' OnTrack payment amounts did not change,⁶ the increase in costs means that they would have used up their CAP credits at a faster pace, which

⁵ For 2013 and 2014, the results are through December 31; the results for 2015 are through October 31. (PPL Electric St. No. 3, p. 7)

⁶ Shopping does not directly affect an OnTrack customer's monthly payment amount, which is a fixed monthly amount based upon ability to pay. (PPL Electric St. No. 1, p. 44)

increases the risk of early removal from the OnTrack program.⁷ In addition, to the extent that these customers did not use up their CAP credits to pay higher energy charges, the higher average monthly energy charges increased the costs recovered from all Residential customers through the USR. (PPL Electric St. No. 3, p. 10)

PPL Electric also conducted an analysis, by month, of OnTrack shoppers that paid EGS prices at/below the PTC from January 1, 2012 through October 30, 2015 – a period of 46 months. (PPL Electric Exhibit MSW-2, p. 4) These OnTrack shopping customers' average monthly energy charges were only \$9 lower (each month) than they would have been had they not shopped. The total average monthly difference for all OnTrack customers at or below the PTC was \$69,750. Extrapolated over 12 months, the estimated impact for all OnTrack customers at or below the PTC would be \$837,000. (PPL Electric St. No. 3, p. 11)

The estimated average monthly net impact of all OnTrack shopping customers (net of both OnTrack customers above the PTC and OnTrack customers at/below the PTC) over the same 46-month period (January 2012 through October 2015) was \$228,656 (\$298,406 - \$69,750) more than the PTC. Extrapolated over 12 months, the net effect for all OnTrack shopping customers would be a cost of \$2,743,872. (PPL Electric Exhibit MSW-2, p. 5) Stated differently, the net financial impact of OnTrack shopping is an increase of approximately \$2.7 million annually in the energy charges paid for supply provided to OnTrack customers. (PPL Electric St. No. 3, p. 12) This increase in the annual energy charges for OnTrack customers is paid by other Residential customers through the USR.

⁷ Over the same 46-month period discussed above (January 2012 through October 2015), an average of 2.0% of customers (both shopping and non-shopping) were removed from the OnTrack program for exceeding CAP credits. As of October 31, 2015, approximately 1.4% of customers (both shopping and non-shopping) were removed from the OnTrack program for exceeding CAP credits. (PPL Electric St. No. 3, p. 12)

The details and analyses regarding the CAP shopping statistics and data were provided in the direct and rebuttal testimony of PPL Electric witness Michael S. Wukitsch, PPL Electric Statement Nos. 3 and 3-R, and PPL Electric Exhibits MSW-1 through MSW-3. Importantly, no parties offered any testimony or evidence to challenge or otherwise oppose PPL Electric's CAP shopping data and statistics provided in this proceeding.

The undisputed record evidence summarized above clearly indicates that CAP shopping has resulted in OnTrack customers, as a whole, exceeding their CAP credits at a faster pace than they would have if they did not shop and, instead, received default service at PPL Electric's PTC. (PPL Electric St. No. 3, p. 13) It also is undisputed that this accelerated use of CAP credits puts these low-income customers at risk of early removal from the OnTrack program. (PPL Electric St. No. 3, p. 13) Further, the undisputed data and statistics introduced by PPL Electric demonstrate that CAP shopping has resulted in increased CAP costs that are paid for by other Residential customers through the USR. (PPL Electric St. No. 3, p. 13)

Based on the foregoing, the record evidence in this case clearly demonstrates that appropriate limits on CAP customers' ability to shop and remain eligible for CAP should be adopted to mitigate the adverse impacts that CAP shopping has and will likely continue to have on both CAP customers and other Residential customers.

C. CAP SHOPPING PROPOSALS

In this proceeding, PPL Electric, OCA, and CAUSE-PA all initially proposed three separate and different CAP shopping proposals.⁸ However, as a result of multiple rounds of testimony and

⁸ PPL Electric's initial CAP shopping proposal: (i) recommended that the Commission promptly initiate a statewide collaborative open to all interested stakeholders and/or initiate a new rulemaking proceeding to evaluate CAP shopping issues on a uniform, statewide basis; and (ii) as an interim measure until a statewide CAP shopping proposal has been properly developed with input from all interested stakeholders, proposed to mitigate the impacts of CAP shopping by encouraging all OnTrack customers to participate in the SOP that is open to all residential customers. (PPL Electric

discovery in this case, PPL Electric, I&E, OCA, and CAUSE-PA jointly withdrew their three separate CAP shopping proposals and jointly supported the CAP-SOP shopping proposal set forth in PPL Electric's rejoinder testimony, PPL Electric Statement No. 1-RJ. (See Joint Litigation Position, Tr. p. 38) For the reasons explained below, PPL Electric respectfully requests that the ALJ and Commission reject RESA's alternative and adopt the CAP-SOP shopping program jointly supported by PPL Electric, I&E, OCA, and CAUSE-PA.

PPL Electric fully supports reasonable and appropriately designed CAP and other universal service programs. PPL Electric also is an active supporter of retail electric generation competition, and supports the Commission's efforts to develop appropriate and reasonable initiatives to further develop the competitive market for retail electric generation supply. The Company recognizes that the statewide policy to promote retail competition and the impacts of CAP shopping must be carefully balanced. (PPL Electric Statement No. 1-R, pp. 44-45) However, given the undisputed and significant adverse impacts that CAP shopping in PPL Electric's service territory currently has and will continue to have on both CAP customers and other Residential customers that pay for CAP costs, the Company believes that it is reasonable and prudent to take steps to mitigate these impacts. (PPL Electric Statement No. 1, p. 48)

St. No. 1, pp. 47-48) I&E initially supported a statewide collaborative open to all interested stakeholders and/or a new rulemaking to evaluate CAP shopping issues on a uniform, statewide basis. (I&E Statement No. 1, pp. 6-8) The OCA CAP shopping proposal would require PPL Electric to implement a new program rule that requires EGSs serving CAP customers to offer a rate that at all times is at or below PTC. (OCA Statement No. 2, pp. 21-22) The CAUSE-PA CAP shopping proposal would impose limitations on CAP customers' ability to accept offers from an EGS and remain eligible for CAP benefits by implementing an 18-month EGS rate that must always be at or below the PTC throughout the full term. (CAUSE-PA Statement No. 1, pp. 33-37) In response to PPL Electric's rebuttal testimony, CAUSE-PA offered an alternative CAP shopping proposal that relies on the SOP but requires EGSs participating in the CAP-SOP to automatically either re-enroll the customer as a new CAP-SOP enrollment at the lower SOP rate or return the customer to default service if the PTC drops during the 12-month CAP-SOP contract period. (CAUSE-PA Statement No. 1-SR, pp. 18-20)

The only reasonable CAP shopping alternative proposed in this proceeding that will “ensure adequately-funded, cost-effective, and affordable programs to assist customers who are of low-income to afford electric service,” *see Coalition*, 120 A.3d at 1104, is the CAP-SOP jointly proposed and supported by PPL Electric, I&E, OCA, and CAUSE-PA. RESA, the only other party that addressed CAP shopping, opposed any restrictions CAP shopping. (RESA Statement No. 1-R, p. 12; RESA Statement No. 1-RJ, p. 4; Tr. 36) It appears that RESA proposes that CAP shopping, and its undisputed adverse impacts, be permitted to continue without any restrictions and not be addressed until a future statewide collaborative or proceeding. (*See* PPL Electric Exhibit JMR-9)

RESA’s proposal is not a reasonable or appropriate alternative to address the impacts of CAP shopping. The record clearly demonstrates that there is a real and present need to address the existing and future impacts of CAP shopping. RESA’s alternative, however, would allow these adverse impacts of CAP shopping to continue without any restrictions at this time and, apparently, wait to address these impacts in some future unknown statewide collaborative/proceeding. Even assuming, *arguendo*, that the Commission initiated a statewide collaborative open to all interested stakeholders and/or a new rulemaking proceeding to evaluate CAP shopping, this alternative fails to address the actual existing and substantial impacts that CAP shopping has today and will continue to have within PPL Electric’s service territory as explained above. For these reasons, RESA’s proposal to adopt no limits on CAP shopping at this time and, instead, wait for a future statewide collaborative/proceeding is not a reasonable or appropriate CAP shopping alternative.

PPL Electric, OCA, and CAUSE-PA each proposed separate and distinctly different measures to address the undisputed impacts of CAP shopping in PPL Electric’s service territory. (*See* PPL Electric St. No. 1, pp. 47-48; OCA Statement No. 2, pp. 21-22; CAUSE-PA Statement No. 1, pp. 33-37; CAUSE-PA Statement No. 1-SR, pp. 18-20) However, as a result of multiple rounds of testimony and discovery in this case, the parties identified several concerns and issues

with the development and implementation of each of the initially proposed CAP shopping proposals. (See OCA Statement No. 2, pp. 21-22; CAUSE-PA Statement No. 1, pp. 27-33; RESA Statement No. 1-R, pp. 12-13; PPL Electric Statement No. 1-R, pp. 23-45; PPL Electric Statement No. 1-RJ, pp. 4-6) Stated otherwise, through their analysis and review of CAP shopping in this case, PPL Electric, I&E, OCA, and CAUSE-PA determined that the three separate CAP shopping alternatives initially proposed by PPL Electric, OCA, and CAUSE-PA were not reasonable or appropriate alternatives to address the impacts of CAP shopping. Consequently, PPL Electric, I&E, OCA, and CAUSE-PA subsequently entered into a Joint Litigation Position that: (i) withdrew the three separate CAP shopping proposals originally proposed by PPL Electric, OCA, and CAUSE-PA; and (ii) supported a single revised CAP shopping proposal, referred to as the “CAP-SOP shopping” proposal, set forth in PPL Electric’s rejoinder testimony, PPL Electric Statement No. 1-RJ. (Tr. p. 38) The jointly proposed CAP-SOP shopping proposal is set forth below.

The first part of the CAP shopping proposal is that the Commission should promptly initiate a statewide collaborative open to all interested stakeholders and/or initiate a new rulemaking proceeding to address CAP shopping issues on a uniform, statewide basis. (PPL Electric Statement No. 1-RJ, pp. 6-7) Given the importance of the issues related to CAP shopping and their undeniable statewide impact, PPL Electric strongly believes that a uniform, state-wide approach is the most prudent long-term approach in this complex situation. (PPL Electric Statement No. 1-R, p. 45; PPL Electric Statement No. 1-RJ, p. 9)

The second part of the CAP shopping proposal is the implementation of an interim CAP-SOP that is based on the Company’s existing, traditional SOP. Importantly, the CAP-SOP will continue to permit CAP customers to shop while, at the same time, mitigating the impacts that CAP shopping has and likely will continue to have unless and until a uniform, statewide approach to

CAP shopping can be developed. (PPL Electric Statement No. 1-RJ, p. 7) If approved, the interim CAP-SOP would permit CAP customers to shop subject to the following limitations:

- (a) Effective June 1, 2017, the CAP-SOP is the only vehicle that a CAP customer may use to shop and receive supply from an EGS.
- (b) Any CAP customer shopping request that does not get processed through the CAP-SOP will be denied.
- (c) EGSs participating in the CAP-SOP must agree to serve customers at a 7% discount off the PTC at the time of enrollment. This price shall remain fixed for the 12-month CAP-SOP contract unless terminated earlier by the customer.
- (d) CAP customers may terminate the CAP-SOP contract at any time and without any termination or cancellation fees or other penalties.
- (e) A CAP customer who terminates a CAP-SOP contract or whose CAP-SOP contract reaches the end of its term can re-enroll in the CAP-SOP.
- (f) At the conclusion of a 12-month CAP-SOP contract, the CAP customer will be returned to the CAP-SOP pool and be re-enrolled in a new CAP-SOP contract, unless the CAP customer requests to be returned to default service or is no longer a CAP customer.
- (g) EGSs must enroll separate from the standard SOP to be a participating supplier in the CAP-SOP. EGSs would be free to voluntarily elect to participate in none, one or the other, or both the traditional SOP and the proposed CAP-SOP. Enrollment will be for a three-month period, and shall conform to the enrollment process for the standard SOP. EGS may opt in to participate in the CAP-SOP on a quarterly basis, and are free to leave the CAP-SOP on a quarterly basis.

(PPL Electric Statement 1-RJ, pp. 7-8) Although the processes and protocols for the CAP-SOP proposal would be the same or very similar to the existing traditional SOP, if the Commission approves the CAP-SOP proposal, the Company would hold a collaborative open to all interested parties within 90 days of the date of a final order in this proceeding to develop CAP-SOP specific scripts to be used by the Company's Customer Service Representatives and PPL Solutions. (PPL Electric Statement No. 1-RJ, pp. 8-9)

For the purpose of transitioning CAP customers who are shopping as of the CAP-SOP June 1, 2017 effective date:

- (a) All CAP customer shopping fixed-term contracts in effect as of the effective date of the CAP-SOP will remain in place until the contract term expires and/or is terminated.
- (b) Once the existing CAP customer shopping contract expires or is terminated, the CAP customer will have the option to enroll in the CAP-SOP or return to default service, but in any event will only be permitted to shop through the CAP-SOP.
- (c) PPL Electric will revise its CAP recertification scripts/process so that all existing CAP shopping customers receiving generation supply on a month-to-month basis after June 1, 2017 will be required at the time of CAP recertification to enroll in the CAP-SOP or return to default service, but in any event will only be permitted to shop through the CAP-SOP.

(PPL Electric Statement 1-RJ, pp. 8-9)

In addition, until a uniform, statewide approach to CAP shopping can be developed, the parties will continue to be permitted to petition the Commission to re-open the CAP-SOP in the event that there is no EGS participation in the program and/or there are changes in retail market conditions that would otherwise justify reopening the CAP-SOP. (PPL Electric Statement No. 1-RJ, p. 9)

The proposed CAP-SOP is substantially similar to and has many of the same features as the existing, traditional SOP. (PPL Electric Statement No. 1-RJ, p. 10) Just like the traditional SOP, EGSs that elect to participate in the CAP-SOP will not be forced to agree to an entirely unknown variable rate that could change during the CAP-SOP contract period due to changes in the PTC. Rather, EGSs that elect to participate in the CAP-SOP would offer a fixed 12-month price to CAP customers based on a 7% discount off the PTC in effect at the time the CAP customer enrolls in the CAP-SOP. (PPL Electric Statement No. 1-RJ, p. 10)

Also just like the traditional SOP, a key component of the proposed CAP-SOP is that EGSs participating in the program may not charge a cancelation or early termination fee. Thus, CAP customers participating in the CAP-SOP may, at any time and for any reason, terminate the CAP-SOP without any penalty. Furthermore, CAP customers may enroll in the CAP-SOP at any time and for any reason, including a change in the PTC. (PPL Electric Statement 1-RJ, pp. 7-8) These provisions are identical to the exiting traditional SOP. (PPL Electric Statement No. 1-R, p. 21)

Importantly, just like the traditional SOP, EGS participation in the CAP-SOP is completely voluntary. The PTC changes every 6 months. EGSs are free to participate in the CAP-SOP on a quarterly basis, and are free to leave the CAP-SOP on a quarterly basis. Thus, if the PTC decreases to a point that an EGS no longer desires to participate and/or it is no longer economical for the EGS to offer a 7% discount off the decreased PTC, the EGS is free to elect not to participate in the CAP-SOP for the next quarter.⁹ (PPL Electric Statement No. 1-R, p. 34; PPL Electric Statement No. 1-RJ, p. 10)

The ability of EGSs to freely leave the CAP-SOP at the end of each quarter will help mitigate EGS concerns regarding customers that terminate an existing CAP-SOP contract under the previous higher PTC and later seek to re-enroll in the CAP-SOP at a 7% discount from the subsequent lower PTC. If the EGS does not want to offer CAP-SOP service in a subsequent quarter with a lower PTC, the EGS may freely leave the program and will be under no obligation to offer CAP-SOP service to either any new CAP customers or any existing CAP-SOP customers that seek to re-enroll at the lower CAP-SOP rate.¹⁰

⁹ RESA acknowledged that, under the traditional SOP, “EGSs have the opportunity to know what the PTC is in advance of finalizing their commitment to participate in the SOP.” (RESA Statement No. 1-SR, p. 8) EGSs would have this same opportunity under the CAP-SOP.

¹⁰ Under this scenario, the EGS that declines to participate in the CAP-SOP for the next quarter would still be obligated to serve existing CAP-SOP customers who previously signed up with the EGS. These CAP-SOP customers will receive the initial 7% discount from the PTC in effect at the

As explained above, the proposed CAP-SOP is very similar to and has many of the same features as the existing, traditional SOP. (PPL Electric Statement No. 1-RJ, p. 10) Notably, PPL Electric's existing traditional SOP has been highly successful both from a customer and EGS participation perspective. (PPL Electric Statement No. 1-R, pp. 11, 13; PPL Electric Statement No. 1-RJ, p. 10) Any speculation that EGSs may be unwilling to participate in the CAP-SOP is inconsistent with the fact that the existing traditional SOP has been highly successful. Furthermore, even if it ultimately turns out that there are actual and real concerns regarding lack of EGS participation in the CAP-SOP, it must be remembered that: (i) even if the Commission adopts the CAP-SOP proposal, it is only an interim measure until a uniform, statewide approach to CAP shopping can be developed; and (ii) until a uniform, statewide approach to CAP shopping can be developed, the parties are free to petition the Commission to re-open the CAP-SOP in the event that there is no EGS participation in the program and/or there are changes in retail market conditions that would otherwise justify reopening the CAP-SOP. (PPL Electric Statement No. 1-RJ, p. 9) Therefore, the CAP-SOP proposal already contemplates a remedy to address any actual or real concerns regarding EGS participation in the CAP-SOP.

PPL Electric submits that, given the undisputed and actual impacts that CAP shopping has had on both CAP customers and other Residential customers within PPL Electric's service territory, it is reasonable and prudent to implement a CAP shopping proposal to mitigate these impacts. (PPL Electric Statement No. 1, p. 48) Importantly, the CAP-SOP jointly proposed and supported by PPL Electric, I&E, OCA, and CAUSE-PA will allow CAP customers to continue to shop and receive electric service from EGSs at a price that is below the PTC. (PPL Electric Statement No. 1-RJ, pp. 7) The CAP-SOP also eliminates the EGSs' concerns about being required to continually lower the

time the existing CAP customer enrolled in CAP-SOP until the end of the 12-month fixed price contract or until the CAP-customer terminated participation in the CAP-SOP, whichever occurs sooner.

contract prices of existing CAP-SOP customers in conjunction with a decreasing PTC. The CAP-SOP is a fair and equitable balance of competing interests because it allows CAP customers to continue to shop while, at the same time, helping mitigate the real and present impacts that CAP shopping can have on CAP credits, risk of early removal from the OnTrack program, and the CAP costs that are paid for by other Residential customers through the USR. (PPL Electric Statement No. 1-RJ, p. 9)

Based on the foregoing, PPL Electric respectfully requests that the ALJ and Commission adopt the jointly proposed CAP-SOP shopping program as set forth in PPL Electric Statement No. 1-RJ and the Joint Litigation Position.

VII. CONCLUSION

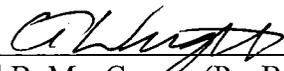
WHEREFORE, PPL Electric Utilities Corporation respectfully requests that Administrative Law Judge Susan D. Colwell issue an Initial Decision recommending that the Pennsylvania Public Utility Commission:

- (a) Adopt the Proposed Findings of Fact attached hereto as Appendix A;
- (b) Adopt the Proposed Conclusions of Law attached hereto as Appendix B;
- (c) Adopt the Proposed Ordering Paragraphs attached hereto as Appendix C;
- (d) Approve the proposals set forth in the “Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 through May 31, 2021,” including the Default Service Supply Master Agreement, Request for Proposals Process and Rules, Program Product Procurement Schedule, and Tariff provisions for the Generation Supply Charge-1, the Generation Supply Charge-2 and the Transmission Service Charge, as modified by the terms and conditions of the partial settlement; and

(d) Approve the Customer Assistance Program Standard Offer Program (CAP-SOP) jointly proposed by PPL Electric Utilities Corporation, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania.

Respectfully submitted,

Paul E. Russell (Pa. Bar I.D. 21643)
Kimberly A. Klock (Pa. Bar I.D. 89716)
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
Phone: 610-774-4254
Fax: 610-774-6726
E-mail: perussell@pplweb.com
E-mail: kklock@pplweb.com


David B. MacGregor (Pa. Bar I.D. 28804)
Michael W. Hassell (Pa. Bar I.D. 34851)
Christopher T. Wright (Pa. Bar I.D. 203412)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-612-6029
Fax: 717-731-1985
E-mail: dmacgregor@postschell.com
E-mail: mhassell@postschell.com
E-mail: cwright@postschell.com

Dated: July 8, 2016

Attorneys for PPL Electric Utilities Corporation

Appendix A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities :
Corporation for Approval of a Default : Docket No. P-2016-2526627
Service Program and Procurement Plan for :
the Period June 1, 2017 through May 31, :
2021 :

**PROPOSED FINDINGS OF FACT OF
PPL ELECTRIC UTILITIES CORPORATION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE SUSAN D. COLWELL:

PPL Electric Utilities Corporation (“PPL Electric”) respectfully requests that Administrative Law Judge Susan D. Colwell (“ALJ”) and the Pennsylvania Public Utility Commission (“Commission”) adopt the following findings of fact in the above-caption proceeding:

A. BACKGROUND

1. PPL Electric furnishes electric distribution, transmission and default supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of 29 counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania. (PPL Electric Exhibit No. 1, p. 3)

2. PPL Electric is a “public utility,” an “electric distribution company” (“EDC”), and a “default service provider” as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 102, 2803. (PPL Electric Exhibit No. 1, p. 3)

3. On January 29, 2016, PPL Electric filed a Petition requesting Commission approval of its fourth Default Service Program and Procurement Plan (“DSP IV Program”) to

establish the terms and conditions under which PPL Electric will acquire and supply Default Service or provider of last resort service (“Default Service”), from June 1, 2017 through May 31, 2021 (the “DSP IV Program Period”). (PPL Electric Exhibit No. 1, *passim*)

4. The DSP IV Program, *inter alia*, consists of a proposal for competitive procurement of Default Service supply and related Alternative Energy Credits (“AECs”) during the DSP IV Program Period; an implementation plan; a proposed rate design, including a Time-of-Use (“TOU”) rate option for Default Service during the DSP IV Program Period; a proposal to continue the Company’s current Standard Offer Program (“SOP”); a proposal to allow Customer Assistance Program (“CAP”) customers to shop for competitive electric generation supply; and a contingency plan for the DSP IV Program. (PPL Electric Exhibit No. 1, *passim*; PPL Electric Statement No. 1, pp. 11-12)

5. Copies of a *pro forma* Request for Proposals (“RFP”) Process and Rules Default and a *pro forma* Service Supply Master Agreement (“Default Service SMA”) were included with the Petition. (PPL Electric Exhibit No. 1, Attachments A and B)

6. The Petition also contained *pro forma* tariff pages to implement rates under the DSP IV Program. (PPL Electric Exhibit No. 1, Attachment C)

B. COMPETITIVE PROCUREMENT PLAN

7. Under the proposed DSP IV Program, PPL Electric will acquire the Residential and Small Commercial and Industrial (Small “C&I”) Customer Classes’ default service supply, other than TOU supply, through a series of fixed-price, load-following, full requirements supply contracts. (PPL Electric Statement No. 1, pp. 15-16)

8. For the Large Commercial and Industrial (“Large C&I”) Customer Class, PPL Electric will enter into annual contracts with suppliers for the provision of the default service spot market full requirements supply contracts. (PPL Electric Statement No. 1, pp. 18, 29)

C. PRUDENT MIX

9. PPL Electric's proposed DSP IV Program will acquire a fixed percentage of the Company's Residential and Small C&I default service load on a semiannual basis through short and medium-term 6- and 12-month contracts. (PPL Electric Statement No. 1, pp. 15-16; PPL Electric Statement No. 2, pp. 13-14)

10. The DSP IV Program procurement schedule includes procuring a large percentage of supply through short-term, 6-month, contracts which enable more market-reflective rates while continuing to moderate price volatility through the procurement of 12-month contracts. (PPL Electric Statement No. 1, p. 22; PPL Electric Statement No. 2, pp. 13-14)

11. The DSP IV Program will continue to obtain both 12- and 6-month fixed-price products. (Partial Settlement ¶ 25)

12. The product portfolio and procurement schedule for the Residential Customer Class will be modified so that, exclusive of the long-term 50 MW block product for the Residential Customer Class, the procurements will be approximately 20% 6-month contracts and 80% 12-month contracts to decrease the total amount of default service supply being procured at one time. (Partial Settlement ¶ 25)

13. The Large C&I Customer Class will continue to be served by 12-month, full-requirements, load-following, spot market contracts procured once a year. (PPL Electric Statement No. 1, pp. 18, 29; PPL Electric Statement No. 2, pp. 12, 15)

14. The Company has 50 MW of energy and capacity associated with a long-term product for the period June 1, 2015 through May 31, 2021, and has a series of long-term Solar and Tier I AEC contracts in effect that conclude on May 31, 2020, and May 31, 2021, respectively. (PPL Electric Statement No. 1, p. 22)

15. PPL Electric's DSP IV Program procurements are consistent with the "prudent mix" requirement. (PPL Electric Statement No. 2, pp. 19-25)

D. ADEQUATE AND RELIABLE SERVICE TO CUSTOMERS

16. PPL Electric's Default Service load-following, full requirements products obligate a wholesale electricity seller to provide a fixed-percentage (referred to as a "tranche") of PPL Electric's default service hourly load during every hour of a product's term. (PPL Electric Statement No. 2, p. 4)

17. By assuming this obligation, sellers are responsible for managing the acquisition of energy, capacity, transmission (other than non-market based transmission services), ancillary services, AECs, and any other related products (net of transmission and distribution losses) to meet Default Service customers' hourly loads. (PPL Electric Statement No. 2, p. 4)

18. PPL Electric's Default Service load-following, full requirements products will ensure that PPL Electric will be able to provide adequate and reliable Default Service to customers. (PPL Electric Statement No. 2, pp. 4-7)

E. LEAST COST TO CUSTOMERS OVER TIME

19. The fixed-price, load-following supply for Residential and Small C&I Default Service customers will be procured through widely advertised, well-defined solicitations where the overarching objective is to seek out the lowest-cost suppliers. (PPL Electric Statement No. 2, p. 27)

20. By obtaining the Residential and Small C&I Default Service supplies through competitive solicitations in the form of an auction, PPL Electric obtains default supplies at the least cost for the product being procured. (PPL Electric Statement No. 2, pp. 27-28)

21. Wholesale competition among suppliers of the spot market-priced product will ensure that PPL Electric provides default service for Large C&I customers at the least cost. (PPL Electric Statement No. 2, p. 28)

22. PPL Electric's DSP IV Program procurements are consistent with the "least cost to customers over time" requirement. (PPL Electric Statement No. 2, pp. 25-28)

F. TIME OF USE

23. In its DSP IV Program, the Company proposed to continue the TOU rate option as approved in DSP III. (PPL Electric Statement No. 1, pp. 43-44)

24. Subsequent to the Company's filing of the DSP IV Program, the Commonwealth Court entered an Order remanded the TOU rate option back to the Commission for further proceedings. *See The Dauphin County Industrial Development Authority v. Pennsylvania Public Utility Commission*, 123 A.3d 1124 (Pa. Cmwlth. 2015).

25. As a result of the Commonwealth Court's Order, the TOU program to be implemented during the DSP IV Program period cannot be decided here and, instead, will be the subject of the Commission's proceeding on remand.

26. PPL Electric's proposal to continue the current TOU rate option for the DSP IV Program period is withdrawn. (Partial Settlement ¶ 27)

27. The Company will comply with the Commission's direction/order in the TOU Remand Proceeding for purposes of the entire or remaining duration of the DSP IV Program period (depending on when the TOU program is approved). (Partial Settlement ¶ 29)

28. In the event a new TOU program has not been approved by the Commission in the TOU Remand Proceeding before the May 31, 2017 expiration of the current TOU program, the Company will notify both customers and suppliers participating in the TOU program that the TOU rate option will expire on May 31, 2017. (Partial Settlement ¶ 30)

G. ALTERNATIVE ENERGY CREDITS

29. Under the DSP IV Program, PPL Electric will procure certain AECs to meet its obligation under the Alternative Portfolio Standards (“AEPS”) Act as a component of its load-following, fixed-price and spot market default service supply contracts. (PPL Electric Statement No. 1, p. 20)

30. PPL Electric previously acquired long-term solar Tier I AECs associated with its 10-year, 50 MW block product in its Commission-approved DSP I Program. PPL Electric also has acquired additional Tier I non-solar AECs to cover the period from June 1, 2015 through May 31, 2021, associated with its 10-year long-term product obligation in its Commission-approved DSP III Program. (PPL Electric Statement No. 1, p. 20)

31. PPL Electric has proposed to continue the long-term AEC products, which will remain in place throughout the DSP IV Program period. (PPL Electric Statement No. 1, p. 20)

32. The DSP IV Program fulfills PPL Electric’s AEPS obligation. (PPL Electric Statement No. 1, p. 20)

H. DOCUMENTS TO BE USED IN THE PROCUREMENT OF DEFAULT SUPPLY

33. PPL Electric’s *pro forma* DSP IV RFP and SMA are attachments to PPL Electric’s DSP IV Petition. (PPL Electric Statement No. 1, pp. 23-24, 31; PPL Electric Exhibit No. 1, Attachments A and B)

34. The SMA and RFP, as modified by the Partial Partial Settlement, are acceptable and should be adopted. (Partial Settlement ¶ 22)

I. INDEPENDENT EVALUATOR

35. PPL Electric has retained NERA Economic Consulting as the independent third-party manager to administer each procurement, analyze the results of the solicitations for each

customer class, select the supplier(s) that will provide services at the least cost and submit all necessary reports to the Commission. (PPL Electric Statement No. 1, p. 32)

J. CONTINGENCY PLAN

36. In this proceeding, PPL Electric proposed to continue the contingency plan from the DSP III Program, with the exception of the TOU rate option. (PPL Electric Statement No. 1, p. 34)

K. RATE DESIGN

37. The costs incurred by PPL Electric to provide Default Service to the Residential and Small C&I Customer Classes will be recovered through the Generation Supply Charge-1 (“GSC-1”), separately computed with respect to each Customer Class. Costs recovered in the GSC-1 will include, among other costs, both costs incurred under the various supplier contracts and costs incurred to acquire the supply and administer the DSP IV Program. (PPL Electric Statement No. 1, pp. 16-17; PPL Electric Exhibit No. 1, Attachment C)

38. The costs incurred by PPL Electric to provide Default Service to the Large C&I Customer Class will be recovered through the Generation Supply Charge-2 (“GSC-2”). Costs recovered in the GSC-2 will include PJM spot market energy, PJM capacity charges, the suppliers’ charge for all other services (including AECs) based upon winning bids in the annual solicitation, and PPL Electric’s costs to acquire the supply and administer the DSP IV Program. (PPL Electric Statement No. 1, p. 18; PPL Electric Exhibit No. 1, Attachment C)

39. The Tariff provisions for the GSC-1 and GSC-2 are acceptable and should be adopted by the Commission. (Partial Settlement ¶ 22)

L. CONSISTENT WITH RTO

40. PPL Electric's DSP IV Program consistent with the legal and technical requirements pertaining to the generation, sale and transmission of electricity of t PJM Interconnect, LLC ("PJM"). (PPL Electric Statement No. 1, p. 33)

41. PPL Electric's DSP IV Program aligns with the PJM's planning period, *i.e.*, begins June 1. (PPL Electric Statement No. 1, p. 33)

M. STANDARD OFFER PROGRAM

42. The SOP provides customers with the ability to receive competitive electric generation supply at 7% discount from the then effective PTC for one year and does not permit EGS termination/cancellation fees. (PPL Electric Statement No. 1, pp. 35-36, 48)

43. PPL Electric's current SOP was approved in the Company's DSP III proceeding. (PPL Electric Statement No. 1, pp. 35-36)

44. PPL Electric's current SOP has been highly successful. (PPL Electric Statement No. 1, p. 37; PPL Electric Statement No. 1-R, p. 13)

45. PPL Electric proposed to continue to offer the SOP approved under the DSP III Program with limited modifications for the DSP IV Program period. (PPL Electric Statement No. 1, p. 39)

46. PPL Electric will invoice EGSs monthly for the fee associated with referred customers, rather than on a quarterly basis. (PPL Electric Statement No. 1, p. 39)

47. The SOP Binding Agreement will be modified to make it clear that, for all customers that enroll or re-enroll in SOP, EGSs participating in the SOP must send an EDI 814 rate code change transaction by no later than 3 business days after the rescission period for enrollment or re-enrollment. (Partial Settlement ¶ 34; PPL Electric Exhibit JMR-4)

48. All customers that request enrollment in the SOP, both new and re-enrollments, will be placed into the SOP “pool” and randomly assigned to EGSs that are voluntarily participating in the SOP at that time. (Partial Settlement ¶ 35)

49. Customers seeking to enroll in the SOP, both new and re-enrollments, will continue to be permitted to request service from a specific SOP supplier. (Partial Settlement ¶ 35)

50. PPL Electric will implement any processes and protocols developed by the Seamless Moves and Instant Connect Electronic Data Exchange Working Group where and if applicable, including, to the extent feasible, the SOP. (Partial Settlement ¶ 36)

51. PPL Electric will implement revised SOP scripts attached as Appendix B to the Partial Settlement, which will further clarify the descriptions of the program and the operation of the 7% discount. (Partial Settlement ¶ 31 and Appendix B)

52. PPL Electric will conduct a one-time survey of a random selection of customers participating in SOP, using an independent survey company, to assess the functioning of the SOP and the information may be used to inform future SOP procedures, disclosures, and scripts. (Partial Settlement ¶ 32)

53. PPL Electric’s SOP, as modified by the Partial Settlement, is just and reasonable and, therefore, should be adopted.

N. NON-MARKET BASED CHARGES

54. PPL Electric’s proposed DSP IV Program SMA fully defines the cost responsibilities for NMB charges. (See PPL Electric Exhibit No. 1, Attachment B)

55. The definition and treatment of NMB charges under the DSP IV Program remains unchanged from the DSP III Program, in which the issue of NMB charges was fully litigated. (PPL Electric Statement No. 1-R, p. 45)

56. PPL Electric will monitor its own filings with the FERC and provide notice to EGSs and default service suppliers of any such filings that modify the definition or application of NMB Transmission Service charges. (Partial Settlement ¶ 37)

57. All such notices will be provided via an e-mail correspondence issued through the PPL Electric Supplier Portal and will also be posted on the Company's Default Service webpage. (Partial Settlement ¶ 37(a))

58. As modified by the Partial Settlement, the NMB charges under PPL Electric's DSP IV Program are just, reasonable, and should be adopted.

O. SUPPLIER COORDINATION

59. PPL Electric inadvertently failed to reflect this updated Purchase of Receivables ("POR") discount rate in its Supplier Coordination Tariff after the conclusion of the 2015 base rate case. (RESA Statement No. 1, p. 15; PPL Electric Statement No. 1-R, p. 47)

60. On June 15, 2016, PPL Electric filed Supplement No. 6 to Electric Generation Supplier Tariff - Electric Pa. P.U.C. No. 1S at Docket No. R-2015-2469275, which updated the POR discount as approved in the 2015 rate case.

P. CAP SHOPPING

61. The Company's low-income residential CAP is called the OnTrack program, and OnTrack customers have been eligible to shop since the beginning of shopping in 2010. PPL Electric currently has no limits on CAP customers' ability to shop and receive supply from EGSs. (PPL Electric Statement No. 1, p. 44)

62. Shopping does not directly affect an OnTrack customer's payment amount, which is based upon ability to pay. (PPL Electric St. No. 1, p. 44)

63. The details and analyses regarding the CAP shopping statistics and data were provided in the direct and rebuttal testimony of PPL Electric witness Michael S. Wuktisch, PPL

Electric Statement Nos. 3 and 3-R, and PPL Electric Exhibits MSW-1 through MSW-3. No parties offered any testimony or evidence to challenge or otherwise oppose PPL Electric's CAP shopping data and statistics provided in this proceeding.

64. The net financial impact of OnTrack shopping is an increase of approximately \$2.7 million annually in the energy charges paid for supply provided to OnTrack customers. (PPL Electric St. No. 3, p. 12)

65. It is undisputed that CAP shopping has resulted in OnTrack customers, as a whole, exceeding their CAP credits at a faster pace than they would have if they did not shop and, instead, received default service at PPL Electric's PTC. (PPL Electric St. No. 3, pp. 9, 13; PPL Electric Exhibit MSW-2, p. 3)

66. It is undisputed that the accelerated use of CAP credits places these low-income customers at risk of early removal from the OnTrack program. (PPL Electric St. No. 3, p. 13)

67. It is undisputed that CAP shopping has resulted in increased CAP costs that are paid for by other Residential customers through the USR. (PPL Electric St. No. 3, pp. 10, 12-13; PPL Electric Exhibit MSW-2, p. 5)

68. The record evidence in this case clearly demonstrates that appropriate limits on CAP customers' ability to shop and remain eligible for CAP should be adopted to mitigate the adverse impacts that CAP shopping has and will likely continue to have on both CAP customers and other Residential customers.

69. Given the undisputed and significant adverse impacts that CAP shopping in PPL Electric's service territory currently has and will continue to have on both CAP customers and other Residential customers that pay for CAP costs, it is reasonable and prudent to take steps to mitigate these impacts. (PPL Electric Statement No. 1, p. 48)

70. The only reasonable CAP shopping alternative proposed in this proceeding that will ensure adequately-funded, cost-effective, and affordable programs to assist customers who are of low-income to afford electric service is the CAP-SOP jointly proposed and supported by PPL Electric, I&E, OCA, and CAUSE-PA.

71. RESA proposes that CAP shopping, and its undisputed adverse impacts, be permitted to continue without any restrictions and not be addressed until a future statewide collaborative or proceeding. (See PPL Electric Exhibit JMR-9; RESA Statement No. 1-R, p. 12; RESA Statement No. 1-RJ, p. 4; Tr. 36)

72. RESA's alternative CAP shopping proposal fails to address the actual existing and substantial impacts that CAP shopping has today and will continue to have within PPL Electric's service territory.

73. RESA's proposal to adopt no limits on CAP shopping at this time and, instead, wait for a future statewide collaborative/proceeding is not a reasonable or appropriate CAP shopping alternative.

74. PPL Electric, OCA, and CAUSE-PA each proposed separate and distinctly different measures to address the undisputed impacts of CAP shopping in PPL Electric's service territory. (See PPL Electric St. No. 1, pp. 47-48; OCA Statement No. 2, pp. 21-22; CAUSE-PA Statement No. 1, pp. 33-37; CAUSE-PA Statement No. 1-SR, pp. 18-20) Through their analysis and review of CAP shopping in this case, these four parties determined that the three separate CAP shopping alternatives initially proposed by PPL Electric, OCA, and CAUSE-PA were not reasonable or appropriate alternatives to address the impacts of CAP shopping. (See OCA Statement No. 2, pp. 21-22; CAUSE-PA Statement No. 1, pp. 27-33; RESA Statement No. 1-R, pp. 12-13; PPL Electric Statement No. 1-R, pp. 23-45; PPL Electric Statement No. 1-RJ, pp. 4-6)

75. PPL Electric, I&E, OCA, and CAUSE-PA subsequently entered into a Joint Litigation Position that: (i) withdrew the three separate CAP shopping proposals originally proposed by PPL Electric, OCA, and CAUSE-PA; and (ii) supported a single revised CAP shopping proposal, referred to as the “CAP-SOP shopping” proposal, set forth in PPL Electric’s rejoinder testimony, PPL Electric Statement No. 1-RJ. (Tr. p. 38)

76. Given the importance of the issues related to CAP shopping and their undeniable statewide impact, the Commission should promptly initiate a statewide collaborative open to all interested stakeholders and/or initiate a new rulemaking proceeding to address CAP shopping issues on a uniform, statewide basis. (PPL Electric Statement No. 1-RJ, pp. 6-7)

77. In the interim, until a uniform, statewide solution to CAP shopping can be developed, the CAP-SOP shopping program set forth in PPL Electric Statement No. 1-RJ should be implemented with an effective date of June 1, 2017. (PPL Electric Statement 1-RJ, pp. 7-10)

78. The proposed CAP-SOP is substantially similar to and has many of the same features as the existing, traditional SOP. (PPL Electric Statement No. 1-RJ, p. 10)

79. PPL Electric’s existing traditional SOP has been highly successful both from a customer and EGS participation perspective. (PPL Electric Statement No. 1-R, pp. 11, 13; PPL Electric Statement No. 1-RJ, p. 10)

80. EGSs that elect to participate in the CAP-SOP will not be forced to agree to an entirely unknown variable rate that could change during the CAP-SOP contract period due to changes in the PTC. Rather, EGSs that elect to participate in the CAP-SOP would offer a fixed 12-month price to CAP customers based on a 7% discount off the PTC in effect at the time the CAP customer enrolls in the CAP-SOP. (PPL Electric Statement No. 1-RJ, p. 10)

81. EGS participation in the CAP-SOP is completely voluntary. EGSs are free to participate in the CAP-SOP on a quarterly basis, and are free to leave the CAP-SOP on a quarterly basis. (PPL Electric Statement No. 1-R, p. 34; PPL Electric Statement No. 1-RJ, p. 10)

82. The CAP-SOP jointly proposed and supported by PPL Electric, I&E, OCA, and CAUSE-PA will allow CAP customers to continue to shop and receive electric service from EGSs at a price that is below the PTC. (PPL Electric Statement No. 1-RJ, pp. 7)

83. The CAP-SOP eliminates the EGSs concerns about being required to continually lower the contract prices of existing CAP-SOP customers in conjunction with a decreasing PTC. (PPL Electric Statement No. 1-RJ, p. 10)

84. The CAP-SOP is a fair and equitable balance of competing interests because it allows CAP customers to continue to shop while, at the same time, helping mitigate the real and present impacts that CAP shopping can have on CAP credits, risk of early removal from the OnTrack program, and the CAP costs that are paid for by other Residential customers. (PPL Electric Statement No. 1-RJ, p. 9)

Appendix B

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities :
 Corporation for Approval of a Default : Docket No. P-2016-2526627
 Service Program and Procurement Plan for :
 the Period June 1, 2017 through May 31, :
 2021 :

**PROPOSED CONCLUSIONS OF LAW
OF PPL ELECTRIC UTILITIES CORPORATION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE SUSAN D. COLWELL:

PPL Electric Utilities Corporation (“PPL Electric”) respectfully requests that Administrative Law Judge Susan D. Colwell (“ALJ”) and the Pennsylvania Public Utility Commission (“Commission”) adopt the following conclusions of law in the above-caption proceeding:

A. GENERAL

1. Section 332(a) of the Public Utility Code , 66 Pa.C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding.

2. A litigant’s burden of proof before the Commission is satisfied by establishing a preponderance of evidence, which requires proof by a greater weight of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990); *Commonwealth of Pa. v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999); *Brown v. Commonwealth of Pa.*, 940 A.2d 610, 614, n.14 (Pa. Cmwlth. 2008).

B. DEFAULT SERVICE

3. Pursuant to Section 2807(e)(3.1) of the Public Utility Code, a Default Service provider shall provide Default Service pursuant to a Commission-approved competitive

procurement plan that includes auctions, RFPs, and/or bilateral agreements. 66 Pa.C.S. § 2807(e)(3.1).

4. Section 2807(e)(3.2) of the Public Utility Code provides that electric power procured by a Default Service provider shall include a prudent mix of spot market purchases, short-term contracts, and long-term purchase contracts. 66 Pa.C.S. § 2807(e)(3.2).

5. Section 2807(e)(3.4) of the Public Utility Code requires a Default Service provider to provide adequate and reliable service to customers. 66 Pa.C.S. § 2807(e)(3.4).

6. Pursuant to Section 2807(e)(3.4) of the Public Utility Code, Default Service providers are to obtain Default Service supply at the “least cost to customers over time.” 66 Pa.C.S. § 2807(e)(3.4).

7. Section 2807(f)(5) of the Public Utility Code provides that a Default Service provider shall offer TOU rates to all customers that have been provided smart meter technology. 66 Pa.C.S. § 2807(f)(5).

8. The Alternative Energy Portfolio Standards Act (“AEPS Act”), 73 P.S. §§ 1648.1 – 1648.8, and the Commission’s implementing regulations further require electric distribution companies (“EDCs”) to obtain Alternative Energy Credits (“AECs”) in an amount equal to certain percentages of electric energy sold to retail customers in this Commonwealth. *See* 52 Pa. § Code 54.182.

9. The Commission’s Default Service Regulations require that a default service plan include copies of agreements or forms to be used in the procurement of electric generation supply for Default Service customers. *See* 52 Pa. Code § 54.185(e)(6).

10. Section 69.1807(8) of the Commission’s Default Service and Electric Retail Markets Statement of Policy provides that the competitive bid solicitation process should be

monitored by an independent evaluator to achieve a fair and transparent process for each solicitation. 52 Pa. Code § 69.1807(8).

11. The Commission's Default Service Regulations require that a Default Service plan include contingency plans to ensure the reliable provision of default service if a wholesale generation supplier fails to meet its contractual obligations. *See* 52 Pa. Code § 54.185(e)(5).

12. The Commission's Default Service Regulations require that a Default Service plan include a rate design plan recovering all reasonable costs of Default Service, including a schedule of rates, rules and conditions of default service in the form of proposed revisions to its tariff. *See* 52 Pa. Code § 54.185(e)(3).

13. The Commission's Default Service Regulations require that a Default Service plan be consistent with the legal and technical requirements pertaining to the generation, sale and transmission of electricity of the Regional Transmission Organization ("RTO") or other entity in whose control area the default service provider is providing service, and that the default service procurement plan's period of service must align with the planning period of that RTO or other entity. *See* 52 Pa. Code § 54.185(e)(4).

14. PPL Electric's fourth Default Service Program and Procurement Plan ("DSP IV Program"), as modified by the terms and conditions of the Partial Settlement, includes and/or addresses all of the applicable elements prescribed by Section 2807 of the Public Utility Code, the AEPS Act, the Commission's regulations, and the Commission's policies for a Default Service plan.

C. TIME OF USE

15. PPL Electric's proposed TOU rate option has been remanded back to the Commission for further proceedings. *See The Dauphin County Industrial Development Authority v. Pennsylvania Public Utility Commission*, 123 A.3d 1124 (Pa. Cmwlth. 2015).

D. STANDARD OFFER PROGRAM

16. PPL Electric's Standard Offer Program, as modified by the terms and conditions of the Partial Settlement, satisfies the requirements under *Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952, 2012 Pa. PUC LEXIS 324 (Final Order entered March 2, 2012).

E. CAP SHOPPING

17. PPL Electric bears the burden of proof on its revised proposal regarding Customer Assistance Program ("CAP") customers shopping for competitive electric generation supply.

18. The Commission has authority to impose restrictions on CAP customers' ability to shop for competitive electric generation supply. *Coalition for Affordable Util. Servs. & Energy Efficiency in Pa. v. Pa. PUC*, 120 A.3d 1087, 1103 (Pa. Cmwlth. 2015), *appeal denied by Coalition for Affordable Util. Servs. & Energy Efficiency in Pa. v. Pa. PUC*, 2016 Pa. LEXIS 723 and 2016 Pa. LEXIS 724 (Pa. 2016).

19. PPL Electric has met its burden of proof to demonstrate that there are substantial reasons to impose limits on CAP customers' ability to shop and remain eligible for CAP.

20. The only reasonable CAP shopping alternative proposed in this proceeding that will "ensure adequately-funded, cost-effective, and affordable programs to assist customers who are of low-income to afford electric service," *see Coalition*, 120 A.3d at 1104, is the CAP-SOP jointly proposed and supported by PPL Electric, I&E, OCA, and CAUSE-PA.

21. PPL Electric has met its burden of proof that CAP-SOP jointly proposed and supported by PPL Electric, I&E, OCA, and CAUSE-PA is just, reasonable, and should be adopted.

Appendix C

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities :
Corporation for Approval of a Default : Docket No. P-2016-2526627
Service Program and Procurement Plan for :
the Period June 1, 2017 through May 31, :
2021 :

**PROPOSED ORDERING PARAGRAPHS
OF PPL ELECTRIC UTILITIES CORPORATION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE SUSAN D. COLWELL:

PPL Electric Utilities Corporation (“PPL Electric”) respectfully requests that Administrative Law Judge Susan D. Colwell (“ALJ”) and the Pennsylvania Public Utility Commission (“Commission”) adopt the following ordering paragraphs in the above-caption proceeding:

1. The Joint Petition for Partial Settlement is approved without modification;
2. The Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 through May 31, 2021, filed on January 29, 2016 at Docket No. P-2016-2526627, including the Default Service Supply Master Agreement, Request for Proposals Process and Rules, Program Product Procurement Schedule, and Tariff provisions for the Generation Supply Charge-1, the Generation Supply Charge-2 and the Transmission Service Charge, is approved as modified by the Joint Petition for Partial Settlement;

3. PPL Electric Utilities Corporation's request for a waiver of the quarterly Price to Compare requirement and proposal to continue to offer semi-annual Price to Compare changes is approved;

4. PPL Electric Utilities Corporation's request for a waiver from the requirement to issue a final Price to Compare 45 days prior to the effective date of the Price to Compare, and proposal to continue the issuance of the Price to Compare 30 days in advance of the effective date is approved;

5. The Commission shall initiate a statewide collaborative open to all interested stakeholders and/or initiate a new rulemaking proceeding to address shopping by customers enrolled in Customer Assistance Programs on a uniform, statewide basis; and

6. The Customer Assistance Program Standard Offer Program (CAP-SOP) jointly proposed by PPL Electric Utilities Corporation, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania is approved and shall become effective on June 1, 2017.