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June 21, 2017

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO 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, 2017
Docket No. P-2016-2526627 and

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

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Dauphin County Industrial Development Authority's
Answer and Intervention with regard to the above-referenced matter. Copies to be served in
accordance with the attached Certificate of Service.

Sincerely,



Carl R. Shultz

CRS/lww
Enclosure

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of The Dauphin County Industrial Development Authority's **Answer and Intervention** upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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Dated: June 21, 2017



Carl R. Shultz, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :
for Approval of a Default Service Program : Docket No. P-2016-2526627
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 : Docket No. P-2013-2389572
Program :: M-2016-2578051

**ANSWER AND INTERVENTION OF
THE DAUPHIN COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**

The Dauphin County Industrial Development Authority (“DCIDA” or “Authority”), by and through its counsel, submits the following Answer and Intervention in response to the Petition of PPL Electric Utilities (“PPL”) for Approval of a new Time-Of-Use (“TOU”) Program (“Petition”) in the above-captioned matter.

I. BACKGROUND

The Authority owns and operates a solar energy farm in Dauphin County, Pennsylvania. The Authority constructed the farm to advance green energy generation and position Dauphin County as a leader in alternative energy. To construct the farm, the Authority invested \$8.5 million and incurred another \$2.5 million in debt. The farm offers a power source for Dauphin County’s emergency management systems and can connect to the County’s mobile emergency management unit. In addition, the farm operates in parallel with the electric grid, which allows DCIDA to sell excess electricity to PPL – which is both the Authority’s electric distribution company (“EDC”) and its default service provider (“DSP”).

In order to track the amount of excess electricity generated and consumed by customer-generators, such as the Authority, PPL provides them a “net metering” service. Net metering

employs a bi-directional meter to measure the amount of electricity used by the customer-generator and the amount of electricity generated by the customer-generator's alternative energy system. If a customer-generator generates more electricity than it uses, PPL purchases the excess electricity by issuing a monthly credit or remitting an annual cash payment.

II. STANDING OF THE AUTHORITY

The Authority meets the standards for intervention set forth in 52 Pa. Code § 5.72(a). The Authority is a customer of PPL, and a customer-generator as that term is defined in the Alternative Energy Portfolio Standards ("AEPS") Act.¹ DCIDA began using net metering in October 2011. Between October 2011 and April 2013, DCIDA received the price-to-compare ("PTC") for the fixed rate option offered by PPL. Between April 2013 and December 2014, DCIDA received the PTC for the TOU option offered by PPL. On December 10, 2014, PPL implemented the TOU pilot program approved by the *PUC Order*,² which was reversed and remanded by the Commonwealth Court. Since December 2014, DCIDA has been denied the opportunity to have a TOU rate option.

The Authority has the statutory right to have a TOU rate option. The outcome of this proceeding could impact whether the Authority participates in the TOU rate option in the future. The Authority will be bound by the action of the Commission in this proceeding as well as the terms and conditions for PPL's rates and programs. The Commission's actions regarding PPL's proposals could have a substantial impact on the rate paid to the Authority for excess generation.

¹ 73 P.S. § 1648, *et seq.* The AEPS Act defines customer-generator in 73 P.S. § 1648.2.

² Petition of PPL Electric Utilities Corporation for Approval of a New Pilot Time-of-Use Program, PUC Docket No. P-2013-2389572 (Order entered September 11, 2014) ("*PUC Order*").

The Authority is a municipal authority. The Authority submits that it has differing goals and interests than any other party or prospective party in the above-captioned case and therefore no other participant can adequately represent or protect the interests of the Authority. The Authority's participation in this proceeding is in the public interest and will lead to the presentation of relevant facts and issues that will assist the Commission in the investigation of PPL's proposal.

III. POSITION ON ISSUES

In the Petition, PPL proposes that:

Compensation for any end of year excess will be based upon the separate net on-peak and off-peak generation in the bank, valued at the time produced. The cash out valuation rates applies will be the applicable generation portion of the on-peak and off-peak TOU rates. The generation component of the TOU rates is the appropriate cash out rate, as it compensates for the component, generation, provided by the net metering customer.

Petition at ¶ 48.

The Authority submits that PPL's pricing proposal for excess generation is inconsistent with the AEPS Act and the Commission's regulations. Paying only the "generation component" for excess generation is inconsistent with the language and intent of the AEPS Act and the Commission's regulations.

- The AEPS Act contains specific requirements that EDCs, such as PPL, pay full retail value for all energy produced by a customer-generator, including excess generation, on an annual basis, 73 P.S. § 1648.5 (emphasis added).
- The Commission's regulations provide that: "At the end of each year, the DSP shall compensate the customer-generator for any remaining excess kilowatt hours generated by the customer-generator that were not previously credited against the customer-generator's usage in prior billing periods at the DSP's price to compare rate." 52 Pa.Code § 75.13(e) (emphasis added).³ The PTC is equal to the sum of

³ See Final Omitted Rulemaking Order in Implementation of Act 35 of 2007; Net Metering and Interconnection, L-00050174 (entered July 2, 2008) at 20-21 ("To summarize, the Commission is amending 52 Pa. Code § 75.13(d) such that, for any unused kilowatt-

all unbundled generation and transmission related charges to a default service customer for that month of service. 52 Pa.Code § 54.182.

The Commission cannot disregard the clear words of the statute or its own regulations. 1 Pa.C.S. § 1921(b). By using only the “generation component” of PPL’s TOU Rate, PPL is proposing to pay customer-generators less than the PTC for the TOU rate. In fact, PPL is proposing a compensation standard for excess generation that is based on the actual cost of power avoided by PPL under its procurement contracts for the TOU rate. The “avoided cost” standard was removed from the Commission’s regulations in 2008,⁴ and replaced by the “full retail” standard. The full retail standard requires that customer-generators be paid the PTC,⁵ not one of the components of the PTC.

The “avoided cost” standard proposed by PPL in the Petition is also inconsistent with the AEPS Act. The language in the AEPS Act clearly addresses the compensation to be paid to customer-generators for any excess generation produced over a one-year period. It specifically directs that “[e]xcess generation from net-metered customer-generators shall receive full retail value for all energy produced on an annual basis,”⁶ **not** (a) the avoided cost of wholesale power,

hours accumulated at the end of the annualized period, compensation to the customer-generator shall equal the price-to-compare rate, as defined in 52 Pa. Code § 54.182, which includes the retail generation and transmission components of the retail rate, and which consumers also utilize when choosing whether or not to obtain supply service from an EGS.”).

⁴ *Id.*

⁵ 52 Pa.Code § 75.13(e).

⁶ 73 P.S. § 1648.5 (emphasis added). This sentence was added to Section 1648.5 by Act 35 of 2007 (H.B. 1203), P.L. 114, § 3, which was effective on July 17, 2007. The addition of that sentence directed that compensation for excess generation not be based on, among other things, the avoided cost of wholesale power. *See Implementation of Act 35 of 2007;*

or (b) the Locational Marginal Price (“LMP”)⁷ on a monthly basis or (c) the generation component of PPL’s TOU rate.

Paragraph 53 of the Petition states that PPL is requesting waiver(s). No explicit request to waive the payment standard in 52 Pa.Code § 75.13(e) - pursuant to 52 Pa. Code § 5.43⁸ or 54.185⁹ - was found in the Petition. Even if waiver(s) would be permitted by said regulations of the payment standard in 52 Pa.Code § 75.13(e), such waiver(s) cannot be granted from the statutory payment standard in 73 P.S. § 1648.5. That being said, any requested waivers related to calculation of payment for excess generation are not consistent with 73 P.S. § 1648.5, are not reasonable, are not necessary to effectuate implementation of a procurement plan for TOU rates, and are not in the public interest. Nothing in the Petition justifies different treatment for payment of excess generation between customer-generators using the TOU rate option (who PPL

Net Metering and Interconnection, PUC Docket No. L-00050174, Final Omitted Rulemaking Order entered July 2, 2008.

⁷ “PJM Interconnection uses a system called locational marginal pricing to establish the price of energy purchases and sales in the PJM wholesale electricity market. LMP takes into account the effect of actual operating conditions on the transmission system in determining the price of electricity at different locations in the PJM region.” <https://www.pjm.com/~media/about-pjm/newsroom/fact-sheets/locational-marginal-pricing-fact-sheet.ashx>

⁸ The Commission's administrative and practice regulations at 52 Pa. Code § 5.43 allow for petitions for waiver of Commission regulations. “A petition to the Commission for the ... waiver ... of a regulation must set forth clearly and concisely the interest of the petitioner in the subject matter, the specific regulation, amendment, waiver or repeal requested, and cite by appropriate reference the statutory provision or other authority involved. The petition must set forth the purpose of, and the facts claimed to constitute the grounds requiring the ... waiver” 52 Pa.Code 5.43(a).

⁹ Section 54.185 of the Commission's regulations governs requests for waivers of default service plans. “DSPs shall include requests for waivers from the provisions of this subchapter in their default service program filings. For DSPs with less than 50,000 retail customers, the Commission will grant waivers to the extent necessary to reduce the regulatory, financial or technical burden on the DSP or to the extent otherwise in the public interest.” 52 Pa.Code § 54.185(6).

would pay only the “generation component” of the TOU rate) and customer-generators not using the TOU rate option (who PPL would pay all of the components of the TOU rate). The difference in pricing standards creates an unreasonable prejudice or disadvantage¹⁰ to customer-generators using the TOU rate option.

IV. CONCLUSION

WHEREFORE, for all of the foregoing reasons, DCIDA respectfully requests that the Commission (1) grant DCIDA’s intervention in this proceeding; (2) consider the positions of DCIDA in this proceeding; and, (3) deny the relief requested by PPL in the Petition, including the payment standard for excess generation as stated in Paragraph 48.

Respectfully submitted,



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Date: June 21, 2017

¹⁰ 66 Pa.C.S. § 1304 (“No public utility shall, as to rates, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage.”).

Verification

I, Carl R. Shultz state that I am an Attorney of Record for the Dauphin County Industrial Development Authority ("DCIDA" or "Authority") and that as such I am authorized to make this verification on its behalf. I hereby state that the facts contained in the foregoing document are true and correct (or are true and correct to the best of my knowledge, information and belief). I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.



Carl R. Shultz, Esquire