



COMMONWEALTH OF PENNSYLVANIA

September 3, 2020

E-FILED

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

Re: Petition of PPL Electric Utilities Corporation for Approval of its Default Service Plan for the Period June 1, 2021 Through May 31, 2025 / Docket No. P-2020-3019356

Dear Secretary Chiavetta:

Enclosed please find the Main Brief, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Steven C. Gray

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Senior Supervising
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Attorney I.D. No. 77538

Enclosures

cc: Robert D. Knecht
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities :
Corporation for Approval of its Default :
Service Plan for the Period June 1, 2021 : **Docket No. P-2020-3019356**
Through May 31, 2025 :
:

**MAIN BRIEF
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

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Date: September 03, 2020

I. Introduction

On March 25, 2020, PPL Electric Utilities Corporation (“PPL” or the “Company”) filed a Petition for Approval of its Default Service Plan for the Period of June 1, 2021 through May 31, 2025 (“*Petition*”) with the Pennsylvania Public Utility Commission (“Commission”).

On May 8, 2020, the Office of Small Business Advocate (“OSBA”) filed a Notice of Intervention in opposition to the *Petition*.

On May 12, 2020, a prehearing conference was held before Administrative Law Judge (“ALJ”) Elizabeth H. Barnes.

On May 15, 2020, ALJ Barnes issued her Procedural Order.

On June 25, 2020, the OSBA served the Direct Testimony of Robert D. Knecht.

On July 23, 2020, the OSBA served the Rebuttal Testimony of Mr. Knecht.

On August 6, 2020, the OSBA served the Surrebuttal Testimony of Mr. Knecht.

On August 13, 2020, a hearing was held before ALJ Barnes.

The OSBA submits this Main Brief in accordance with the ALJ’s May 15th Procedural Order.

II. Summary of Argument

PPL conducted research that determined that many Standard Offer Program (“SOP”) small commercial and industrial (“Small C&I”) and residential customers remained with their Electric Generation Supplier (“EGS”) beyond the initial 12-month term.

PPL found that many of these customers were paying SOP EGS rates for electric service that were substantially in excess of the PPL price to compare (“PTC”).

The PPL *Petition* proposed two changes to its SOP to address this problem. Those changes include the automatic return of SOP EGS customers at the end of the 12-month term, and the dissemination of additional educational materials to participating customers nearing the end of the 12-month term.

EGS testimony provided additional refinement of the PPL research. Nevertheless, the problem of Small C&I overpayment remains.

The OSBA supports the *Petition's* proposed two changes to the Company's SOP.

III. Argument

A. The Findings and Research of PPL

The Petition proposed a number of changes to the Company's Standard Offer Program ("SOP"). OSBA witness Robert D. Knecht provided a summary of the Company's SOP, as follows:

The Company's SOP is a program in which PPL Electric will refer certain customers to a Commission-approved competitive rate option in which the customers can purchase power at a fixed per-kWh rate for twelve months at 7 percent below the PTC in effect at the time of enrollment.

Eligible customers include Residential customers, and Small C&I customers with maximum demand up to 25 kW.

Customers can either affirmatively select a participating EGS, or have one randomly assigned by the utility.

Customers can opt out of the program at any time without penalty.

At the end of the twelve months, if a participating customer does not affirmatively choose a different option, the customer will continue to take service from the EGS that provided the SOP service.

OSBA Statement No. 1, at 9 (formatting added).

The Commission is fully aware of the problem inherent in this paradigm. A customer will receive a rate that is below the initial PTC for twelve months, but then may be charged a rate significantly higher than the PTC when that customer takes no action and does not leave the EGS at the end of the twelve-month period.

PPL became concerned about the effect that such "lack of action" was having on customers participating in a PPL sponsored program, and decided to research the issue. What the Company found even surprised the skeptical Mr. Knecht:

What is surprising, at least to me, is the magnitude and extent of this pattern. To its credit, PPL Electric conducted a detailed quantitative evaluation of the rate impacts on participating customers at the end of the SOP period. PPL Electric has put forward compelling evidence that (a) a significant majority of SOP customers do not choose to shop at the end of the SOP period, and (b) the subsequent price paid by a large majority of those customers is far in excess of the PTC. PPL Electric's data indicate that approximately two-thirds of Small C&I SOP customers are still with their SOP EGS four months after the end of the SOP period.

OSBA Statement No. 1, at 9.

In today's modern, internet-of-things competitive marketplace, it is an axiom that a customer must aggressively and regularly check prices if that customer wishes to obtain the best deal. This is true whether one is shopping for a laptop computer or electric service. PPL's finding that two-thirds of its Small C&I customers, who did not shop at the end of their initial SOP period, were still with their SOP EGS months later is, frankly, shocking.

Nevertheless, PPL's research did uncover even more disturbing results. Of those Small C&I customers still with their SOP EGS months later, Mr. Knecht observed:

[V]irtually all pay more than 10 percent above the PTC and well over half are paying more than 25 percent above the PTC in the first four months after the SOP period.

OSBA Statement No. 1, at 9.

In its Petition, proposed certain changes to its SOP in order to address this problem. The two proposals that are the subject of this litigation are set forth below:

At the end of the SOP period, unless a participating customer affirmatively chooses to shop or to remain with the SOP EGS, it will automatically be returned to EDC default service.

PPL Electric will provide educational materials to customers nearing the end of their SOP period.

OSBA Statement No. 1, at 10 (formatting added).

Regarding the second issue, the OSBA is always supportive of any Commonwealth public utility providing educational materials to its customer base. Unless PPL's "educational materials" are found to be a diatribe against a particular EGS, or assail the business practices of an EGS, those educational materials should be allowed. Moreover, the OSBA respectfully submits that those educational materials are a critical step towards addressing this problem.

The first issue is the major point of contention in this proceeding. The OSBA supports the PPL proposal as a hard and fast rule to prevent small businesses from significantly overpaying for its electricity. This would be true in September 2019. It is particularly true in September 2020, in the middle of a world-wide pandemic that is destroying small businesses across the Commonwealth.

Mr. Knecht stated the OSBA position, as follows:

The Company's quantitative evidence is overwhelming. A significant majority of participating customers are facing rates far in excess of the PTC at the end of the SOP period, quickly offsetting any savings they may have achieved during that period.

OSBA Statement No. 1, at 10. Mr. Knecht continued:

It is therefore reasonable for both the Company and the Commission to take precautions to ensure that the program is not abused and that customers are properly warned. I believe that the steps proposed by the Company will achieve that result. The advantage of the PPL Electric proposal is that it ensures that customers who stay with their SOP EGS will do so after affirmatively determining that it is in their interest, rather than by default. It will also address concerns about customer reliance on a program because it has the imprimatur of both the Company and the Commission.

OSBA Statement No. 1, at 11.

Mr. Knecht's conclusion was echoed by Ms. Barbara Alexander, representing the Pennsylvania Office of Consumer Advocate ("OCA"):

PPL's analysis of the prices paid by SOP customers after the 12-month SOP contract documents that the renewal process implemented by suppliers typically results in significant harm to SOP customers in the form of higher prices that vastly exceed the PTC. I recommend that PPL's proposal to require that customers who enter SOP contracts should automatically be returned to default service unless the customer affirmatively enrolls with a supplier (whether the SOP supplier or another supplier) be adopted. Once returned to default service, the customer can then re-enroll in the SOP, remain with default service, or sign up with any supplier. PPL's proposal includes customer notifications from PPL as to the customer's options. This approach fulfills the intended purpose of the SOP which is to expose the customer to the retail energy market and then allow the customer's experience to inform the customer's future actions. The extremely high prices that PPL discovered for customers who remained with their SOP supplier in a renewal contract cannot be justified and, if not prevented, will harm PPL's reputation as well as that of the retail energy market generally.

OCA Statement No. 2, at 3-4.

The OSBA supports the two proposals set forth in the Company's *Petition* regarding the current SOP. They represent just and reasonable consumer protections that will prevent harm to PPL's Small C&I customers.

B. The Findings and Research of the EGS Parties

Mr. Christopher H. Kallaher, representing Interstate Gas Supply, Inc., Shipley Choice LLC, NRG Energy, Inc., Vistra Energy Corp., Engie Resources LLC, WGL Energy Services, Inc., and Direct Energy Services, LLC (collectively, the "EGS Parties"), addressed the SOP changes set forth in the PPL *Petition*.

Mr. Kallaher presented evidence that provided additional insight into PPL's original findings. Specifically, Mr. Kallaher differentiated between SOP customers that leave their SOP EGS before the end of their 12-month term, and those that stay until the end of their 12-month term. Mr. Knecht explained Mr. Kallaher's argument, as follows:

He points to the fact that the evidence presented by PPL Electric included only the customers who remained on the SOP through the full 12-month term, whereas many SOP customers affirmatively choose to leave the SOP before the end of the term.

OSBA Statement No. 1-R, at 6. Mr. Knecht continued:

He argues that a significant number of customers who participate in the SOP do therefore make an affirmative decision to choose a different rate option after having entered the SOP.

Id.

To summarize the data of both PPL and Mr. Kallaher, Mr. Knecht created the following

Table:

Table IEc-R1 PPL Electric Analysis of SOP Small C&I: Disposition Four Months After SOP		
	Left Early	Full Term
Finaled Account	75	42
Kept SO Supplier – Still SOP	485	46
Switched Supplier – Still SOP	107	150
Returned to Default	101	89
Kept SO Supplier – Not SOP	356	806
Switched Supplier – Not SOP	394	118
Totals	1,518	1,251
Source: RDK WP 5		

OSBA Statement No. 1-R, at 6.

Mr. Knecht summarized Table IEc-R1, as follows:

Of the 2,652 participating Small C&I customers (excluding those who closed their accounts), some 54 percent made an affirmative decision to leave the SOP before the end of the regular 12-month term, and an additional 15 percent of the participants made an affirmative choice at the end of the 12-month term.

Thus, a maximum of 30 percent of the Small C&I SOP participants remained with their SOP EGS at the end of 12-months without any obvious affirmative decision being made, and it is likely that some

of those customers affirmatively chose to stay with their SOP EGS at a non-SOP price.

Id., at 7 (formatting added)

Mr. Kallaher's analysis does provide additional insight into this issue. Nevertheless, even with this additional data, the problem of Small C&I customers overpaying for their EGS electric service remains. Mr. Knecht summarized the situation, as follows:

[A] significant minority of participants remained with their SOP EGS, most of whom faced rates far in excess of the PTC. As the SOP is sponsored by PPL Electric and approved by the Commission, it may very well be that these customers were incorrectly relying on the Commission's imprimatur to protect them from price gouging.

OSBA Statement No. 1-R, at 7.

Ultimately, this is a consumer protection issue that affects PPL's Small C&I customers. The OSBA appreciates the additional analysis that Mr. Kallaher brings to the table, yet the problem remains. A significant number of Small C&I customers remain with the SOP EGS will beyond the 12-month term. The OSBA supports both PPL's proposals, set forth in the Company's *Petition*, to address this problem.

IV. Conclusion

Therefore, the OSBA respectfully requests that the ALJ and the Commission approve the *Petition's* two changes to PPL's Standard Offer Program in order to address a significant number of the Company's Small C&I customers significantly overpaying their SOP EGS for their electric service.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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