



June 20, 2017

VIA E-File

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, Filing Room
Harrisburg, PA 17120

RE: Petition of PPL Electric Utilities Corporation for Approval of a New Pilot Time of Use Program,
Docket Nos. P-2013-2389572, M-2016-2578051

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

Dear Secretary Chiavetta,

Please find for filing the enclosed **Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) to the Petition of PPL Electric Utilities for Approval of Its Pilot Time of Use Program**. The requisite Verification is appended hereto.

A copy of the Answer has been served via email and First Class mail on all known parties to the above captioned dockets, as evidenced by the attached Certificate of Service. A copy is also being provided, via email, to Chief Administrative Law Judge Charles E. Rainey and the Commission's Office of Special Assistants, as this proceeding is not currently assigned to an Administrative Law Judge.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Elizabeth R. Marx".

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Enclosures

CC: Chief Administrative Law Judge Charles E. Rainey – crainey@pa.gov
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Parties of Record (Certificate of Service)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**Petition of PPL Electric Utilities Corporation for
Approval of its Default Service Program and
Procurement Plan for the Period of
June 1, 2017 through May 31, 2021**

Docket No. P-2016-2526627

**Petition of PPL Electric Utilities Corporation for
Approval of a New Pilot Time-of-Use Program**

Docket Nos. P-2013-2389572
M-2016-2578051

**ANSWER OF THE COALITION FOR AFFORDABLE UTILITY SERVICES AND
ENERGY EFFICIENCY IN PENNSYLVANIA (CAUSE-PA)
TO THE PETITION OF PPL ELECTIC UTILITIES FOR APPROVAL OF ITS PILOT
TIME OF USE PROGRAM**

Pursuant to 52 Pa. Code § 5.61(a), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)¹ hereby files this Answer to PPL Electric Utilities Corporation's (PPL or Company) Petition for Approval of its new Time-of Use (TOU) Program, which was filed with the Pennsylvania Public Utility Commission (Commission) at the above captioned docket on June 1, 2017.

¹ CAUSE-PA is an unincorporated association of low-income individuals that advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain affordable water, electric, heating, and telecommunication services. CAUSE-PA's intervention was granted in two of the above captioned docketed proceedings by Orders of Administrative Law Judge Susan D. Colwell issued on June 7, 2012 (Docket No. P-2013-2389572) and on March 9, 2016 (Docket No. P-2016-2526627), respectively.

I. BACKGROUND

After a somewhat complex procedural history related to PPL's 2010 and 2012 TOU program proposals (PPL Pet. at ¶¶ 4-8), PPL filed a petition requesting approval of a new pilot TOU program on August 23, 2013.² The pilot program was designed to outsource the provision of a TOU rate and service offering to competitive electric generation suppliers. Through the course of litigation of PPL's TOU program, CAUSE-PA raised concerns that PPL's economically vulnerable customers were not adequately protected from paying prices higher than the price to compare. Those concerns were resolved in a partial settlement, which provided that customers enrolled in PPL's Customer Assistance Program (CAP or OnTrack) would not be eligible to participate in the TOU pilot program.³

On September 11, 2014, the Commission issued an Opinion and Order approving the partial settlement and allowing the TOU pilot program to move forward as modified by the settlement terms (September 2014 Order).⁴ Thereafter, the Dauphin County Industrial Development Authority (DCIDA) appealed the Commission's September 2014 Order to the Commonwealth Court, which reversed and remanded the Commission's decision.⁵ The Commonwealth Court explained that "[t]he legislature's unqualified use of the words 'shall offer' in section 2807(f)(5) places the burden on the default service provider, in this case PPL, to offer Time-of-Use rates to customer-generators," and held that "PPL may not satisfy this burden by transferring it to [EGSs]."⁶

² See Petition of PPL Electric Utilities Corp. for Approval of a New Pilot Time-of-Use Program, Opinion and Order, Docket No. P-2013-2389572 (Order entered September 11, 2014).

³ See id. at 12.

⁴ Id. at 55-56.

⁵ Dauphin County Industrial Development Authority (DCIDA) v. Pa. PUC, 123 A.3d 1124 (Pa. Commw. Ct. 2015).

⁶ Id. at 1133-1136.

On December 2, 2016, the Commission issued a Secretarial Letter (December 2 Letter), initiating a new proceeding to comply with the Commonwealth Court’s instructions on remand. The December 2 Letter invited interested parties to comment on “the nature, scope, and issues in this remand proceeding” and on the “efficacy and legality” of the Commission’s proposed draft TOU design elements. (December 2 Letter at 1). In relevant part, the Commission’s proposed design provided:

The TOU rate option will be available to all default service procurement class customers who are not eligible for the EDC’s spot-market only default service portfolio. *Any existing Commission-approved limitations on customer shopping shall apply to this TOU product option as shall all consumer protections contained in the Commission’s regulations.*

(December 2 Letter at 3 (emphasis added)).

On January 9, 2017, CAUSE-PA filed comments in response to the Commission’s December 2 Letter. CAUSE-PA’s comments explained its continued concern that CAP customers be protected from prices which are higher than the price to compare. CAUSE-PA explained that the Commission’s guidance imposing “[a]ny existing Commission-approved limitations on customer shopping” to the TOU product appeared – on its face – to include Commission-approved restrictions on shopping by customers enrolled in PPL’s Customer Assistance Program (CAP, also known as OnTrack).⁷ (CAUSE-PA Cmts. at 2-3, 5). Nevertheless, CAUSE-PA requested that the Commission “clarify its intent to avoid any confusion or ambiguity.” (CAUSE-PA Cmts. at 5).

On April 6, 2017, the Commission filed a second Secretarial Letter (April 6 Letter), which set forth finalized guidance and parameters for PPL to follow in developing its new TOU program proposal, and directed PPL to file a new TOU program proposal by June 1, 2017. In relevant part,

⁷ Petition of PPL Electric Utilities Corp. for Approval of a Default Service Program and Procurement Plan for the Period of June 1, 2017 through May 31, 2021, Opinion and Order, Docket No. P-2016-2526627 (Oct. 27, 2016) (Note that a Petition for Reconsideration by the Retail Energy Supply Association was denied in a subsequent Order and Opinion dated January 26, 2017, and the case is currently pending an appeal before the Commonwealth Court).

the Commission reiterated its guidance from the December 2 Letter requiring the TOU proposal to apply “[a]ny existing Commission-approved limitations on customer shopping” as well as “all consumer protections contained in the Commission’s regulations.” (April 6 Letter at 3).

In compliance with the April 6 Letter, PPL filed the instant Petition on June 1, 2017. In relevant part, PPL proposes to exclude low-income customers enrolled in its CAP/OnTrack program from participating in its TOU program. (PPL Pet. at ¶¶ 44-45). PPL explained its rationale for excluding OnTrack customers, noting that OnTrack customers have historically been excluded from TOU pricing due to the fragility of their financial circumstances and as a cost-control feature for the OnTrack program as a whole:

OnTrack customers have not been eligible for TOU service under the prior TOU program and PPL Electric proposes to continue that restriction. TOU service is generally designed for customers who have the tools and ability to control usage. Whether a residential customer can save money by switching to TOU rates is very customer-specific. Because an OnTrack customer’s required payments are set based upon ability to pay, TOU rates will not alter the customer’s payment arrangement. However, failure to shift load will likely result in accelerated use of the customer’s CAP credits, which increases the CAP program costs paid by non-CAP residential customers, and risks the customer’s exhaustion of their allowed CAP credits, which would result in dismissal from the OnTrack program.

(PPL Pet. at ¶ 45).

II. ANSWER

CAUSE-PA has preliminarily reviewed PPL’s Petition, and supports PPL’s exclusion of customers enrolled in its CAP (OnTrack). Under PPL’s current shopping design for CAP customers, customers enrolled in OnTrack may only shop for competitive electric service through its newly implemented CAP Standard Offer Program (CAP-SOP),⁸ so the exclusion of CAP

⁸ Petition of PPL Electric Utilities Corp. for Approval of a Default Service Program and Procurement Plan for the Period of June 1, 2017 through May 31, 2021, Opinion and Order, Docket No. P-2016-2526627 (Oct. 27, 2016).

customers fulfills the guidelines set forth by the Commission in its December 2 and April 6 Letters which required PPL to apply “[a]ny existing Commission-approved limitations on customer shopping.” (December 2 Letter at 3; April 6 Letter at 3).

In addition to complying with the Commission’s TOU guidelines, the exclusion of CAP customers from the TOU program is also in the public interest. CAP is designed, in accord with the Choice Act, to ensure universally available service by providing enhanced affordability for households which have a demonstrated inability to afford utility services at full-tariff rates.⁹ But participation in a TOU program is likely to frustrate these goals and undermine affordability achieved through CAP.

As PPL notes in its Petition, “TOU service is generally designed for customers who have the tools and ability to control usage.” (PPL Pet. at ¶ 45). CAP customers most often lack the tools and ability to control their usage. Low income households tend to live in smaller homes, with less square footage, fewer appliances and light fixtures, and less options to adjust usage. Likewise, many low income households live in substandard, inefficient housing and are unable to curtail usage at any time – regardless of peak or nonpeak periods. Many CAP customers are uniquely vulnerable to TOU pricing – particularly retired and disabled program participants and/or those who have recently lost their job – because they are homebound or are otherwise home for longer periods of the day. As such, they are less able to scale down their usage during peak times to avoid price spikes.¹⁰ As PPL correctly explained in setting forth this exemption, “failure to shift load will likely result in accelerated use of the customer’s CAP credits, which increases the CAP

⁹ See 66 Pa. C.S. § 2804(9); *Coalition for Affordable Util. Servs. & Energy Efficiency in Pa. et al. v. Pa. PUC*, 120 A.3d 1087 (Pa. Commw. Ct. 2015).

¹⁰ According to the Commission’s most recent Universal Service Report, 20.4% of CAP customers are retired or receive a pension; 23.3% receive disability; and 3.3% receive unemployment compensation. Together, these uniquely vulnerable populations make up 47% of the CAP population. Pa PUC, BCS, 2015 Report on Universal Service Programs & Collections Performance, at 35 (Oct. 2016), http://www.puc.state.pa.us/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2015.pdf.

program costs paid by non-CAP residential customers, and risks the customer's exhaustion of their allowed CAP credits, which would result in dismissal from the OnTrack program.” (PPL Pet. at ¶ 45). To subject vulnerable CAP households to economic loss as a result of participation in PPL's TOU program undermines the objectives of the Choice Act, and is very likely to lead to increased unpaid bills, loss of service, and increased universal service and uncollectible costs and expenses borne by all residential ratepayers. Such a result would be contrary to the public interest and the overarching goals of providing universal service programming to vulnerable low income households.

Given the distinct risks posed by TOU pricing to the financial stability of low income households and to the success of PPL's CAP in reaching greater levels of affordability for low income customers, CAUSE-PA supports the exclusion of CAP customers from PPL's TOU program. Such an exclusion is both consistent with the Commission's guidance in its December 2 and April 6 Letters and is soundly in the public interest to ensure that electricity service remains accessible to all Pennsylvanians.

III. CONCLUSION

CAUSE-PA respectfully requests that the Commission approve PPL's exclusion of CAP customers from its TOU program. To the extent that hearings are necessary to further evaluate the terms of PPL's proposed TOU program, CAUSE-PA intends to fully participate to ensure that this important provision is retained.

Respectfully submitted,

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June 20, 2017

Verification

I, **Carl Bailey**, a member of the Executive Committee of the Coalition for Affordable Utility Services and Energy Efficiency (“CAUSE-PA”), on behalf of CAUSE-PA, hereby state that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 10 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).


Mr. Carl Bailey

On behalf of the Executive Committee of the
Coalition for Affordable Utility Services and
Energy Efficiency in Pennsylvania (CAUSE-PA)

Dated: June 20, 2017

CERTIFICATE OF SERVICE

I hereby certify that I have this day served copies of the **Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) to the Petition of PPL Electric Utilities For Approval of Its Pilot Time of Use Program** in accordance with the requirements of 52 Pa. Code § 1.54 in the manner and upon the persons listed below.

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