

COMMONWEALTH OF PENNSYLVANIA



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June 21, 2017

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Proceeding regarding the directives of the Commonwealth Court reversing and Remanding the Order of Commission entered at Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for The Period of June 1, 2013 Through May 31, 2015; 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; Petition of PPL Electric Utilities Corporation for Approval of a New Pilot Time-Of-Use Program Docket Nos. M-2016-2578051; P-2016-2526627; P-2013-2389572

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Answer to the Petition of PPL Electric Utilities Corporation for Approval of a New Time-of-Use Program in the above-referenced proceeding.

If you have any questions, please feel free to contact me.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Aron J. Beatty", written over a horizontal line.

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Enclosure
cc: Certificate of Service
235920

CERTIFICATE OF SERVICE

Proceeding regarding the directives of the Commonwealth Court reversing and Remanding the Order of Commission entered At Petition of PPL Electric Utilities Corporation For Approval of a Default Service Program and Procurement Plan for the Period of June 1, 2013 Through May 31, 2015	:	:	Docket No. M-2016-2578051
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
Petition of PPL Electric Utilities Corporation For Approval of a New Pilot Time-of-Use Program	:	:	Docket No. P-2013-2389572

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate’s Answer to the Petition of PPL Electric Utilities Corporation for Approval of a New Time-of-Use Program, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 21st day of June 2017.

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

ANSWER OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 5.61 of the Regulations of the Pennsylvania Public Utility Commission (Commission), 52 Pa. Code § 5.61, the Office of Consumer Advocate (OCA) hereby files this Answer to the Petition of PPL Electric Utilities Corporation (PPL or the Company) seeking approval of a new Time-of-Use (TOU) Program with the Pennsylvania Public Utility Commission (Commission). The OCA submits the following in support of its Answer and requests that the Commission hold an evidentiary hearing to thoroughly review the Company's proposed TOU Program.¹

I. INTRODUCTION

A. Background

On June 1, 2017, PPL filed a Petition with the Commission seeking approval of a new TOU Program in the above-captioned proceedings (TOU Petition). PPL's current TOU Petition stems from prior litigation relating to PPL's TOU program. Notably, in 2015, the Commonwealth Court reversed and remanded the Commission's approval of a Settlement that

¹ This Answer was prepared with the assistance of Dr. Steven L. Estomin. Dr. Estomin is a principal at Exeter Associates, Inc. Dr. Estomin specializes in power supply procurement, utility load forecasting, regulatory policy, options analysis, utility contract negotiation, and issues of competition, antitrust, and damages estimation.

delegated PPL's TOU obligation under Act 129, 66 Pa.C.S. § 2807(f)(5), to electric generation suppliers (EGSs).² Dauphin County Industrial Development Authority v. Pa. PUC, 123 A.3d 1124 (Pa. Cmwlth. 2015) (DCIDA Order).

Following the DCIDA Order, the Commission issued a Secretarial Letter in the above-captioned proceedings on December 2, 2016, requesting Comments and subsequent Reply Comments on a draft TOU Design from participants in PPL's underlying TOU proceeding, as well as other interested parties. In accordance with the Secretarial Letter, on January 9, 2017, the OCA, PPL, the Retail Energy Supply Association (RESA), the Office of Small Business Advocate (OSBA), the Sustainable Energy Fund, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Duquesne Light Company (Duquesne Light), PECO Energy Company, and Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, FirstEnergy) filed Comments to the Commission's Secretarial Letter. On January 31, 2017, the OCA, the Sustainable Energy Fund, the Dauphin County Industrial Development Authority, and Duquesne Light Company filed Reply Comments.

On April 6, 2017, the Commission issued another Secretarial Letter, in which it set forth TOU program design guidance for PPL. Specifically, in its Secretarial Letter, the Commission proposed the following TOU design for PPL:

² Specifically, in the DCIDA Order, the Court held as follows:

The 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. The legislature knows the difference between a default service provider and an Electric Generation Supplier. Its decision to place the onus on default service providers was neither accidental nor arbitrary. Simply, Section 2807(f)(5) does not authorize a default service provider to pass along this obligation to an Electric Generation Supplier.

DCIDA Order at 1134.

PPL will hold semi-annual wholesale auctions, one auction for a summer season TOU product and another for a winter season TOU product.

The exact time-period for winter and summer seasons will be appropriately determined by PPL to best reflect the distinction between winter and summer peaks, as well as any shoulder season load profile characteristics.

Participating auction bidders will be held to the same eligibility criteria used for PPL's existing fixed price full-requirements auctions and/or spot price full-requirements auctions, including, *inter alia*, authorization to sell power to Load Serving Entities at wholesale rates within PJM.

PPL will designate on and off-peak hours that appropriately reflect summer and winter peak consumption profiles.

PPL will design on and off-peak multipliers (or ratios) which will appropriately motivate shifting of consumption from on-peak to off-peak periods.

TOU auction participants will bid an off-peak fixed-price full requirements price per Megawatt-hour (MWh). The lowest bid(s) win the auction. The on-peak price will be formulaically calculated based on the on/off peak multiplier (or ratio) established by PPL.

The TOU rate option will be available to all default service procurement class customers who are not eligible for PPL'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.

A webpage will be established by PPL dedicated to the TOU product. The page will include educational material regarding the product.

PPL's TOU design will address reconciliation of costs in the event of TOU-specific under-collections or over-collections.

If any PPL TOU auction fails to result in full subscription, PPL will apply a contingency on-peak/off-peak multiplier to its Price-to-Compare (PTC).

PPL's contingency on and off-peak multiplier(s) will be designed to appropriately motivate shifting of consumption from on-peak to off-peak periods for each TOU product and season.

PPL will provide all TOU product eligible customers generation-weighted net-metering. Specifically, PPL will calculate the value of any excess generation based on the time period it was generated. Off-peak generation will receive the off-peak rate while on-peak generation will receive the on-peak rate.

The Commission directed PPL to file its proposed TOU plan no later than June 1, 2017 with answers due 20 days after filing. The Commission further provided that “PPL’s filing should be consistent with the Commonwealth Court’s decision in [the DCIDA Order] while also using the Commission’s proposed PPL TOU design as guidance.” Accordingly, on June 1, 2017, PPL filed its Petition for Approval of a New TOU Program to be effective from June 1, 2018 through May 31, 2021.

B. PPL’s Proposal

In its Petition, PPL proposes that it will remain the Default Service supplier for its retail TOU customers. PPL Petition at ¶ 27. Under PPL’s Petition, all residential customers are eligible to elect the TOU rate, except for customers participating in PPL’s Customer Assistance Program called OnTrack. PPL Petition at ¶¶ 44-45. A customer selecting PPL’s TOU service would continue to be served under the PPL TOU program until an affirmative selection has been made by the customer for another service or service provider. PPL Petition at ¶ 46. PPL proposes that its TOU rate option will also be available to net metering customers. PPL Petition at ¶ 47.

PPL proposes that the TOU design consist of a summer period from June 1 through September 30 and a non-summer period the remainder of the year. PPL Petition at ¶ 14. During the summer and non-summer period, the on-peak hours for residential customers would be from 4 p.m. - 8 p.m., Monday through Friday, excluding weekends and PJM-designated holidays. PPL Petition at ¶ 15. All other hours would be off-peak. PPL Petition at ¶ 15.

In its Petition, PPL also specified the factors upon which TOU on-peak and off-peak rates would be based, wherein the wholesale supplier agreements, resulting from the RFP process described below, will form the basis of the TOU rates charged for each of the customer

classes. PPL Petition at ¶¶ 16-19. The on-peak summer TOU rate for the residential customer class shall be based, in part, on a multiplier of 1.56 times the winning summer off-peak period bid price for the residential class. PPL Petition at ¶ 17. The on-peak winter TOU rate for the residential customer class will be based, in part, on a multiplier of 1.33 times the winning winter period off-peak bid price for the residential customer class. PPL Petition at ¶ 18. PPL proposes that all over-collections, under-collections, and implementation costs resulting from the operation of the TOU shall be included in the over/under-collection for the entire respective default service class. PPL Petition at ¶ 43.

To obtain the Default Service TOU products, PPL proposes to hold solicitations pursuant to an RFP process from competitive wholesale power suppliers. PPL Petition at ¶ 20. PPL will solicit bids in the first week of May and the first week of November following the issuance of the fixed-price Prices to Compare for the summer period and winter period, respectively. PPL Petition at ¶ 22. The winning bidder shall be the one with the lowest off-peak price. PPL Petition at ¶ 26. Suppliers are qualified to respond to PPL's RFP if the supplier is a member of PJM in good standing and meets "certain fundamental credit-worthiness criteria." PPL Petition at ¶ 28.

PPL also proposes a contingency procurement and rate mechanism in the event there is no successful bidder in the competitive procurement or a winning supplier defaults. PPL Petition at ¶¶ 34-43. Under the proposed contingency plan, PPL will procure generation to serve TOU customers from existing wholesale suppliers who provide supplies to serve all default service customers. PPL Petition at ¶ 41. PPL proposes that it will set contingency on-peak and off-peak TOU rates based upon ratios of the generation portion of the then-current PTC, plus other specified additional costs. PPL Petition at ¶¶ 37-38.

In accordance with and consideration of the Commission's April 6, 2017 Secretarial Letter in the above-captioned proceeding, the OCA submits the following Answer to PPL's Petition and requests that the Commission hold an evidentiary hearing to thoroughly review the Company's proposed TOU Program.

II. ANSWER

The OCA fully supports the implementation of cost-effective, innovative, and voluntary TOU offerings. The OCA further supports PPL's efforts to consider the guidance provided by the Commission in its April 6, 2017 Secretarial Letter in developing its proposed TOU design. The OCA, however, has several concerns with PPL's TOU design and submits that the Commission should hold an evidentiary hearing to thoroughly review the Company's proposed TOU Program.

At the onset, the OCA notes that PPL's proposed TOU design meets the DCIDA Order requirements, in that PPL proposes to remain the Default Service supplier for its retail TOU customers and solicit bids from competitive wholesale power suppliers to obtain the Default Service TOU products. Further, under PPL's Petition, a customer selecting PPL's TOU service would continue to be served under the PPL TOU program until an affirmative selection has been made by the customer for another service or service provider. The OCA supports these provisions of PPL's Petition, as they are consistent with the DCIDA Order and the OCA's recommendations in its Comments.

Regarding PPL's summer and non-summer period differential, the OCA agrees with the Commission's guidance that summer/non-summer periods should reflect the distinction between summer/non-summer peaks as well as shoulder season load profile characteristics. The OCA submits, however, that PPL's summer/non-summer distinction should be assessed against

customer class and Company peak load data and market pricing data through an evidentiary hearing process.

As for PPL's proposed peak/non-peak hours, the OCA submits that any design accepted by the Commission should encompass the typical hours that establish the PJM peak and provide an incentive for participating customers to shift their usage from high load hours to lower load hours. As such, the OCA submits that PPL's peak/non-peak hours should be thoroughly reviewed to ensure that the proposed peak/non-peak hours meet these objectives.

Additionally, consistent with the Commission's guidance, PPL has proposed to procure the supply necessary to meet its TOU obligation by holding semi-annual wholesale auctions, one for the summer season TOU product and another for the winter season TOU product. The OCA supports semi-annual wholesale auctions, particularly given the differences in the load characteristics, market factors, and wholesale market price variability in the summer compared to the winter. The separation of auctions eliminates the concern that one bidder may provide a more attractive summer season TOU bid and another bidder may provide a more attractive winter season TOU bid and helps to ensure that PPL will obtain the lowest-cost bid in each season.

The OCA, however, is concerned with PPL's proposal that the semi-annual bids to obtain TOU products will occur following the issuance of the fixed-price Prices to Compare for the respective summer/non-summer periods. If bids for Default Service are obtained prior to the bids for TOU supply, non-TOU Default Service suppliers will not know the degree to which participation in the TOU program will erode the number of megawatt hours contained in their respective tranches. For example, if market prices decline between the time when the PTC is established and the time when the TOU bids are received, both on-peak and off-peak prices

under the TOU program could be lower than the PTC, consequently inducing large numbers of customers to move from the non-time- differentiated rate to TOU rate service. If a large number of customers opt for service under the TOU program, there could be a substantial amount of load being served under the TOU program. Neither the non-TOU supplier nor the TOU supplier can hedge this risk, which through the application of risk premiums, could result in higher PTC rates as well as higher TOU rates. As such, the OCA submits that the Commission should hold an evidentiary hearing to thoroughly review the Company's proposal.

Furthermore, the OCA submits that an evidentiary hearing is necessary for the Commission to thoroughly review the Company's proposed factors for the calculation of TOU rates. The OCA submits that TOU rates should be established in a manner that will ensure that participating TOU customers who take actions to shift energy usage from peak to off-peak periods could lower their bill as compared to standard default service.

The OCA is also concerned with the Company's proposed contingency plan. Specifically, the OCA is concerned with PPL's proposal regarding the procurement of both the fixed price and TOU customer loads through the same fixed price wholesale products (in PPL's case, these products are fixed price, full-requirements contracts) under the contingency plan. Since the wholesale suppliers supplying TOU load will continue to be paid their single DSP bid price, and not the on-peak and off-peak contingency prices set by PPL, PPL's contingency proposal could result in a revenue shortfall to any default service provider utilizing the approach. The OCA addressed the potential impact of such an approach in the first PPL TOU filing at Docket Number R-2009-2122718. If TOU customers effectively shift load from on-peak to off-peak periods, PPL would collect less revenue for the same total amount of kWhs consumed per year. Under PPL's proposed contingency plan, however, the Company's payments to the

providers of default service power supplies would not change if usage shifts from peak to off-peak periods. The OCA submits that the magnitude of such shortfall and the potential impact of recovering those costs from non-TOU customers are unknown.

The Commission agreed with the OCA and rejected this sort of reconciliation in the first PPL TOU proceeding. See PA PUC v. PPL, Docket No. R-2009-2122718, Order at 18 (March 9, 2010) (PPL 2009 TOU Order). Specifically, the Commission held:

We also agree with the OCA, that PPL's overlaying of the proposed TOU rates onto default service may have no benefit for customers and will shift costs from one group of customers to another.

PPL 2009 TOU Order at 18.

As such, the OCA has concerns with the contingency plan proposed by PPL regarding the procurement of both the fixed price and TOU customer loads through the same fixed price wholesale products. The OCA further submits that the Commission should thoroughly review the Company's proposed factors for the calculation of TOU rates under PPL's proposed contingency plan to ensure that participating TOU customers who take actions to shift energy usage from peak to off-peak periods could lower their bill as compared to standard default service.

The OCA submits that any TOU program approved by the Commission must be accompanied by adequate consumer protections to help ensure that those customers that sign up for TOU service have full information about the unique service they are to receive, including the prices they will be charged and the savings that may be achieved by shifting their energy usage from peak to off-peak hours. As such, the OCA requests that the Commission hold an evidentiary hearing to evaluate PPL's TOU Petition.

III. CONCLUSION

WHEREFORE, the OCA requests that the Commission hold an evidentiary hearing to thoroughly review the Company's proposed TOU Program.

Respectfully Submitted



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Date: June 21, 2017

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

VERIFICATION

I, Steven Estomin, hereby state that the facts above set forth in the OCA's Answer are true and correct 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 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Signature:



Steven Estomin

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DATED: June 20, 2017