

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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April 27, 2015

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Petition of PPL Electric Utilities Corporation
for a Waiver of the Distribution System
Improvement Charge Cap of 5% of Billed
Revenues
Docket No. P-2015-2474714

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Answer to the Petition of PPL Electric Utilities Corporation, in the above-referenced proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "La M. Burge".

Lauren M. Burge
Assistant Consumer Advocate
PA Attorney I.D. # 311570

Enclosures

cc: Office of Administrative Law Judge
Office of Special Assistants
Certificate of Service

205178

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation	:	
For a Waiver of the Distribution System	:	Docket No. P-2015-2474714
Improvement Charge Cap of 5% of	:	
Billed Revenues	:	

ANSWER OF THE OFFICE OF CONSUMER ADVOCATE
TO THE PETITION OF PPL ELECTRIC UTILITIES CORPORATION

Pursuant to Section 5.61 of the Pennsylvania Code, 52 Pa. Code § 5.61, the Office of Consumer Advocate (OCA) provides the following Answer to the Petition of PPL Electric Utilities Corporation in the above-captioned proceeding.

I. PPL Should Not Be Permitted to Increase its DSIC Cap to 7.5%

On March 31, 2015, PPL Electric Utilities Corporation (PPL or the Company) filed the above-captioned Petition. Through its Petition, PPL seeks approval from the Pennsylvania Public Utility Commission (Commission) to increase the maximum allowable Distribution System Improvement Charge (DSIC) from its current level of 5% to 7.5% for services rendered on or after January 1, 2016. Petition at 1.

Governor Corbett signed Act 11 of 2012 into law on February 14, 2012. Act 11, *inter alia*, amended Chapter 33 of Title 66 of the Public Utility Code to grant the Commission authority to allow utilities to implement a DSIC, which would “provide for the timely recovery of the reasonable and prudent costs incurred to repair, improve or replace eligible property in order to ensure and maintain adequate, efficient, safe, reliable and reasonable service.” 66 Pa. C.S. § 1353(a). Act 11 also included certain consumer protections, including a requirement that

the DSIC may not exceed 5% of amounts billed to customers. 66 Pa. C.S. § 1358(a)(1). Section 1358 allows the Commission to grant a waiver of the 5% limit “in order to ensure and maintain adequate, efficient, safe, reliable and reasonable service.” Id.

PPL’s DSIC was approved by Commission Order on May 23, 2013, and includes a 5% cap on billed revenues. PPL now claims that it is aggressively replacing its aging infrastructure, and “the revenue cap provided by the DSIC with a 5% cap is not sufficient for PPL Electric to maintain its level of investment in its DSIC eligible distribution infrastructure for the long-term.” Petition at 6. PPL states that, without a waiver of the 5% cap and an increase to 7.5%, it will be required to file more frequent base rate cases. Id.

The OCA submits that a waiver of the 5% cap and an increase to 7.5% is inappropriate and should not be approved in this case. The 5% cap was included in Act 11 in order to provide a very important protection to consumers. If companies are simply permitted to increase the cap upon request, this would allow utilities to circumvent the traditional ratemaking process and dilute the protection provided by the 5% cap. Although the Commission does have statutory authority to waive the 5% cap, a waiver is only to be granted “to ensure and maintain adequate, efficient, safe, reliable and reasonable service.” 66 Pa. C.S. § 1358(a)(1).

The OCA submits that PPL has not demonstrated in its Petition that a waiver and an increase in the cap to 7.5% is necessary for purposes of Section 1358(a)(1). Rather, PPL has only averred that an increased cap would be more convenient and would allow for PPL to more quickly recover for infrastructure replacement projects than using the traditional ratemaking process. This is not a compelling reason to waive such an important consumer protection measure.

As further reason to deny the Petition, on March 31, 2015, PPL filed a base rate case seeking approval to increase its distribution rates by \$167.5 million annually. First, if any part of PPL's requested increase is approved, the Company will have additional funds available for infrastructure improvements. Second, PPL proposed – for the first time – to use a fully forecasted future test year under Act 11. The use of a fully forecasted future test year allows the Company to establish rates based on its spending in the first year that rates are in effect, thus capturing additional infrastructure spending. The DSIC rate will be reset to zero until the Company makes additional plant investment that is not recovered in its base rates.

Moreover, PPL's current DSIC rate is 4.22% through June 30, 2015, which is below the existing 5% cap. PPL's Petition contains no evidence showing that the Company anticipates exceeding the 5% cap between now and December 31, 2015, which is the end of the full statutory suspension period for its base rate filing. Even if it is assumed *arguendo* that PPL did exceed the cap by an unknown amount, that lag in rate recovery for DSIC-eligible expenditures above the 5% cap will be limited to the six month period July 2015 through December 2015, since new base rates will take effect on January 1, 2016.

Taken together, there is no basis for the Commission to approve PPL's requested waiver. The mere fact that higher DSIC's allow utilities to file base rate cases less frequently is not sufficient to eliminate the protection provided by the 5% cap. The cap may only be exceeded if and when the utility demonstrates that a higher level is necessary "in order to ensure and maintain adequate, efficient, safe, reliable and reasonable service." 66 Pa. C.S. §1358(a)(1). If the cap can be routinely waived any time a utility reaches the 5% maximum and would rather not file a base rate case, then this important protection provided by the General Assembly would be meaningless.

For the above reasons and those set forth below, the OCA submits that PPL's Petition and its proposed DSIC increase should be denied.

II. Specific Responses to Numbered Paragraphs

1-11. Admitted.

12. Admitted in part. The OCA agrees that PPL is repairing and replacing distribution system infrastructure and recovering eligible costs through its DSIC. The Commission will determine whether PPL is compliant with its Asset Optimization Plan and LTIP.

13-14. Admitted.

15. Denied as stated. Respondent's allegations include conclusions of law which require no response. As discussed above, PPL has made no showing that a higher DSIC rate is necessary "to ensure and maintain adequate, efficient, safe, reliable and reasonable service" for purposes of Section 1358(a)(1). If the Commission does not deny the Petition outright, the Company should be required to prove through sworn testimony at hearings that an increase in the DSIC is needed to further accelerate infrastructure improvements and that the increase is just and reasonable under the Public Utility Code.

16-20. Neither admitted nor denied. The OCA is without knowledge and information that would allow it to either admit or deny the statements in these paragraphs. If the Commission does not deny the Petition outright, the Company should be required to prove these statements through sworn testimony at hearings.

21. Denied in part. The DSIC is one means of recovering infrastructure improvement costs. The DSIC itself cannot ensure that customers receive safe and reliable service. Additional ratepayer dollars are not the only source of initially funding aging infrastructure. It is the role of

Company management to ensure that a level of safe, adequate and reliable service is maintained within the just and reasonable level of revenues allowed by the Commission.

22-25. Neither admitted nor denied. The OCA is without knowledge and information that would allow it to either admit or deny the statements in these paragraphs. If the Commission does not deny the Petition outright, the Company should be required to prove these statements through sworn testimony at hearings.

26. Denied. The stated purpose of the DSIC is to allow recovery of certain infrastructure costs incurred between base rate cases and not to increase the time between base rate cases. Further, many economic and financial factors together determine the frequency of a utility's base rate increase requests and the costs incurred in the review of those requests. Some of those factors are within the control of the Company.

As noted above, additional ratepayer dollars are not the only source of initially funding aging infrastructure. It is the role of Company management to ensure that a level of safe, adequate and reliable service is maintained within the just and reasonable level of revenues allowed by the Commission. If the Commission does not deny the Petition outright, the Company should be required to prove through sworn testimony at hearings that an increase in the DSIC is needed to further accelerate infrastructure improvements and that the increase is just and reasonable under the Public Utility Code.

27. Denied. Increasing customers' bills by an additional \$1.23 per month over and above the maximum 5% DSIC level is significant. Moreover, the same customer may be paying a DSIC of 5% or 7.5% on each of his/her regulated utility bills, *i.e.* natural gas, water and wastewater. If the Petition is not denied outright, PPL should be required to show that greater

rate increases between base rate cases are just and reasonable and necessary for the Company to maintain safe and adequate service.

28. Denied. Whether the DSIC formula approved by the Commission adequately protects customers by properly calculating the DSIC rate is being reviewed by the Commonwealth Court, Docket Nos. 1012 CD 2014 and 1358 CD 2014.

29-32. Admitted.

33. Denied. The OCA submits that PPL should provide direct notice to customers that it seeks approval to increase their DSIC rate through a bill insert – the same notice required when PPL initially sought approval of a DSIC with a 5% cap. See Implementation of Act 11 of 2012, Docket No. M-2012-2293611, Order at 25-26 (Aug. 2, 2012) (Final Implementation Order). Along with the additional notice, customers should be provided additional time to comment on the proposed increase.

34-35. Admitted.

36-37. Denied. There is no basis for the Commission to approve PPL's requested waiver and the Petition should be denied. As discussed above, the fact that PPL has requested to increase its distribution rates by \$167.5 million annually, that it proposes to use a fully forecasted future test year, that its DSIC rate through June 2015 is below the existing 5% cap and that its DSIC rate will be reset to zero no later than December 31, 2015 are all compelling reasons *not* to waive the statutory DSIC cap.

The issue in this proceeding is whether an increase in the DSIC rate is needed to further accelerate infrastructure improvements by increasing the amount recovered *between base rate cases*. The issues that PPL states are reason to consolidate the cases – rolling in the current

DSIC revenues and resetting the DSIC to zero – are performed as a matter of course in every base rate case filed by a utility with a DSIC and are not at issue in this proceeding.

38. This paragraph is a request for relief to which no response is required.

39. Denied for the reasons stated in response to Paragraph 26.

40-41. Neither admitted nor denied. The OCA is without knowledge and information that would allow it to either admit or deny the statements in these paragraphs. If the Commission does not deny the Petition outright, the Company should be required to prove these statements through sworn testimony at hearings.

WHEREFORE, for all of the foregoing reasons, the instant Petition should be denied.

Respectfully Submitted,



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Counsel for:
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DATED: April 27, 2015
205708

CERTIFICATE OF SERVICE

Re: Petition of PPL Electric Utilities Corporation for a Waiver of the Distribution System
Improvement Charge Cap of 5% of Billed Revenues
Docket No. P-2015-2474714

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, 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 27th day of April 2015.

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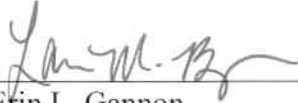
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