**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :

:

v. : R-2015-2469275

:

PPL Electric Utilities Corporation :

Office of Consumer Advocate, : C-2015-2475448

Office of Small Business Advocate : C-2015-2478277

PP&L Industrial Customer Alliance : C-2015-2480265

:

v. : :

PPL Electric Utilities Corporation :

Petition for a Waiver of the Distribution :

System Improvement Charge Cap of 5% : P-2015-2474714

of Billed Revenues :

**SCHEDULING ORDER**

Second Prehearing Order

On March 31, 2015, PPL Electric Utilities Corporation (PPL Electric or Company) filed Supplement No. 179 to Tariff Electric – Pa. PUC No. 201, containing proposed changes in rates, rules, and regulations calculated to produce approximately $167.5 million in additional annual revenues based upon data for a fully projected future test year ending December 31, 2016. This proposed rate change represents an average increase in the Company's distribution rates of approximately 18.5%, which equates to an average increase in total rates (distribution, transmission, and generation charges) of approximately 3.9%. Supplement No. 179 was proposed to take effect on June 1, 2015. The filing was suspended by Commission Order entered April 23, 2015.

Formal complaints against this proposed tariff have been filed by: the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), and PP&L Industrial Customer Alliance (PPLICA). Petitions to intervene were filed by the Commission on Economic Opportunity (CEO), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the Clean Air Council, Sustainable Energy Fund (SEF), the Alliance for Solar Choice (TASC), and Eric Joseph Epstein. The Commission's Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance.

Motion for admission pro hac vice was filed by Joseph Minnott, attorney for the Alliance for Solar Choice, seeking admission for David R. Wooley and Jacob J. Schlesinger.

On April 22, 2015, a Notice was issued which scheduled the prehearing conference for Thursday, May 7, 2015. A prehearing conference order (First Prehearing Order) was also issued on April 22, 2015, which directed the litigating parties to file and serve their prehearing memos on or before Friday, May 1, 2015 on or before noon. Prehearing memos were filed by the following: PPL Electric, OCA, OSBA, I&E, PPLICA, CEO, SEF, Clean Air Council, TASC, and Mr. Epstein.

The prehearing conference was held as scheduled on May 7, 2015. The following attended: David B. MacGregor, Esq., Paul E. Russell, Esq., and Christopher T. Wright, Esq., for PPL Electric; Darryl Lawrence, Esq., Hobart Webster, Esq., and Lauren Birge, Esq., for OCA; Richard Kanaskie, Esq., Gina L. Lauffer, Esq., and Kenneth R. Stark, Esq., for I&E; Steven C. Gray, Esq., for OSBA; Joseph Vullo, Esq., for CEO; Adeolu Bakare, Esq., for PPLICA; Kenneth L. Mickens, Esq., for SEF, Logan Welde, Esq., and Joseph O. Minott, Esq., for the Clean Air Counsel; Mr. Minott also appeared on behalf of the Alliance for Solar Choice, along with David R. Wooley, Esq., and Mr. Epstein appeared pro se.

**Interventions**

The petitions to intervene filed by CAUSE-PA, CEO, SER, and Mr. Epstein are unopposed and will be granted in the ordering paragraphs of this Order.

Two petitions to intervene were opposed by the Company for lack of standing. The petition to intervene filed by the Clean Air Council faced the objections of the Company for failure to aver by name their members who are PPL Electric customers, and the petition to intervene filed by TASC faced the objections of the Company for failure to identify which members provide service within PPL Electric's service territory. Both TASC and the Clean Air Council are given five business days from the date of issuance of this Order to file and serve amended petitions with the requested information. The Company has five business days from the date of filing to respond. Both petitions will be evaluated after the Company's response is received.

The motions for admission pro hac vice will be addressed in a separate Order or decision regarding the petitions to intervene of Clean Air Council and the Alliance for Solar Choice, as the necessity of granting admission pro hac vice is dependent upon the outcome of the TASC petition.

**Consolidation with the DSIC Petition**

On March 31, 2015, PPL Electric filed a Petition for a Waiver of the Distribution System Improvement Charge Cap of 5% of Billed Revenues at Docket No. P-2015-2474714. Notice of the Petition was published in the Pennsylvania Bulletin on April 11, 2015, and gave April 27, 2015 as the deadline for protests and interventions. 45 Pa.B. 1917. OCA filed an answer and OSBA filed its appearance. PPLICA filed a Protest. No other entity filed a response. The Company asks that the Petition be consolidated with the base rate case for litigation.

PPLICA, OCA, and OSBA indicated that there was no objection to the consolidation.

For internal purposes, it may be too cumbersome for Commission personnel who monitor the DSIC cases to have to locate DSIC information in a base rate case recommended decision. However, it makes sense to have these parties present their cases in one litigated case. Therefore, I will grant the request for consolidation for litigation purposes but I will issue separate decisions on the base rate case and the Petition. Prospective parties who wish to provide evidence regarding the Petition must seek party status in order to participate in that case.

**Schedule**

The parties agreed upon a proposed schedule, which is adopted here with the addition of a public input hearing to be held in the Allentown area and scheduled on a day in the first week of June when a suitable venue can be identified.

**Hearings and participation**

The Company's service territory spans all or parts of twenty-nine counties in the Commonwealth. Therefore, in addition to the formal evidentiary hearings to be held in Harrisburg in August, there are three public input hearings scheduled to hear testimony of those persons who wish to provide evidence. The two scheduled in Harrisburg will be held in Hearing Room 1 of the Commonwealth Keystone Building and will accommodate both in-person and telephonic witnesses. Advertising will encompass the entire utility service territory by appearing in the same 22 newspapers in which the Company advertised the filing of this case. The Harrisburg proceedings will be live-streamed through the Commission's website to promote transparency in public proceedings. An additional in-person only public input hearing will be scheduled in Allentown and advertised in local newspapers.

Anyone can testify at a public input hearing. Formal pro se (unrepresented) complainants[[1]](#footnote-1) are informed of the following options:

**(1) Participate in a public input hearing**. Public input hearings will be held in Harrisburg and Allentown. The purpose of a public input hearing is to give citizens who do not wish to participate in the formal litigation an opportunity to express their opinions regarding the Company’s proposal. You need only show up and sign in, or, if you wish to testify by telephone, you must provide your name and telephone number to the OCA prior to the hearing. If you wish to testify in person, no advance registration is required.

You may remain a party of record and receive the filings and orders, but if attending a public input hearing satisfies your desire to participate, and you do *not* wish to remain on the service list for pleadings, filings, discovery requests or orders and decisions in this matter, you must inform me in writing. You can either remain a party of record for purposes of receiving orders or decisions issued by the presiding officer and Commission but have the parties of record remove you from their service list, or you may withdraw your formal complaint, which will remove you from the service list for every purpose and end your involvement in the litigation.

**(3) Participate in the formal evidentiary hearing as a party of record**. As a party of record, you will be served with all of the pleadings, filings, discovery requests, written testimony and orders and decisions served and issued in this proceeding. These documents will be voluminous. Your *rights* as a party of record include the ability to present your own testimony and to cross-examine other witnesses at the formal hearings, and to file exceptions to the presiding officer’s recommended decision. Your *duties* as a party of record are that you must answer all discovery requests served upon you in accordance with the rules. You will be required to serve a copy of anything that you *file* upon the presiding officer and each party appearing on the service list, as it appears attached to this Scheduling Order and as modified as the case progresses, regardless of the cost of postage (service may be electronic to those parties who have agreed to accept electronic service).

Note that your participation as a party of record may be limited to appearing at a public input hearing, which requires no special preparation. However, if you intend to present evidence at the formal evidentiary hearings, you will be required to submit your testimony in writing in advance, in accordance with the schedule to set by this Scheduling Order, and to provide a copy of your written prepared testimony to each party on the service list and the presiding officer by the designated date. Although service of the prepared testimony may be electronic to those parties who agree to accept electronic service, you must provide hard copies to the court reporter at the evidentiary hearing to have your testimony accepted into the official record.

You will be expected to participate in accordance with the rules of Commission practice appearing in Title 52 of the Pennsylvania Code Chapters 1, 3 and 5. **The Pennsylvania Code is available on-line** at [www.pacode.com](http://www.pacode.com). Although a natural person or a sole proprietor may appear on his or her own behalf, if you are any entity other than a natural person or a sole proprietor, (e.g., a corporation, partnership, municipality, etc.), you will be required to have an attorney represent you in accordance with the laws of Pennsylvania. *See Ordering Paragraph 8, below.*

**Discovery**

A few modifications are made to the Commission's discovery regulations according to the unopposed requests of the OCA and I&E. Of note, the OCA has requested that this Order direct that parties providing prepared testimony either include the electronic work papers, cited studies and other documents relied on or provide them within two business days of the testimony due date to all parties of record. The OCA reasons that the other parties routinely ask for these documents following the testimony's service through normal discovery channels, and that this method will streamline the process. No party objected, and the request will be granted, with the understanding that the provision of requested material under an expedited time period is subject to the best efforts of the parties involved.

Counsel for the Company indicated that PPL Electric was setting up an electronic data room where discovery responses would be located and accessible to those parties who should have access, with three levels of protection provided depending upon the responses: public, confidential and highly confidential. One hard copy would be provided to each party but a notice indicating that the responses were available at the internet link would be sent electronically instead of sending the voluminous information via email. No party objected to this plan. Similar plans for handling large amounts of data in discovery have been implemented in other cases with a great deal of success, and the Company is commended for initiating this solution here.

**Electronic contact information**

Upon occasion, the presiding officer may need to contact the litigating parties quickly and may use email to effect this communication. Interim orders such as this one may be sent by email in addition to first class mail. Any pro se complainant who wishes to be included in this list must provide an email address to the presiding officer. The following list of e-mails will be used to contact the litigating parties electronically during the proceeding:

PPL Electric: [cwright@postschell.com](mailto:cwright@postschell.com)

[dmacgregor@postschell.com](mailto:dmacgregor@postschell.com)

mgang@postschell.com

[perussell@pplweb.com](mailto:perussell@pplweb.com)

kklock@pplweb.com

OCA: [DLawrence@paoca.org](mailto:DLawrence@paoca.org)

[HWebster@paoca.org](mailto:HWebster@paoca.org)

LBurge@paoca.org

OSBA: [sgray@pa.](mailto:sgray@pa.)gov

Epstein: [lechambon@comcast.net](mailto:lechambon@comcast.net)

CEO: [jlvullo@aol.com](mailto:jlvullo@aol.com)

PPLICA: [ppolacek@mwn.com](mailto:ppolacek@mwn.com)

[abakare@mwn.com](mailto:abakare@mwn.com)

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TASC: [joe**\_**minott@cleanair.org](mailto:joe_minott@cleanair.org)

dwooley@KFWLAW.com

CAUSE-PA: pulp@palegalaid.net

The parties are encouraged to check this list and let the presiding officer know as soon as possible if there are corrections.

THEREFORE,

IT IS ORDERED:

1. That the following petitions to intervene are granted as unopposed: Commission on Economic Opportunity, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, Eric Joseph Epstein, and the Sustainable Energy Fund.

2. That the petitions to intervene filed by the Clean Air Council and the Alliance for Solar Choice are held in abeyance pending the submission of additional information and the opportunity for the Company to respond to it.

3. That the Clean Air Council and the Alliance for Solar Choice may file and serve amended petitions to intervene with the requested information within five business days from the date of issuance of this Order. The Company has five business days from the date of filing to respond.

4. That the case captioned Petition of PPL Electric Utilities Corporation for a Waiver of the Distribution System Improvement Charge Cap of 5% of Billed Revenues, at Docket No. P-2015-2474714, is consolidated with the base rate case at Docket No. R-2015-2469275, for purposes of discovery, submission of testimony, and briefing. Participation in the Petition case is limited to those entities which have party status. A separate recommended decision will be issued for the Petition.

5. That the following litigation schedule is adopted:

Public Input Hearings June 2, 2015

Direct of Other Parties June 23, 2015

First Settlement Conference By July 1, 2015

Rebuttal testimony due July 20, 2015 (Best efforts by noon)

Second Settlement Conference By July 28, 2015

Surrebuttal July 31, 2015

Evidentiary Hearings

and Oral Rejoinder August 6-7 and 10-11, 2015

Close of Record August 11, 2015

Main Briefs September 1, 2015

Reply Briefs September 11, 2015

Public Meeting December 17, 2015

6. That PPL Electric Utility Corporation shall publish notice of each public input hearing at least once per week for two consecutive weeks prior to the public input hearings in a publication of general circulation in the local service territory and shall file proof of publication with the Commission’s Secretary, copy to the presiding officer. The correct address for the June 2nd public input hearings is as follows:

June 2, 2015 1:00 pm and 6:00 pm Commonwealth Keystone Building

400 North Street

Hearing Room 1

Harrisburg PA 17120

7. That PPL Electric Utilities Corporation shall inform me on or before July 1, 2015, that the first settlement conference had been held, and by July 28, 2015, that the second settlement conference had been held. Failure to report timely will result in the immediate issuance of a notice of a settlement conference to be held at an available Commission hearing room upon very short notice.

8. That the Commission’s regulations regarding discovery at 52 Pa. Code

§ 5.342 are modified as follows:

a. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service. Discovery and discovery-related pleadings propounded after 12:00 noon on a Friday or after 12:00 noon on any business day immediately preceding a state holiday will be deemed served on the next business day for purposes of determining the due date of the responses and responsive pleadings.

b. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of the interrogatories. Objections to interrogatories served on a Friday shall be communicated orally within four (4) calendar days, and unresolved objections shall be served to the ALJ in writing within six (6) days of service of the interrogatories.

c. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.

d. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

e. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days.

f. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

9. Testimony shall be premarked with numerical, sequential statement numbers, consistent with the requirements appearing at 52 Pa.Code §§ 5.412 and 5.412a. All statements must list on the cover sheet the issues addressed in the statement. The Company shall provide a separate list for the testimony which was already served by the date of the filing’s suspension.

10. Testimony shall be served but not filed in accordance with the schedule.

11. Parties serving prepared testimony which cites workpapers, studies or other documents shall provide an electronic copy of the relied-upon document, in workable format to all parties within two business days of the testimony service date.

12. For formal complainants appearing without attorney representation, written prepared testimony shall be substantially in compliance with the Commission’s regulations, located at 52 Pa. Code Chapters 1, 3 and 5, available at [www.pacode.com](http://www.pacode.com), in particular 52 Pa. Code §§ 5.412(e), 5.412a. This means that the statement of Complainant shall have a cover sheet which contains the following: “Direct Testimony of J. Q. Complainant, R-2012-2290597 Statement No. 1.” The document shall contain the direct testimony of the formal Complainant in double-spaced text with numbered lines on the left side of each numbered page. Exhibits, if any, shall be attached and shall be labeled as “J.Q. Complainant Exhibit 1,” “J.Q. Complainant Exhibit 2,” etc. This document must be served on the presiding officer as well as the litigating parties of record in accordance with the schedule set forth in Ordering Paragraph 2.

13. One week prior to the start of the evidentiary hearings, the Company shall provide a completed daily witness listing and cross-examination grid to the presiding officer. Parties shall complete the daily witness listing and cross-examination grid as developed by the Company in a cooperative and timely fashion.

14. All parties are directed to comply with the provisions of 52 Pa. Code

§ 5.243(e) which prohibits the introduction of evidence during rebuttal or surrebuttal which should have been included in the case-in-chief or which substantially varies from the case-in-chief, unless the evidence is introduced in support of a proposed settlement.

15. Briefs must comply with 52 Pa. Code §§ 5.501 and 5.502, and shall comply with the standard directions attached to this Order as Appendix A.

Dated: May 7, 2015 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Susan D. Colwell

Administrative Law Judge

**APPENDIX A**

**INSTRUCTIONS FOR BRIEFS**

Each brief shall follow the general organization shown herein.

Adjustments contained in each brief shall:

a. Be based on a specific test year, to be selected before the close of record;

b. be complete and self-contained;

c. include accurate reference to the appropriate record sources;

d. be on a before-income-tax basis;

e. be detailed to demonstrate the step-by-step calculation of that adjustment together with appropriate accurate record references;

f. include concomitant rate base, revenue, expense, depreciation, expense, and tax adjustments set forth, together with the details of their calculation;

g. include with the brief those calculations which are the basis for proposed adjustments but which are incomplete on the record.

Tables showing all proposed rate base and income adjustments shall be submitted with each brief which includes such adjustment.

**STANDARD FORMAT**

I. Introduction

II. Summary of Argument

III. Rate Base

A. Fair Value

B. Plant in Service

C. Depreciation Reserve

D. Additions to Rate Base

E. Deductions from Rate Base

F. Conclusion

IV. Revenues

V. Expenses

VI. Taxes

VII. Rate of Return

VIII. Miscellaneous Issues(s)

IX. Rate Structure

A. Cost of Service

B. Revenue Allocation

C. Tariff Structure

D. Summary and Alternatives

X. Conclusion

**R-2015-2469275 - PA PUBLIC UTILITY COMMISSION v.PPL ELECTRIC UTILITIES COMPORATION**

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1. Although there was only one formal pro se party at the time of the issuance of this Scheduling Order, and he is a veteran of PUC proceedings, this information is included not only for Mr. Epstein, but for those who may file formal complaints after this date. [↑](#footnote-ref-1)