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September 17, 2020

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Attached for filing is the Reply Brief of PPL Electric Utilities Corporation in the above-referenced proceeding. Copies are being provided per the Certificate of Service.

Respectfully submitted,

Lindsay A. Berkstresser

Lindsay A. Berkstresser

LAB/kls
Attachment

cc: Honorable Elizabeth Barnes
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant) and the Pennsylvania Public Utility Commission's March 20, 2020 Emergency Order at Docket No. M-2020-3019262.

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Date: September 17, 2020

Lindsay A. Berkstresser

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation for	:	
Approval of Its Default Service Plan for the Period	:	P-2020-3019356
From June 1, 2021 through May 31, 2025	:	

REPLY BRIEF OF PPL ELECTRIC UTILITIES CORPORATION

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

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Dated: September 17, 2020

Attorneys for PPL Electric Utilities Corporation

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I. INTRODUCTION

In this proceeding, PPL Electric Utilities Corporation ("PPL Electric" or the "Company") requests Pennsylvania Public Utility Commission ("Commission") approval of its fifth Default Service Program and Procurement Plan ("DSP V Program") to establish the terms and conditions under which PPL Electric will acquire and supply Default Service or provider of last resort service ("Default Service"), from June 1, 2021 through May 31, 2025 (the "DSP V Program Period"). Contemporaneously with the filing of Reply Briefs, a Joint Petition for Partial Settlement ("Partial Settlement") is being filed by PPL Electric, the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), the Sustainable Energy Fund ("SEF"), Interstate Gas Supply, Inc., Shipley Choice LLC, NRG Energy, Inc, Vistra Energy Corp., ENGIE Resources LLC, WGL Energy and Direct Energy Services, LLC (collectively, "EGS Parties"), and Calpine Retail Holdings, LLC ("Calpine"), all parties to the above-captioned proceeding (hereinafter, collectively "Signatory Parties").[1] This Partial Settlement resolves all the issues and concerns raised by the active parties in the instant proceeding except for the following three issues, which were reserved for litigation: (1) the use of 1 coincident peak ("1CP") versus 5 coincident peak ("5 CP") for calculating Network Service Peak Load ("NSPL"); (2) shopping by customers enrolled in PPL Electric's Customer Assistance Program ("CAP"); and (3) all Standard Offer Program ("SOP") issues except for the use of guidelines and scripts in PPL Electric's and the third-party SOP administrator's communications with customers.

[1] Starion Energy PA, Inc. ("Starion"), Inspire Energy Holdings, LLC ("Inspire"), PP&L Industrial Customer Alliance ("PPLICA"), Statewise Energy Pennsylvania LLC and SFE Energy Pennsylvania, Inc. (collectively, "Statewise") and the Industrial Energy Consumers of Pennsylvania ("IECPA") are not parties to the Partial Settlement but have indicated that they do not object.

On September 3, 2020, PPL Electric, OCA, OSBA, IECPA, the EGS Parties, PPLICA, CAUSE-PA, Inspire, Statewise and Starion submitted Main Briefs in support of their various positions on the issues reserved for litigation in the above-captioned proceeding.

Pursuant to Sections 5.501 and 5.502 of the Commission's regulations, 52 Pa. Code §§ 5.501 and 5.502, PPL Electric herein submits this Reply Brief on the three issues reserved for litigation. PPL Electric's Main Brief anticipated, and responded to, many of the arguments that have been raised by other parties on the issues reserved for litigation. In several instances, PPL Electric's position is fully set forth in its Main Brief and further response is not necessary. Certain arguments, however, require further response. In responding to other parties' Main Briefs, PPL Electric will minimize repetition of arguments set forth in its Main Brief.

For the reasons explained below, PPL Electric respectfully requests that Administrative Law Judge Elizabeth H. Barnes ("ALJ Barnes") and the Commission: (1) approve the proposals set forth in the "Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2021 through May 31, 2025" and the related attachments, as modified by the terms and conditions of the Partial Settlement; (2) approve PPL Electric's proposal to end the CAP SOP and require CAP customers to receive default service at the PTC; (3) approve PPL Electric's proposal to return customers to default service at the end of the SOP contract terms unless the customer affirmatively elects otherwise; (4) deny Starion's and the EGS Parties' proposal that PPL Electric be required to provide EGSs with the telephone numbers and e-mail addresses (if available) of SOP customers to the EGS serving the customer;[2] (5) approve PPL Electric's proposal that EGSs be required to commit to a semi-annual SOP

[2] The EGS Parties did not address this proposal in their Main Brief, and Starion presented argument in favor of a proposal that PPL Electric request SOP customers to authorize release of this information.

enrollment, which would correspond to the semi-annual PTC price change;[3] and (6) deny PPLICA's and IECPA's proposal to change the method for allocating transmission costs from a 5 CP methodology to a 1 CP methodology.

II. REPLY ARGUMENT

A. STANDARD OFFER PROGRAM

1. Introduction

As explained at pages 11-25 of PPL Electric's Main Brief, the Company has proposed several changes to its Standard Offer Program ("SOP"), primarily to address the concern that a meaningful number of customers fail to take action at the end of their SOP contract, and as a result are passively rolled over into contracts with their SOP EGS at prices above, and in many cases substantially above, the Price to Compare ("PTC"). When these customers finally recognize they are paying very high electric bills, months after the end of their SOP contract, they complain to PPL Electric for sponsoring a program that would allow this to happen.

In their Main Briefs, OCA, OSBA and CAUSE-PA all support the Company's proposal to require, as a term of the SOP, that if a customer does not make an affirmative election at the end of their SOP contract term, the customer will return to default service, rather than be rolled over into a contract with their existing SOP EGS. These parties also support PPL Electric's related proposal to undertake an educational campaign to reach out to customers prior to the conclusion of their SOP contract, to advise them of their shopping options and available resources, and to inform them that they will be returned to default service at the PTC if they do not make an affirmative election. OCA MB pp. 11-18; OSBA MB pp. 3-8; CAUSE-PA MB pp. 33-39.

[3] The EGS Parties submitted testimony in opposition to the semi-annual enrollment of EGSs in the SOP program but did not address the issue in their Main Brief.

The EGS Parties and Starion oppose both of PPL Electric's SOP proposals. Strikingly, the EGS Parties and Starion barely acknowledge the driver for the Company's proposals – that a substantial number of customers who remain with their SOP supplier following the end of the SOP term are paying extremely high rates, and are complaining about it to the Company. The EGS Parties, for example, seek to downplay any concern by arguing that 80% of SOP customers make an active decision to shop within 16 months after entering SOP. EGS Parties MB p. 13. This is a misleading depiction. By including customers who decided to end their SOP contracts prematurely, it takes the focus away from the only customers affected by PPL Electric's proposal – customers who passively roll over onto contracts after the end of their SOP contract term. Even in the context of this expanded base of customers, this means 20% of the customers are still on roll over contracts, and are paying excessively high rates, four months after the end of their SOP contract, and another 22% are on roll over contracts 1-3 months after their SOP contract expired. PPL Electric St. No. 4-R, p. 12. Further, most of the customers who switch between one and four months after their SOP contract expired are paying rates 25% or more above the PTC during those intervening months. As shown in the charts reproduced at pages 15-16 of PPL Electric's Main Brief, 93% of residential customers who remained with their SOP EGS after the conclusion of their contract were paying at or above the PTC in the first month after their SOP contract expired, and over 50% of those customers were paying at least 25% over the PTC. Even four months later, most of these customers continued with their SOP Supplier at a non-SOP rate, and the vast majority continued to be paying rates 10% or more above the PTC. PPL Electric St. No. 4-R, p.12. As OCA Witness Alexander expressed:

> This situation, if not resolved properly, will harm the reputation of PPL and the retail energy markets generally. The supplier prices identified in PPL's analysis of charges to customers based on negative option renewals of SOP contracts cannot be justified since those prices are far in excess of

> the PTC, far in excess of prices advertised on PaPowerSwitch, and raise the suspicion that these prices reflect the supplier's attempt to gain revenues lost as a result of the lower priced SOP contracts.

OCA St. No. 2, p. 15.

PPL Electric emphasizes it has no issue with EGSs and customers actively and mutually agreeing to contract for rates above the PTC following the end of the SOP contract term, or at any time. The Company's concern is only with respect to customers who reach the end of their SOP contract and have made no affirmative choice to continue to shop. It is the latter group of customers who are angrily contacting PPL Electric, asking why the Company would sponsor a program that provides an initial 7% discount under the PTC, but then allows them to roll over into a contract with a 50% increase above the PTC, for months after the SOP contract expired. PPL St. No. 4-R, p. 14. While the customers receive notices from their EGS prior to the end of their contract term, it is apparent these notices are being missed or misunderstood. PPL Electric St. No. 4-R, p. 6. Moreover, while some may contend this consequence will "teach" them to be more attentive, it is far more likely to teach them to be wary of shopping in the future, which is contrary to one of the goals of SOP.

The EGS Parties and Starion continue to defend the current structure of the SOP as "well designed," "successful," and as providing a "fair opportunity" for shopping. EGS Parties MB, p. 4; Starion MB pp. 1, 2, 12. However, from the perspective of customers, PPL questions whether a program can truly be considered "well designed" if it results in thousands of customers unknowingly being rolled into new contracts with rates well above the PTC.

For reasons explained next and in PPL Electric's Main Brief, PPL Electric's SOP proposals should be adopted.

2. The PTC is an Appropriate Measure of Whether the Current SOP Design Presents a Concern

The EGS Parties argue that the PTC is not an appropriate benchmark to measure the effect of shopping on customers' bills. EGS MB pp 7-8. They argue that the PTC is incorrectly determined and therefore cannot form a proper basis to assess whether changes should be made to the rules related to what happens to customers at the end of their SOP contract term. The EGS Parties' contention is factually unsupported and without merit.

The EGS Parties failed to submit any evidence that PPL Electric's PTC is incorrectly calculated. While offering general assertions, in rebuttal testimony, that portions of PPL Electric's distribution costs, such as facilities, salaries, billing and collections, should be allocated to the PTC, the EGS Parties provided no facts regarding what portion of distribution costs are to be allocated to the PTC, or any basis for such allocation. EGS St. No. 1-R, p. 5. In fact, EGS Parties Witness Mr. Kallaher specifically stated that this DSP proceeding was not an appropriate proceeding to examine the "true" cost of default service. EGS Parties St. No. 1-R, p. 6. Moreover, the EGS Parties fail to acknowledge that the Commission has recently rejected a very similar proposal to allocate these categories of distribution costs to the PTC. See *Pa. PUC v. PECO Energy Company – Electric Division*, Docket No. R- 2018-3000164, Order entered December 20, 2018, Order at p. 74. This decision was recently affirmed by the Commonwealth Court. *NRG Energy, Inc. v. Pa. PUC*, 2020 Pa. Commw. LEXIS 240 (Pa. Commw. Ct. 2020).

The relevant fact is that when a customer does not shop, they pay the PTC, and when they do shop, they avoid the PTC and pay the EGS rate. If the EGS rate exceeds the PTC, the customer's bill is higher. The issue presented here is whether the SOP should continue to allow customers to passively roll onto new contracts with their SOP EGS, where the evidence demonstrates that these customers frequently end up paying substantially higher rates, often 25%-50% and even more,

above the PTC. PPL Electric, along with customer advocates OCA, OSBA and CAUSE-PA, believe a change is in order.

3. The Original Design of SOP May be Modified when Justified by the Evidence

The EGS Parties contend that PPL Electric's proposed modifications to the SOP must be rejected because they are contrary to the program design that was established in 2012 in the *Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952, Order entered March 1, 2012 ("*Final Work Plan Order*"). EGS MB pp. 12-13; see also Starion MB p. 15. PPL Electric has acknowledged, from its initial DSP V filing, that it is proposing a change from its originally-approved SOP design. However, nothing in the *Final Work Plan Order* prevents PPL Electric from proposing, or the Commission approving, a change to the SOP design.

Initially, it is important to note that the SOP is not a mandated program under the Electricity Generation Customer Choice and Competition Act ("Competition Act"), 66 Pa. C.S. §§2801-2812. Therefore, the Commission has the power to change, or even eliminate, the SOP at any time. PPL Electric does not in any way challenge the authority of the Commission to adopt programs, like SOP, to encourage customer shopping, but there is no requirement to do so, nor any prescribed standards for such a program. Similarly, the SOP, and its terms, were not established by Commission regulation. There is a Commission policy, found at 52 Pa. Code §69.1815, that encourages customer referral programs, but that policy statement contains no mandates and contains no design elements for a referral program. Therefore, the Commission may modify the SOP details if appropriate without violating law or regulation.

With respect to the *Final Work Plan Order,* the SOP design components are specified as *guidelines*, and not requirements. *Final Work Plan Order*, p. 31. Further, the order stated that "it

is expected that detailed implementation and logistical elements will be determined during the default service plan proceedings for each EDC." *Final Work Plan Order*, p. 31. Therefore, the *Final Work Plan* Order, by its very terms, recognizes that program components may be revised where appropriate.

Clearly, the Commission has the power to revise prior decisions where the evidence supports a change. For example, in PPL Electric's DSP IV proceeding, the Commission approved changes to CAP shopping rules where justified by the evidence. As the Commission there stated:

> Based upon our review of the evidence of record, the Exceptions of RESA and Replies thereto, as well as the applicable legal decisions and regulatory requirements, we are persuaded by the position of the Joint Parties that their proposed CAP-SOP is a reasonable and appropriate recommendation to address the unique circumstances in this case which have resulted from the unrestricted ability of PPL's CAP customers to engage in the competitive electric marketplace. We find that the Joint Parties have met their burden of proof that the CAP-SOP proposal has merit and that the Commission should adopt this proposal on an interim basis. We do not come to this conclusion lightly, as this Commission has been steadfast in its support of the competitive electric generation market in Pennsylvania. However, based upon the substantial and unrefuted evidence presented by PPL in this proceeding, it is incumbent upon the Commission to address this matter in a reasonable and prudent fashion to balance the competing objectives within the Competition Act.

Petition of PPL Electric Utilities Corporation, Docket No. P-2016-2526627, order entered October 27, 2016, Order at p. 53.

In this case, the record clearly demonstrates a need for a change. The current SOP end of term conditions – supplier notices followed by a roll over to a contract with the SOP EGS if the customer makes no affirmative selection – are not working to encourage active shopping. Too many customers are passively rolling into high priced contracts, and are blaming PPL Electric for the result. A better design, which encourages knowledgeable shopping, should be adopted.

The EGS Parties further contend that "there is no good reason to treat SOP customers differently than other customers at the end of their contract." EGS Parties MB p. 14. PPL Electric

anticipated and responded to this argument in its Main Brief. at pp 19-20, and will not repeat that argument here. Unquestionably, SOP shopping is different from shopping outside the SOP, and the Commission can apply different rules with respect to these different shopping experiences, as it does currently.

PPL Electric has provided substantial evidence to justify its proposed SOP modifications.

4. PPL Electric's Proposal Will Not Prevent EGSs from Retaining SOP Customers

Starion contends that PPL Electric's proposed modifications to the SOP "could very well lead to the end of SOP for consumers in PPL Electric's service territory." Starion MB p. 10. This contention is mere speculation, unsupported by evidence.

The record demonstrates that a majority of SOP customers make affirmative shopping elections prior to the end of their SOP contracts, and PPL Electric's proposed modifications will have no effect on these customers. PPL Electric St. No. 4-R, p. 12. Therefore, SOP EGSs will continue to retain these customers. The only customers affected by PPL Electric's proposal will be those who fail to make an affirmative election to continue to shop. With respect to these customers, SOP EGSs will have had a year to develop a relationship, to convince them to remain with their EGS. The EGSs should be expected to make an active effort to retain these customers, rather than to hope a customer passively rolls over into a contract with prices that may be 50% or more above the PTC, after a period of 7% savings. Moreover, EGSs are already successful in their efforts to retain customers as evidenced by the majority of customers making affirmative choices. As noted by PPL Electric's witness, Ms. LaWall-Schmidt: "The SOP is not intended to be a marketing tool to capture unaware customers at higher rates upon the conclusion of the contract term." PPL Electric St. No. 4-R, p. 13.

There is no reason why active EGSs should shy away from a revised SOP that encourages active, involved shopping. Starion's own witness has asserted the EGSs risk their own reputation if rates substantially increase after expiration of the SOP contract. Starion St. No. 1, p. 12. Therefore, claims that EGSs will not participate in an SOP unless they can retain passive customers at high rates should be disregarded.

5. PPL Electric's Proposal Does Not Regulate EGS Prices

Starion contends that PPL Electric's proposal would illegally regulate EGS prices. Starion MB pp. 12-16. This contention is without merit and should be rejected.

No aspect of PPL Electric's proposal seeks to control what price EGSs may offer to customers post-SOP. EGSs and customers may negotiate any price terms they desire outside the SOP. PPL Electric St. No. 4-R, p. 7. EGSs may offer any contract price they desire to SOP customers reaching the end of their contract terms. PPL Electric's proposal deals only with the terms of the SOP, specifically what happens to a customer who reaches the end of their SOP contract without making an affirmative shopping choice. PPL Electric's proposal does not seek to distinguish between post-SOP contract offers above vs. below the PTC, authorizing one but not the other. Rather, its focus is solely upon whether the customer has made an active decision to shop at the end of the SOP contract term.

Starion asserts that, unlike PPL Electric's proposal to return customers to default service if they fail to make an affirmative shopping decision, the mandated 7% initial discount off the PTC contained in the SOP terms is not a regulation of EGS pricing, because the EGSs may offer other products outside the SOP and may voluntarily choose to participate in the SOP. Starion MB p. 14. This attempt to define one SOP contract term (the mandated 7% discount) as legal, and the other (a return to default service if the customer does not make an affirmative decision to shop at the

end of the SOP term) an illegal regulation of EGS pricing, is illogical. The SOP will remain a voluntary program after PPL Electric's modifications are made, and EGSs will continue to be able to offer other products outside the SOP. EGS notices to customers at the end of the SOP may continue to offer any price the EGS desires to offer. The only difference is that if a customer does not make an affirmative shopping decision, they will be returned to default service. While a critically important driver of this proposal is the extreme price increases that customers are paying post-SOP when they fail to make an affirmative choice, there is no bar to EGSs continuing to offer those prices in the future. PPL Electric's proposal does not represent regulation of EGS pricing, and Starion's contention should be rejected.

6. PPL Electric's Proposal is Not Slamming

Starion contends that PPL Electric's proposal would constitute illegal "slamming." Starion MB p. 17. PPL Electric anticipated and responded to this contention in its Main Brief. PPL Electric MB p. 19. PPL Electric offers here one additional response.

As Starion acknowledges, slamming occurs when a customer's EGS is switched without authorization. Starion MB, p. 17. Under PPL Electric's proposal, switching back to default service would be authorized, because it would be part of the program design explained to customers when they first enroll in the SOP. PPL St. No. 4-R, p. 7. The Commission's regulations recognize that a Commission-approved program may contain its own procedures for changing a customer's electricity provider. Section 57.172 of the Commission's regulations establishes that, as a general rule, if a customer contacts an EDC to request a supplier change, the customer is to be directed to contact their EGS. However, '[t]his notification requirement does not apply when a Commission-approved program requires the EDC to initiate a change in EGS service." Because the SOP is Commission-approved program, PPL Electric may be authorized to change a customer back to

default service pursuant to the program's terms. As this change would be authorized by Commission regulation, it could not rationally be considered slamming.

7. PPL Electric's Proposal is Not Anticompetitive or Discriminatory

Starion asserts that PPL Electric's proposals to modify the end of term SOP procedures are anti-competitive and discriminatory, in violation of the Competition Act. Starion MB pp. 19-25. Starion's assertion is wrong.

PPL Electric's proposals seek to address the concern that a meaningful number of SOP customers are not making affirmative shopping decisions, and as a result are passively rolling onto contracts with substantial rate increases. These customers blame PPL Electric for the outcome, and are potentially discouraged from further shopping by the result. PPL Electric's proposals are designed to avoid these negative outcomes, and to encourage active shopping, for the long-term benefit of the competitive market. In this regard, PPL Electric's proposals are consistent with Starion's statement of the purpose of the SOP: "to encourage customers to 'try' the competitive market so that they will continue to participate in the competitive market after expiration of the SOP contract." Starion MB, p. 20 (emphasis omitted). Satisfied customers are more likely to embrace the competitive market, than are customers who believe they were deceived by a program that gave them some savings followed by substantial increased costs.

Starion also argues that PPL Electric's proposals are intended to "win back" customers to default service. PPL Electric anticipated, and responded to, this contention in its Main Brief. PPL MB pp 22-23. Starion suggests that PPL Electric may have some unidentified "reasons" to return customers to default service. However, these "reasons" are unidentified because there are none. PPL Electric has no incentive or reason to return customers to default service. As has been constituently explained, the Company's interest is in active, informed shopping customers, to avoid customers' complaints that the Company's program is poorly structured.

Starion cites to *Mid-Atlantic Power Supply Ass'n v. Pa. PUC*, 755 A. 2d 723 (Pa. Commw. Ct. 2000) ("*MAPSA*") to assert that a utility's marketing practices may not seek to promote default service over shopping. PPL Electric's proposals are unlike the proposals at issue in *MAPSA*, and the Court's decision is inapposite. *MAPSA* concerned a complaint that PECO Energy Company was engaging in a false and misleading advertising campaign to support default service over shopping. PECO contended that its material was not false or misleading, and was protected under the First Amendment. The Commission determined that the material was deceptive, and that its purpose was to convince customers not to shop. The Commission directed PECO to halt this marketing campaign, and referred the matter to the Office of Attorney General for further investigation.

MAPSA and others appealed, contended that the Commission's remedy did not go far enough, and demanded fines and a directive to provide customer contact information to EGSs. The Commonwealth Court denied the appeals, concluding that the Commission's order provided an appropriate remedy for the violations found. The Commonwealth Court was not presented, and therefore did not rule upon, whether PECO's advertising material was in fact improper or anti-competitive.

PPL Electric's proposals are neither designed or intended to discourage customers from shopping. The SOP will continue to be offered, with the same discount, to encourage customers to try the competitive market. PPL Electric will educate customers about their competitive options, near the end of their SOP contract term, to encourage active, knowledgeable shopping. Customers will be returned to default service only if they fail to make an active shopping choice. Customers will be directed to the PAPowerSwitch.com website, where they can find out about offers from all

EGSs. There is nothing anti-competitive or discriminatory about this approach, which will encourage smart shopping and hopefully a more positive shopping experience.

As part of its "anti-competitive" argument, Starion further proposes that PPL Electric ask customers during SOP enrollment to share contact information with the EGS. PPL Electric opposes this proposal, for the reasons set forth in its Main Brief at pp. 23-24. Customers make their decision regarding release of contact information in the context of tri-annual requests to release information pursuant to the Eligible Customer List process. This process should not be duplicated through the SOP enrollment procedure.

Starion's claims that PPL Electric's proposed modifications are anti-competitive or discriminatory are without merit and should be rejected.

8. PPL Electric's Education Proposal is Not Designed or Intended to Convince Customers to Return to Default Service

The EGS Parties and Starion also challenge the educational proposal set forth by PPL Electric. EGS Parties MB pp. 13-14; Starion MB pp. 21-23. The EGS Parties and Starion express concerns that the proposal is intended to convince customers to return to default service, and will not provide information to encourage shopping. PPL Electric responded to these contentions in its Main Brief, at pages 21-22. PPL Electric here will provide a few additional responses.

The Commission, in its *MAPSA* decision, set forth certain guidelines with respect to what is appropriate information material. The Commission observed:

> There is a clear distinction between a distribution company or any other electric supplier conducting a campaign to convince customers that they should not shop and a campaign encouraging customers to carefully evaluate their choices. Certain of PECO's campaign materials effectively encouraged customers not to choose, but instead to do nothing. The message delivered by PECO did not clearly educate the consumer of the available choices.

Order at pp. 40-41. PPL Electric's proposed education materials clearly are intended to encourage customers to carefully evaluate their choices, and thus are permitted under *MAPSA*. As explained in PPL Electric's rebuttal:

> Additionally, PPL Electric's proposal of educating customers about shopping prior to the end of their SOP contract is consistent with Mr. Kallaher's suggestion that the Company should encourage greater shopping. It is PPL Electric's intent with the proposed education material to empower customers to shop on their own after having had an opportunity to experience the competitive marketplace through the SOP.

PPL Electric St. No. 4-R, pp. 14-15.

PPL Electric recognizes that copies of the intended educational materials are not yet available, and will not be developed until after a Commission decision in this case is rendered. To respond to concerns that what is actually stated in those materials may be contrary to the standards set forth in *MAPSA*, PPL Electric is willing to provide the material to all interested parties, and the Commission, in advance, to receive helpful feedback.

9. SOP Conclusion

PPL Electric's proposals are designed to address a serious problem experienced by customers who reach the end of their SOP contract term, while continuing to encourage customers to try the competitive market through the SOP and to become educated about shopping, in order to have an improved shopping experience. PPL Electric's proposals are reasonable, and should be approved.

B. CAP SHOPPING

1. Restricting CAP customers from shopping is permissible under the Choice Act and appellate precedent.

In their Main Brief, the EGS Parties argue that Section 2806(a) of the Electricity Generation Customer Choice and Competition Act ("Choice Act") requires that all customers have

the ability to shop for their electric supply. According to the EGS Parties, PPL Electric's proposal violates the Choice Act by prohibiting customers from exercising their ability to shop.[4] EGS Parties' MB, p. 4. PPL Electric's proposal does not prohibit any customer who wishes to shop with an EGS from doing so. PPL Electric's proposal does require that any customer who elects CAP benefits receive default service while enrolled in CAP. CAP is a voluntary assistance program. Any customer may shop for electric supply; however, they may not do so while receiving CAP benefits. If a CAP customer wishes to shop for any reason, the customer may do so after leaving CAP. Therefore, PPL Electric is not prohibiting any customer from shopping, but is instead proposing to place conditions on a customer's eligibility to receive CAP benefits.

The Commission has legal authority under the Choice Act, 66 Pa.C.S. §§ 2801-2815, to impose restrictions on CAP customers' ability to shop for competitive electric generation supply. As explained in the Main Briefs of PPL Electric and CAUSE-PA, the Commonwealth Court in *Coalition for Affordable Util. Servs. & Energy Efficiency in Pa. v. Pa. PUC*, 120 A.3d 1087 (Pa. Commw. Ct. 2015), *appeal denied by,* 2016 Pa. LEXIS 723 and 2016 Pa. LEXIS 724 (Pa., Apr. 5, 2016) ("*Coalition*"), concluded that the Commission has authority under the Choice Act, in the interest of ensuring that universal service plans are adequately funded and cost-effective, to impose CAP rules that limit a participating customer's ability to choose an EGS and remain eligible for

[4] The EGS Parties also argue that PPL Electric's proposal is inconsistent with the Commission's Proposed Policy Statement Order on CAP Shopping, *Electric Distribution Company Default Service Plans – Customer Assistance Program Shopping, Proposed Policy Statement Order*, Docket No. M-2018-3006578 (February 28, 2019) ("*Proposed CAP Shopping Policy Statement*"). EGS Parties MB, pp. 5, 9. However, no final order has been issued in that proceeding. As PPL Electric previously stated, if the Commission issues an order on its Proposed Policy Statement at Docket No. M-2018-30006578 during the DSP V period, PPL Electric will seek to amend the DSP V with respect to CAP shopping so that it is in compliance with the Commission's directives. The Commission subsequently issued a Secretarial Letter in a separate docket asking Electric Distribution Companies and interested parties to consider the issues and concerns raised by the Commission in the Proposed CAP Shopping Policy Statement and prior proceedings when addressing the issue of CAP shopping in future DSP proceedings. However, the Secretarial Letter did not impose any specific requirements for CAP shopping proposals. *See Investigation Into Default Service and PJM Interconnection, LLC Settlement Reforms*, Docket No. M-2019-3007101 (January 23, 2020).

CAP benefits. *See* PPL Electric MB, p. 33; CAUSE-PA MB, p. 6. Not only does the Commission have authority to impose limits on CAP shopping, the Commission is expressly required by the Choice Act to ensure that CAP is administered in a manner that is cost-effective for both CAP and non-CAP customers. *See* 66 Pa. C.S. § 2804(9).

After concluding that the Commission has authority to impose limits on CAP shopping, the Commonwealth Court in *Coalition* went on to explain that the Commission's CAP shopping decision must be supported by substantial evidence:

> So long as it "provides substantial reasons why there is no reasonable alternative so competition needs to bend" to ensure adequately-funded, cost-effective, and affordable programs to assist customers who are of low-income to afford electric service ... , the [Commission] may impose CAP rules that would limit the terms of any offer from an EGS that a customer could accept and remain eligible for CAP benefits -- *e.g.*, an EGS rate ceiling, a prohibition against early termination/cancellation fees, etc."
>
> * * *
>
> As we held above, however, the General Assembly has reserved within the [Commission] the authority to "bend" competition to further other important aspects of the Code, including the Choice Act, where it provides substantial reasons why the restriction on competition is necessary (*i.e.*, there are no reasonable alternatives).

Id. at 1104, 1107 (internal citation omitted).

The law is clear that the Commission has legal authority to impose restrictions on CAP shopping when necessary to ensure that CAP is administered "in a manner that is cost-effective for both the CAP participants and the non-CAP participants," *Coalition*, 120 A.3d at 1103, provided the Commission's CAP shopping decision is supported by substantial evidence of record. Additionally, to the extent that any alternatives to CAP shopping limitations are proposed, the Commission must consider the weight of the evidence to determine whether the record demonstrates that such alternative proposals are reasonable or should be rejected. *Id.*

PPL Electric's proposal to restrict CAP customers from shopping is consistent with the Choice Act's requirement that the Commission administer these programs in a manner that is cost-effective for both the CAP participants and the non-CAP participants who share the financial consequences of the CAP participants' EGS choice. The substantial evidence of record demonstrates the significant harms that result to both CAP customers and all Residential customers when CAP customers shop. In 2018, 68% of CAP shopping customers were paying more than the PTC. In 2019, 62% of CAP shopping customers were paying more than the PTC. PPL Electric Statement No. 3, p. 11, Table 3. When CAP customers shop at rates above the PTC, they exceed their maximum CAP credit amount at a faster pace, which results in the CAP customer losing the benefit of the program more quickly. PPL Electric Statement No. 3, p. 4. CAP customers shopping at rates above the PTC also creates a higher CAP shortfall amount, thereby increasing the amount other Residential customers must pay to cover the CAP shortfall. PPL Electric Statement No. 3, p. 5. CAP customers who were shopping caused other Residential customers to pay an additional $4.3 million in costs in 2018 and an additional $2.9 million in costs in 2019 that would not have been paid had those customers not shopped. PPL Electric Statement No. 3, p. 12, Table 4. This is not cost-effective.

PPL Electric's proposal would eliminate these additional costs associated with CAP shopping by requiring that CAP customers receive default service at the PTC. PPL Electric's proposal benefits both CAP customers and other Residential customers by ensuring that (1) CAP customers do not exhaust their CAP credits more quickly by shopping at rates above the PTC and (2) other Residential customers are not responsible for higher CAP shortfall amounts. As explained in Section B(3) of this Reply Brief, there are no other proposals on the record in this case that would adequately protect CAP customers and other Residential customers from the harms

that occur when CAP customers shop at rates above the PTC. Therefore, PPL Electric's proposal should be approved.

2. The Substantial Adverse Impacts of Unrestricted CAP Shopping are Unrefuted

In its Main Brief, PPL Electric explained the substantial evidence it introduced in this proceeding regarding the CAP shopping statistics and data in PPL Electric's service territory. PPL Electric MB, pp. 25-31. As explained therein, the evidence introduced by the Company demonstrates that the CAP SOP has been ineffective in protecting against the adverse impacts on both CAP customers and other Residential customers that pay for CAP costs. PPL Electric MB, p. 28. In their Main Briefs, OCA and CAUSE-PA likewise explained that there are substantial and important reasons why CAP customers' ability to shop for competitive electric generation supply should be restricted. OCA MB, pp. 6-10.; CAUSE-PA MB, pp. 25-32.

The EGS Parties and Inspire are opposed to ending the CAP SOP. Inspire MB, p. 1; EGS Parties' MB, pp. 11-12. The EGS Parties' and Inspire's opposition to ending the CAP SOP is contrary to the weight of the evidence.

In its Main Brief, Inspire contends that the CAP SOP provides benefits to all ratepayers. Inspire MB, pp. 1, 7. This statement is not supported by the record evidence. According to Inspire, the CAP SOP allows CAP SOP customers' CAP benefits to be stretched out over a longer period and reduces the total costs that other customers must subsidize. Inspire MB, pp. 1, 7-8. However, Inspire fails to acknowledge that the benefit from those customers who pay less than the PTC through the CAP SOP is far outweighed by the costs associated with those CAP customers who have shopping contracts that are above the PTC. Even taking into account the savings associated with CAP customers shopping at less than the PTC, the net costs associated with CAP customer

shopping was approximately $4.3 million in 2018 and approximately $2.9 million in 2019. PPL Electric Statement No. 3, p. 12, Table 4.

No parties offered any testimony or evidence to refute PPL Electric's CAP shopping data and statistics provided in this proceeding. Thus, it is undisputed that significant adverse impacts on both CAP customers and other Residential customers result when CAP customers shop. In their Main Briefs, the EGS Parties and Inspire do not dispute any of the evidence introduced by PPL Electric regarding the harmful effects of CAP shopping in its service territory. Rather, the EGS Parties and Inspire attempt to criticize the undisputed CAP shopping data.

The EGS Parties contend that the PTC is not a fair benchmark for comparing shopping and default service rates, but do not explain what in their view would be a fair comparison. EGS Parties' MB, pp. 7-8. As fully explained in Section A 2 herein, use of the PTC is an appropriate benchmark for comparing default service and shopping rates, which has been approved by the Commission.

Inspire contends that the CAP SOP has not been in place long enough to accurately evaluate its effects. Inspire MB, pp. 11-12. However, the evidence shows that the trend of CAP customers paying more than the PTC is continuing even after the CAP SOP was implemented. Even as CAP customer shopping declined in 2018 and 2019, the percentage of CAP customers paying a rate in excess of the PTC remained above 60%. PPL Electric Statement No. 3, p. 11. Thus, the CAP SOP has been ineffective in protecting against the harms of CAP shopping. As CAUSE-PA pointed out in its Main Brief, the harms associated with CAP shopping persist despite the implementation of CAP SOP. CAUSE-PA MB, p. 27.

Inspire argues that PPL Electric's data is unreliable because, according to Inspire, PPL Electric does not provide the required monthly notice to EGSs identifying those customers who

have enrolled in CAP. This, Inspire alleges, may be delaying the return of CAP shopping customers to default service. Inspire MB, p. 10. This allegation is inaccurate. PPL Electric presented evidence demonstrating that it provides this information to EGSs even more frequently than on a monthly basis. Specifically, PPL Electric makes the suppliers' customers lists available through the supplier portal and updates these lists every business day. The customer list informs the supplier if a particular customer is enrolled in OnTrack. In addition, suppliers can use the eligible customer list ("ECL") at any time to determine if a customer is enrolled in OnTrack, so long as the customer has not opted out of the ECL. The ECL is updated every Sunday. PPL Electric Statement No. 3-R, p. 7. Inspire's allegation that PPL Electric's data is flawed because the Company does not provide EGSs with the information needed to return CAP customers to default service in the required timeframe is without merit.

The EGS Parties and Inspire have failed to introduce any evidence in this proceeding to rebut the significant adverse impacts that have occurred as a result of CAP shopping and that continue to occur even following the implementation of CAP SOP. The unrefuted record evidence in this case clearly supports eliminating the CAP SOP and requiring CAP customers to receive default service at the PTC.

3. Other Parties' CAP Shopping Proposals

a. The EGS Parties' CAP Shopping Proposals are Not Reasonable Alternatives to Address the Impacts of CAP Shopping

In their Main Brief, the EGS Parties suggest that PPL Electric modify its CAP SOP in hopes of garnering more supplier participation. EGS Parties' MB, pp. 10-12. The EGS Parties suggest that they be able to retain customers at the end of the CAP SOP contract so long as they serve the customer at a rate that is at or below the PTC. EGS Parties' MB, p. 10. The EGS Parties also suggest that the CAP SOP's 7% discount requirement could be modified to require a

rate at or below the PTC. EGS Parties' MB, p. 10. The EGS Parties offer no details as to how these proposals would work. As explained in PPL Electric's Main Brief, the EGS Parties do not offer any evidence that these changes would result in more suppliers participating in CAP SOP, nor is there any evidence to suggest that the EGS Parties' proposals would solve the problem of CAP customers paying prices that are above the PTC due to preexisting contracts with suppliers. PPL Electric MB, pp. 35-37. In fact, the EGS Parties' proposal to retain customers at the end of CAP SOP contract would only exacerbate the problem because PPL Electric would not be able to enforce a contract between a customer and supplier outside of the CAP SOP. The EGS Parties' proposals are not effective solutions to resolving the harms that occur when CAP customers shop.

b. OCA's and CAUSE-PA's suggested modifications to PPL Electric's proposal should not be adopted

While generally supportive of PPL Electric's proposal to end the CAP SOP and require CAP customers to receive default service, OCA and CAUSE-PA each recommend certain modifications to PPL Electric's proposal.

OCA disagrees with PPL Electric's proposal to inform customers who are seeking to enter CAP that they should contact their supplier to determine if any termination or cancellation fees will apply. OCA's concern is that discussion of termination fees could discourage customers from pursing the benefits of CAP. Rather, OCA suggests that customers should be allowed to enter CAP with a supplier contract, and PPL Electric should require the customer to drop their supplier once they have entered CAP. OCA MB, pp. 6-9. As explained in its Main Brief, PPL Electric disagrees with this approach because it could result in the customer being assessed an unexpected fee for cancelling their supplier contract after entering CAP. PPL Electric MB, pp. 37-40. While the OCA suggests that it is unlikely that suppliers would pursue collection of these termination

fees, PPL Electric cannot assume that the customer would not be held responsible for the fee or that there would be no consequences to the customer for failing to pay the fee. OCA MB, p. 8.

OCA recommends that PPL Electric investigate how customers who are seeking to enter CAP can be relieved of termination fees provided for in their contracts with suppliers. OCA MB, p. 10. CAUSE-PA also suggests that no termination fee should apply if a customer chooses to drop their supplier to enter CAP. CAUSE-PA MB, p. 27. In their Main Briefs, the EGS Parties and Statewise both express their view that modification of a contract between a supplier and a non-CAP customer would be unlawful. EGS Parties MB, p.11; Statewise MB, pp. 4-5.

Whether a termination fee applies to the cancellation of a non-CAP SOP contract is a matter of contract between the customer and their supplier. PPL Electric has no authority to nullify terms of contracts between customers and suppliers, to which PPL Electric is not a party or which were entered into outside a Commission-established shopping program. PPL Electric does not charge or collect any termination fee for suppliers and has no control over whether a termination fee applies in a non-SOP contract. Thus, PPL Electric submits that the best approach is to ensure that customers are fully informed so that they can make an educated decision whether to enter OnTrack regardless of any termination fees or wait until the EGS contract expires to enter OnTrack.

C. INTERSTATE TRANSMISSION COST ALLOCATION METHODOLOGY

In this proceeding, PPLICA and IECPA have challenged PPL Electric's longstanding practice of allocating transmission costs to Load Serving Entities ("LSEs") based on the average of the peak demand for the five coincident peaks ("5 CP") experienced annually. PPLICA and IECPA instead propose that the Company should be required to adopt a one coincident peak ("1 CP") method. In their Main Briefs, PPLICA and IECPA argue that the 1 CP method should be adopted in order to match the method used by PJM Interconnection, L.L.C ("PJM") in its role as

Regional Transmission Organizer ("RTO") to collect costs from LSEs in order to reimburse transmission owners.

In this Reply Brief, PPL Electric will address the two fundamental errors in the arguments presented in the Main Briefs of PPLICA and IECPA. First, PPLICA and IECPA simply refuse to acknowledge that the undisputed issue presented in this proceeding, *i.e.*, the calculation of Network System Load for purposes of calculating the rate for NITS is a federal issue, and Commission jurisdiction is preempted by the Federal Power Act. Second, PPLICA and IECPA refuse to recognize that the 5 CP method properly reflects cost causation as it recognizes the dual peaking nature of PPL Electric's system and is consistent with long-standing precedent. The 1 CP method fails to reflect cost causation, would produce more volatile rates and would provide the opportunity for some, but not all customers to avoid cost responsibility for their use of the transmission system. For the reasons fully stated in the Company's Main Brief and this Reply Brief, the proposal to require PPL Electric to use a 1 CP methodology to calculate the appropriate allocation of transmission costs should not be adopted in this proceeding.

1. The Commission Has No Jurisdiction Over PPLICA's and IECPA's Request to Require PPL Electric To Use A 1 CP Methodology To Calculate NITS Tags For LSEs, Which Are Used By PJM to Establish Interstate Transmission Charges.

In their Main Briefs, both IECPA and PPLICA ask the Commission to require PPL Electric to change the way it allocates interstate transmission costs in the determination of interstate transmission rates, specifically the methodology used to create NITS tags, which are used to allocate transmission costs to LSEs that utilize PPL Electric's interstate transmission system in its territory. IECPA MB at 5-20; PPLICA MB at 3-12. PJM rules define LSEs as "any entity (or the duly designated agent of such an entity), including a load aggregator or power marketer that (a) serves end-users within the PJM Control Area, and (b) is granted the authority or has an obligation

pursuant to state or local law, regulation or franchise to sell electric energy to end-users located within the PJM Control Area."[5] Although it is PPL Electric's role to establish individual contributions to NPSL, PPL Electric provides this information to PJM so that PJM can calculate the wholesale interstate transmission charges for NITS that an LSE must pay. *See* PPL Electric St. 5-RJ, pp. 2-3. IECPA and PPLICA each erroneously assert that the Commission has jurisdiction to require PPL Electric to change its method for allocating transmission costs from a 5 CP methodology for determining NPSL, to a 1 CP methodology and recalculate NITS rates accordingly, because (a) the Commission exercised jurisdiction over EDC calculations of NPSLs as a part of its *Re: Investigation into Default Service and PJM Interconnection, LLC. Settlement Reforms* proceeding at Docket No. M-2019-3007101[6] and (b) the "customer" with respect to NITS is a "retail" customer. *See* IECPA MB at 7 (asserting the NPSL is calculated at the retail level); *see also* PPLICA MB at 4-5. Neither of these arguments have merit.

As explained below, and in PPL Electric's Main Brief, the Federal Energy Regulatory Commission ("FERC") has jurisdiction over both "the NITS charges assessed by PJM...as well as the related PPL methodology for determining Network Service Peak Load Contributions." *National Railroad Passenger Corporation v. PPL Electric Utilities Corporation and PJM Interconnection, LLC*, FERC Docket No. EL18-78-000, 171 FERC ¶ 61,237 at P 34 (2020) (subject to reh'g.) ("*Amtrak Order*") (citing PJM, Intra-PJM Tariffs, OATT, 34.1 Monthly Demand Charge (1.0.0), § 34.1(a); *N.Y. v. FERC*, 535 U.S. 1, 20 (2002); *Commonwealth Edison Co.*, 133 FERC ¶ 61,118 at PP 6, 11 (2010)). This federal jurisdiction preempts state jurisdiction.

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[5] *See* PJM Glossary of terms at: https://www.pjm.com/Glossary#index_L.

[6] *Re: Investigation into Default Service and PJM Interconnection, LLC. Settlement Reforms*, Docket No. M-2019-3007101 (Order entered Jan. 17, 2019) ("*Initial Investigation Order*"); *Re: Investigation into Default Service and PJM Interconnection, LLC. Settlement Reforms,* Docket No. M-2019-3007101 (Motion of Commissioner Andrew G. Place dated Jan. 17, 2019) ("*Place Motion*"); and *Re: Investigation into Default Service and PJM Interconnection, LLC. Settlement Reforms*, at Docket No. M-2019-3007101 (Secretarial Letter dated Jan. 23, 2019) ("*Closing Investigation Letter*").

In an effort to avoid this result, IECPA and PPLICA both misstate the role of "customer" and "service provider" with respect to NITS. Specifically, PJM, not PPL Electric, provides NITS to LSEs, bills them for this service and then pays the transmission owner. Moreover, the "customer" for NITS is the LSE, not the retail customer. IECPA's and PPLICA's respective attempts to obfuscate these undisputed facts and label either the calculation of a NITS tag or PPL Electric's methodology for determining NPSLs as constituting "retail" service are fundamentally flawed. Therefore, the Commission lacks jurisdiction to adopt PPLICA's and IECPA's request to alter PPL Electric's methodology to determine NPSL contributions and in the alternative, the Commission should reject these requests on the merits.

a. NITS Charges And The Associated Methodology Used To Determine An LSE'S NPSL Are Subject To The Exclusive Jurisdiction Of FERC.

Contrary to PPLICA's and IECPA's attempts to argue that the Commission has exercised jurisdiction over the method used by PPL Electric to determine NPSLs and recalculate PJM's NITS rates accordingly,[7] the Commission did not assert jurisdiction over these issues in either the *Place Motion* or the *Closing Investigation Letter* at Docket No. M-2019-3007101. PPL Electric addressed FERC's jurisdiction over NITS and the related methodology used to determine NPSLs in its Main Brief; however, the following three points bear emphasis.

First, both PPLICA and IECPA ignore the explicit and unequivocal statements by FERC that demonstrate it has asserted exclusive jurisdiction over NITS and the methodology used by transmission owners to determine NPSLs. In the *Amtrak Order*, Amtrak alleged that it was "being assessed unreasonable and unjust PPL-related charges for Network Integration Transmission Service (NITS) and that PJM, which has responsibility for administering the PJM Tariff, has not

[7] PPLICA MB at 4-5 (citing *Re: Investigation into Default Service and PJM Interconnection, LLC. Settlement Reforms* proceeding at Docket No. M-2019-3007101); IECPA MB at 16 (referencing the same).

prevented PPL's unjust, unreasonable, and unduly discriminatory actions." *Amtrak Order*, at Paragraph 2. Amtrak filed the same complaint with the Commission, which sought all of the same relief as its FERC complaint. *See National Railroad Passenger Corporation v. PPL Electric Utilities Corporation*, Docket No. C-2019-3010398. The PUC proceeding was stayed pending a decision from FERC on this issue. FERC decided this case earlier this year and made clear that the dispute solely fell within its jurisdiction. Indeed, FERC expressly stated that:

> the Commission [FERC] has jurisdiction over the matters raised in the complaint. Amtrak challenges the NITS charges assessed by PJM and passed through to Amtrak by its retail supplier without mark-up, as well as the related PPL methodology for determining Network Service Peak Load Contributions, both of which fall within the Commission's jurisdiction.

Amtrak Order, at Paragraph 34 (emphasis added); *see* PPL Electric MB at 46-48. Neither PPLICA nor IECPA address the explicit holding of the *Amtrak Order*, which involves the same Pennsylvania EDC and the same issues raised by PPLICA and IECPA. The *Amtrak Order* fundamentally undermines these parties' arguments.

FERC recently reiterated the exclusive nature of its jurisdiction over NITS charges and the methodology used to calculate NPSLs in *PJM Interconnection, L.L.C. and Virginia Electric and Power Company*, 169 FERC ¶ 61,041 (2019) ("*Coincident Peak Order*") and *PJM Interconnection, L.L.C. and Virginia Electric and Power Company*, 172 FERC ¶ 61,054 (2020) ("*2020 Order*"). At issue in each of these related proceedings was the decision of a transmission owner to "change[] the calculation of the Network Service Peak Load contribution for each Load Serving Entity within" its zone, which "is used to determine each load serving entity's load ratio share of…[the transmission owner]'s annual transmission revenue requirement." *2020 Order* at P 4. Indeed, FERC clearly recognized that NITS charges, the NPSL input into the NITS charge and the method used to calculate the NPSL were all subject to its jurisdiction. *2010 Order* at P 16,

n.40; *Coincident Peak Order* at P 59, n.89. Both the *2020 Order* and the *Coincident Peak Order* make reference to the following quote: "As such, the proposed tariff provisions specify methodologies that are inputs to Commission jurisdictional charges assessed by PJM to [Load Serving Entities] who are customers in PJM."). *Commonwealth Edison Co.*, 133 FERC ¶ 61,118, at P 12 (2010). It is clear that FERC has exclusive jurisdiction over these issues.

Second, the Commission cannot confer itself jurisdiction over NITS or the method used to determine NPSLs in the context of a market investigation order. *See* PPLICA MB at 4 ("This exercise of jurisdiction is entirely consistent with the Commission's authority to regulate default service rates and competitive retail markets under Act 129."). It is axiomatic that the Commission is a "creature of statute" and "has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication." *Feingold v. Bell of Pa.*, 383 A.2d 791, 794 (Pa. 1977) (citing *Allegheny Cnty. Port Auth. v. Pa. Pub. Util. Comm'n*, 237 A.2d 602 (Pa. 1967); *Del. River Port Auth. v. Pa. Pub. Util. Comm'n*, 145 A.2d 172 (Pa. 1958)). Contrary to PPLICA's and IECPA's assertions, the Commission cannot extend its jurisdiction beyond that which has been granted to it by the General Assembly in the context of a market investigation order.

Third, the Commission should reject PPLICA's and IECPA's attempts to obfuscate this issue by asserting that NITS and the methodology used to determine NPSLs fall within the Commission's authority to regulate default service rates and competitive retail markets. PPLICA MB at 4; IECPA MB at 8 (arguing that there is a "discrepancy between the transmission cost allocation methodology employed by PJM on the wholesale level and the methodology employed by PPL at the retail level..."). As explained in Section VI.C.2. of PPL Electric's Main Brief, the specific cost allocation methodology challenged by IECPA and PPLICA relates to network

transmission service, which is a part of the wholesale market and subject to the exclusive jurisdiction of FERC.

As with any utility service, the charge for the service equals the rate times usage.[8] This same principle is true for the NITS provided by PJM: the NITS charge paid by each LSE is the NITS rate calculated by PJM multiplied by the LSE's contribution to peak load. *See* PPL Electric MB at 45. PPL Electric more fully explained this process as follows:

> PJM charges all load serving entities in the PPL Electric Zone, including PPL Electric as an LSE, for transmission service (NITS) and remits the proceeds to PPL Electric as transmission owner pursuant to a PPL Electric FERC formula rate. *See* PPL Electric Statement No. 5-R, p. 4. PJM calculates the NITS rate based on total zone transmission costs divided by the zonal system peak for the relevant zone. This produces an overall cost per megawatt for NITS in a particular zone. As applied to PPL Electric, PJM multiplies the total transmission costs for the PPL Zone by the 1 CP for the PPL Zone to establish the NITS charge per megawatt. PPL Electric's role in this process is to establish each individual customer's contributions to NSPL. PPL Electric does this by calculating each customer's contribution to the average of its 5 highest coincident peaks during the relevant 12-month period and then "scales up" the result to equal the 1 CP for the PPL Zone. PPL Electric Statement No. 5-RJ, pp. 2-3.[9] This assignment is used to establish a NITS tag for each customer, reflecting the customer's contribution to peak load. PJM then uses this tag to determine the NITS charge for LSEs.

PPL Electric MB at 45 (emphasis added). As described above, and in PPL Electric's MB all elements of NITS are wholesale, not retail. *See also* PPL Electric MB at 43-46.

Both PPLICA and IECPA appear to recognize that all elements of NITS are wholesale, and not retail, at various places. *See, e.g.*, PPLICA MB at 6 ("PPLICA submitted testimony opposing

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[8] For example, under PPL Electric's existing tariff, for a typical residential customer, the rate charged for default supply service is $0.04693 times the number of kilowatt-hours ("KWH") used, *e.g.*, a typical customer using 500 KWH would pay $23.465 = $0.04693 X 500 KWH.

[9] By definition, the average of the 5 highest coincident peaks will be less than the highest coincident peak. This scaling process assures that the NITS charge calculated by PJM using the 1 CP for the PPL Zone produces the full revenue requirement for transmission service. *See* PPL Electric Statement No. 5-RJ, pp. 2-3.

PPL's proposed NSPL calculation and requesting that the Commission direct the Company to use a 1 CP allocator reflective of PPL's methodology for allocating transmission costs to LSEs."), 7-8 ("PPLICA submits that the Commission should direct PPL to allocate transmission costs to individual customers consistent with PJM's allocation of transmission cost to LSEs in the PPL Zone."), and 9 ("To ensure PPL's customers pay transmission costs commensurate with the usage impacting the transmission costs allocated by PJM to the LSEs...") (emphases added); IECPA MB at 8 (arguing that there is a "discrepancy between the transmission cost allocation methodology employed by PJM on the wholesale level and the methodology employed by PPL at the retail level..."), and 9 ("transmission costs are allocated directly to PPL from PJM and are (or should be) passed through directly to customers. Therefore, PPL, as a transmission owner, should recover those costs in the same way that those costs are assigned to it by PJM.") (emphases added). Yet, elsewhere, PPLICA and IECPA confusingly assert that it is a retail issue. *See* PPLICA MB at 4 ("This exercise of jurisdiction is entirely consistent with the Commission's authority to regulate default service rates and competitive retail markets under Act 129.") (emphasis added); IECPA MB at 5 (requesting "that the Commission require PPL to implement a retail transmission cost methodology that reflects the 1 CP approach employed by PJM."), and 7 ("by deviating from this wholesale allocation, PPL's retail methodology likewise deviates from direct cost causation...") (emphases added).

Based on the foregoing, it appears that PPLICA's and IECPA's true issue is that they disagree with the process used at the wholesale level by PPL Electric and PJM, *i.e.*, both parties request the Commission to alter the 5 CP method that PPL Electric uses to calculate the NPSL input into the NITS charge. However, this issue is outside the scope of the Commission's jurisdiction.

b. The "Customer" With Respect To NITS Is The LSE, Not The Retail Electric Service Customer.

Both IECPA and PPLICA attempt to obfuscate the issue presented in their references to the "customer" or "customers" that pays for NITS. *See* IECPA MB at 5 ("IECPA noted in this case that PPL is allocating and collecting transmission costs from customers differently than how the customer is contributing to the transmission cost incurred by PPL from PJM."); PPLICA MB at 5 ("...when PPL calculates the NSPLs used to assign transmission costs to individual customers throughout its service territory, the Company employs a vastly different methodology."). As explained in PPL Electric's Main Brief, however, the "customer" for purposes of NITS is an LSE and not a retail electric customer. Retail customers then receive transmission service from their LSE; either PPL Electric for default service customers or an electric generation supplier ("EGS") for shopping customers. As explained below, this is a critical distinction.

Although the NITS charge for the LSE is determined based on the retail load they serve (calculated by the summation of NITS tags), this is a wholesale charge paid by the LSE to PJM and not their retail customers. PPL Electric MB at 44-45. Once an LSE has purchased transmission service from PJM it then effectively "resells" it to its retail customers. For default service customers, their LSE, *i.e.*, PPL Electric, provides retail generation and retail transmission service and recovers these costs through its retail PUC-approved tariff, *i.e.*, the Generation Service Charge ("GSC") for generation service and the Transmission Service Charge ("TSC") for retail transmission service. As explained in testimony, PPL Electric, as LSE, also uses the 5 CP method to allocate retail transmission costs to its default service customers. However, no party has challenged the TSC in this proceeding. *See* PPL Electric MB at 44, 48.

For shopping customers, such as the members of PPLICA and IECPA, their LSE is an EGS, who provides generation and transmission service pursuant to the terms of private contracts

over which the Commission has no jurisdiction. *See* PPL Electric MB at 48-49 (citing *Commonwealth of Pa., et. al. v. IDT Energy, Inc.*, Docket No. C-2014-2427657, 2014 Pa. PUC LEXIS 715 (Order entered Dec. 18, 2014).

Importantly, whether the LSE is PPL Electric or an EGS, PJM provides the associated transmission service and charges the LSE for the NITS. Indeed, neither the NITS charge nor the method of calculation appears in PPL Electric's Commission-approved tariff; rather, this wholesale function appears in PJM's OATT.[10] PJM bills LSEs for NITS, LSEs accordingly pay PJM, and then PJM then pays the transmission owner.[11]

In this regard, it is disingenuous for PPLICA and IECPA to assert, as they do in their briefs, that their respective members (comprised of commercial and industrial retail electricity customers) are "customers" for purposes of the NITS charge. Indeed, it appears that PPLICA at least acknowledges this fact by noting "PPLICA submitted testimony opposing PPL's proposed NSPL calculation and requesting that the Commission direct the Company to use a 1 CP allocator reflective of PPL's methodology for allocating transmission costs to LSEs." PPLICA MB at 6 (emphasis added).

Finally, PPLICA and IECPA each seem to assert that the NITS charges are passed through to retail electric customers to further bolster their assertions that the Commission has jurisdiction. PPLICA MB at 6 ("the NSPLs established by PPL follow the customer whether the customer takes default service supply from PPL or competitive supply from an EGS..."); IECPA MB at 8-9 ("unlike other components of utility costs for which PPL earns a return, transmission costs are

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[10] FERC specifically found in its *Amtrak Order* that there is no requirement that the cost allocation methodology be filed at either the Commission or at FERC. *Amtrak Order*, 171 FERC ¶ 61,237 at ¶ 45.

[11] PPLICA notes in its Main Brief that it "proposed that PPL publish its PLC and NSPL calculations in its retail and supplier tariffs." PPLICA MB at 11. PPL Electric submits that this requested relief from PPLICA appears to recognize that the service at issue is not a retail service and, therefore, is outside the scope of the Commission's jurisdiction.

allocated directly to PPL from PJM and are (or should be) passed through directly to customers."). In each instance, these parties are simply attempting to leverage this proceeding to challenge wholesale rates charged by PJM and the method used to calculate NSPLs applied by PJM to assign wholesale interstate transmission costs to LSEs. To the extent that either of these parties desires to challenge such rates, the appropriate forum to do so is FERC, as noted in the *Amtrak Order*, the *Coincident Peak Order* and the *2020 Order* cited above. Conversely, if they desire to challenge the transmission rates charged by their EGSs, they should seek relief from the EGS, not PPL Electric.

Therefore, and for the reasons more fully explained in PPL Electric's Main Brief, PPLICA's and IECPA's arguments should be rejected.

2. In The Alternative, The 5 CP Method For Allocating Interstate Transmission Costs To LSEs Should Be Affirmed.

As explained in the Company's Main Brief, the 5 CP method should be affirmed, and the 1 CP method should be rejected. PPL Electric MB, pp. 50-64. The 5 CP method reflects the dual peaking nature of the PPL Electric system in a way that is fully consistent with all relevant principles of cost causation; the 1 CP method does not. The 5 CP method helps reduce rate volatility; the 1 CP method would produce more volatile rates from year to year. The 5 CP method reduces the ability of large sophisticated customers to avoid paying a reasonable rate for transmission service at the expense of other customers; the 1 CP method would enable and encourage such cost avoidance. The 5 CP method is fully consistent with all relevant precedent; the 1 CP method is not.

PPLICA and IECPA repeatedly cite to PJM's use of the 1 CP method to determine the NITS rate to support their position. However, the issue presented is the proper determination of NPSLs, not the NITS rate. Thus, PPLICA's and IECPA's reliance on this argument is misplaced.

PPLICA and IECPA also argue that use of the 1 CP method would reduce system costs and promote efficient use of the system. This is simply not the case. PPL Electric's system and its cost of operation would be exactly the same regardless of the cost allocation methodology. The purpose of cost allocation is to allocate a set of costs to customers. A change in methodology does not change total costs; it simply changes which group of customers pays those costs. For these reasons, the PPLICA and IECPA proposal should be rejected.

a. The 5 CP Method Appropriately Reflects Cost Causation On The PPL Electric System; The 1 CP Method Does Not.

All parties agree that cost is the "polestar" of Pennsylvania rate regulation. PPL Electric MB, pp. 55-58; PPLICA MB, pp. 7-8; IECPA MB, p. 7. All parties agree that costs should be allocated and assigned based on principles of "cost causation," *i.e.*, what causes a cost to be incurred or causes a cost to vary. It also is undisputed that there are three parts to any cost allocation study: functionalization, classification and allocation. It is undisputed that the function at issue in this case is the transmission function and that transmission costs should be classified as demand related (as opposed to customer related or energy related). It also is undisputed that the proper allocator should be based on system coincident peak demands and not non-coincident peak demands. The only disputed issue is whether the allocation of transmission costs should be based upon the single system coincident peak or the average of five coincident peaks.

The costs that are subject to the challenge raised by IECPA and PPLICA are costs associated with the operation and maintenance of PPL Electric's interstate transmission system. The question presented as to cost causation is "what causes the costs of the PPL Electric transmission system to be incurred or what causes them to vary?" In this proceeding, PPL Electric presented overwhelming evidence showing that the 5 CP method reasonably allocates these transmission costs of the PPL Electric system to LSEs.

Transmission costs on the PPL Electric system are primarily incurred, *i.e.*, "caused," by transmission upgrades and maintenance so that PPL Electric can continue to provide safe and reliable transmission service and meet demand on the PPL Electric system throughout the year. PPL Electric Statement No. 5-R, p. 9; PPL Electric Statement No. 5-RJ, p. 5. These transmission upgrades are generally driven by age and overall annual load, as well as overall peak demand. PPL Electric Statement No. 5-R, p. 9. The 5 CP method properly reflects that PPL Electric is a dual peaking company, *i.e.*, its coincident peak demand can occur in the summer or the winter. These summer and winter peaks are what cause the cost of the transmission system to be incurred. In PPL Electric's view, the 5 CP method reasonably reflects this fundamental attribute of the PPL Electric system. The 1 CP method, on the other hand, does not properly reflect this dual peaking characteristic. It also places too much emphasis on a single hour of use. There are 8,760 hours in a year, and PPL Electric's system must stand ready to provide service to all customers throughout this period. It is the peak demands throughout the year, and in particular the summer and winter, which drive the design and cost of PPL Electric's transmission system. Apparently in PPLICA and IECPA's view, the entire design and cost of the PPL Electric system is incurred, *i.e.*, caused by, as a result of the single system peak. This is simply not the case, and there is simply no basis for use of a 1 CP demand allocator on a dual peaking system such as PPL Electric's system.

The primary argument, and in fact, the only substantive argument presented by IECPA and PPLICA is their repetitive refrain that PJM uses a 1 CP methodology to determine the NITS rate and that PPL Electric should therefore do the same in determining the NSPL for LSEs. PPLICA M.B., pp. 6-9; IECPA M.B., pp. 7-10. This argument should be rejected as it fails to distinguish between the calculation of the NITS rate and the determination of the NSPL to which the NITS rate is applied. As explained above, the charge for NITS is comprised of two parts: the

determination of the rate and the determination of the load each LSE contributes to the NSPL. The rate times the LSE's load equals the NITS charge to the LSE. PJM uses the 1 CP method to determine the NITS rate, but each transmission owner is responsible for determining the individual LSE's contribution to the NSPL. It is for this purpose that PPL Electric uses the 5 CP method, which better reflects the dual peaking nature of its system than the 1 CP approach. The approaches taken by PJM and the transmission owner are addressing two different functions, and there is no reason why the same method should be used, particularly since the 5 CP method results are scaled to the calculated 1 CP load when the rate is applied.

Notably, PJM itself recognizes that other methods, including the 5 CP method, can be used, as described in detail in PPL Electric's Main Brief. PPL Electric MB, pp. 45; 53-55. In addition, within PJM many other methods are currently being used, including the 5 CP method.[12] Despite this evidence that a variety of approaches are in use in the current wholesale transmission market, PPLICA and IECPA argue that the determination of the NSPL must follow the PJM method for determining the NITS rate. This argument fails to reflect the discretion provided by PJM and fails to reflect the different operating conditions and system conditions of individual transmission owners and should be rejected.

Finally, IECPA's argument that PPL Electric should adopt the 1 CP methodology in order to create a "more uniform approach for Pennsylvania" is irrelevant in arriving at the appropriate rate design. IECPA MB, pp. 16-18. First, IECPA acknowledges that there is no uniform approach

[12] A variety of methods are currently employed within PJM, including a number of other transmission owners that use the 5 CP method, the 1 CP method, and one transmission owner that uses a 12 CP approach. *See, e.g., PJM Interconnection, L.L.C. and Virginia Electric and Power Company*, 169 FERC ¶ 61,041 (Oct. 17, 2019); *Commonwealth Edison Co.*, 133 FERC ¶ 61,118 (2010); *Duke Energy Ohio, Inc.*, 155 FERC ¶ 61,163 (2016); *PJM Interconnection, L.L.C.*, Docket No. ER14-2340-000 (Aug. 7, 2014) (accepting Attachment M-2 of PECO Energy Company); *PJM Interconnection, L.L.C.*, Docket No. ER14-2339-000 (Aug. 6, 2014) (accepting Attachment M-2 of Baltimore Gas and Electric Company); *Duke Energy Ohio, Inc.*, Docket No. ER16-1150-001 (Jul. 27, 2016) (accepting Attachment M-2 of Duke Energy Ohio, Inc.).

in Pennsylvania. IECPA, MB, p. 18. Second, this claim ignores that there are significant operating differences between PPL Electric and other Pennsylvania EDCs. PPL Electric has many residential winter heating customers, as well as many seasonal customers (*e.g.*, ski resorts, amusement parks). The record lacks any evidence that shows that it is appropriate to require PPL Electric to conform to the same methodology as other EDCs, when those EDCs might not be similarly situated or have similar cost causation factors.

PPLICA and IECPA have presented no compelling reason for PPL Electric to abandon its use of the 5 CP method and, most importantly, have presented no evidence as to the potential impact of their method on other customers.

b. PPLICA and IECPA Fail To Acknowledge The Problems And Shortcomings Associated With The 1 CP Method.

i. Rate Volatility And Cost Avoidance Are Well-Known Problems With The 1 CP Method.

IECPA and PPLICA encourage the adoption of the 1 CP method without addressing how the adoption of the 1 CP method will impact PPL Electric's customers. However, the problems with the 1 CP method are well-known, and pose a particularly significant risk to PPL Electric's customers based on the operational circumstances of PPL Electric's system.

Significant rate volatility is a well-known flaw of the 1 CP method for systems that have dual or multiple peaks. In order to reduce rate volatility, utilities have adopted multi-peak methods when their operating circumstances necessitate an approach that reflects seasonal differences in use. *See, e.g.,* 1973 NARUC *Electric Utility Cost Allocation Manual* ("*Green Book*") ("Where there are significant summer and winter peaks, two or more peaks considered to represent loads in the most critical months have been used."). As described in the Company's Main Brief, PPL Electric's system has large customers with significant seasonal load. To take one example of such a seasonal customer, a ski resort operating in PPL Electric's service territory will have no, or nearly

no, transmission usage during the summer months, but significant transmission usage during the winter months. If the 1 CP event occurs in the summer, a ski resort customer will be allocated little to no portion of the transmission costs for that year. However, if in the next year the 1 CP event occurs in the winter, then the customer will see a very significant increase in its electric bill due to the sudden increase in the allocation of transmission costs. The 1 CP method does not adequately reflect such a customer's use of the transmission system on a year over year basis. The outcome of the failure of the 1 CP method to address the dual peaking nature of the PPL Electric system is that customers will experience increased rate volatility. The 1 CP method simply cannot capture the year to year changes in the seasonal peaks experienced by PPL Electric.

Further, the 1 CP method is susceptible to cost avoidance by customers who have the ability to avoid usage during the 1 CP peak event. In its Main Brief, PPL Electric noted that if the 1 CP methodology is used, and a single hour of use determines each customer's annual responsibility for transmission costs, then a customer who can predict that peak day and shuts down operations on that one day will pay nothing toward transmission costs, even though that customer will use the transmission system for the remaining 364 days of the year.[13] FERC has specifically acknowledged that the 1 CP methodology raises significant concerns by encouraging customers to adopt cost avoidance and cost shifting behavior that leads to "yearly volatility in transmission usage charges." *PJM Interconnection, L.L.C. and Virginia Electric and Power Company*, 172 FERC ¶ 61,054 at Paragraph 46 (2020).[14] Further, FERC has found that when certain wholesale

[13] It is worth noting here that many, if not all, of the customers who could take advantage of this forecasting and load shifting behavior have attained that ability through participation in PPL Electric's long-standing use of demand response programs that provided financial incentives for customers to adopt this behavior. Now, in addition to having received financial incentives, these same customers seek to avoid paying their fair share of transmission cost responsibility. *See* PPL Electric Statement No. 5-RJ, p. 6.

[14] *See also Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888-A, FERC Stats. & Regs. P 31,048, at 30,259-60 (1997) (cross-referenced at 78 FERC P 61,220) ("For example, if at

customers voluntarily reduce demand during the 1 CP event and return to normal levels of demand during off-peak times, it obscures the level of transmission system use and threatens system reliability planning. *PJM Interconnection, L.L.C. and Virginia Electric and Power Company*, 169 FERC ¶ 61,041, ¶ 61,135 at Paragraph 60 (2019).

In its brief, IECPA attempts to frame customer avoidance as being driven by efficiency and producing overall system benefits. IECPA MB, pp. 12-16. This argument should be rejected for a number of reasons. As PPL Electric witness Mr. Hartman stated in his testimony, there is no benefit to the transmission system and no reduction in overall annual transmission costs where customers artificially reduce demand during the single peak, but do not otherwise reduce their overall annual load. PPL Electric Statement No. 5-RJ, pp. 5-7. In order for a customer to truly reduce its impact on transmission costs, it would need to invest in energy efficiency that would reduce its usage year-round. PPL Electric Statement No. 5-RJ, p. 6. The 5 CP method encourages exactly this kind of behavior; the 1 CP method does not. IECPA's own brief acknowledges this, by stating that the 1 CP method makes it easier for customers to take advantage of load reduction on the single peak period, without "requiring them to monitor 12 months of potential coincident peaks." IECPA MB, p. 13.

Further, and more critically, IECPA has not produced any evidence that customers who temporarily alter their behavior do, in fact, reduce transmission costs or produce other system benefits. If an individual customer or group of customers were to reduce load during the single peak period, and then return to normal operations during other times, there would be no reduction

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the time of the monthly system peak the FMPA member city generates more than 40 MW (or takes short-term firm transmission service (or a combination of the two)), it may be able to lower its monthly coincident peak load for network billing purposes, and thereby reducing if not eliminating its load-ratio cost responsibility for network service. Because network and native load customers bear any residual system costs on a load-ratio basis, any cost responsibility evaded by a network customer in this manner would be borne by the remaining network customers and native load.")).

of transmission costs that need to be collected from customers through the cost allocation process.[15] PPL Electric Statement No. 5-R, p. 9. Even PPLICA witness Mr. Peters acknowledged that "sustained load reductions during the system transmission peaks" – peaks being plural – is what is required to reduce future transmission investment. PPLICA Statement No. 1-SR, p. 4. A single reduction for a single hour per year is not sufficient to generate a system-wide reduction in annual transmission costs. The evidence in this proceeding shows that when one customer shifts its load during the 1 CP peak, and reduces its own fair share of transmission costs, it produces no system-wide benefits and merely shifts costs onto other customers. PPL Electric Statement No. 5-R, pp. 5-8; PPL Electric Statement No. 5-RJ, pp. 6-7.

The 1 CP method includes well-known operational concerns that IECPA and PPLICA fail to adequately address. The 5 CP method reduces these concerns, by limiting the ability of large sophisticated customers to avoid cost responsibility for their use of the transmission system and by capturing multi-season peaks which will reduce rate volatility.

ii. PPLICA And IECPA Do Not Address The Robust Body of Precedent Criticizing the 1 CP Method.

The briefs of PPLICA and IECPA lack any discussion of the precedent on the allocation of transmission costs. Specifically, they do not support their proposal that the Commission should require PPL Electric to adopt the 1 CP method with any legal basis for concluding that the 1 CP method is preferable to the 5 CP method. This is because any discussion of precedent will show that all relevant precedent on the issue of transmission cost allocation supports PPL Electric's position in this proceeding.

[15] It is worth contrasting transmission reductions with a true demand response program. Demand response programs encourage end use customers to reduce their electricity usage during periods of higher power prices, which minimizes the impact of price spikes, reduces the need for expensive peaking generating capacity and helps hold down energy prices overall. *See* https://learn.pjm.com/three-priorities/buying-and-selling-energy/markets-faqs/what-is-demand-response.aspx. There is no similar transmission savings where use is temporarily reduced.

First, PPL Electric has consistently used the 5 CP method for a decade. PPL Electric Statement No. 5-RJ, p. 8. It has been the underpinning of four prior default service proceedings, all of which were approved by the Commission. PPL Electric Statement No. 5-RJ, p. 8. At no prior point was this method challenged, and no party has raised any claim in any prior proceeding that the 5 CP methodology produces results that are unjust and unreasonable. In order to overturn PPL Electric's longstanding use of this method, PPLICA and IECPA must produce some evidence or legal basis for concluding that the 1 CP method is better or more fair. They have failed to do that here.

Second, on the basic question of the best approach for determining the appropriate method for allocating transmission costs, both the *Green Book* and FERC precedent instruct that the appropriate methodology must reflect the nature of the transmission system in question. *See PJM Interconnection, L.L.C. and Virginia Electric and Power Company*, 169 FERC ¶ 61,041 (Oct. 17, 2019) *citing* Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,736. Both have also endorsed the multi-peak method. The *Green Book*, for instance, has recognized that some electric utilities have two or more system peaks, and in that instance the cost allocation method should "reflect these multiple type peaks." FERC has approved a number of different approaches to transmission cost allocation without reference to the method used by PJM to assign costs, including the 5 CP method.[16] In addition, the PJM Manual specifically allows the use of a 5 CP method. *See* PJM Manual 19, Section 4.3.

[16] *See, e.g., PJM Interconnection, L.L.C. and First Energy Service Co.,* Docket No. ER12-2399-000 (Apr. 7, 2014) (accepting 1 CP methodology for calculation of wholesale NSPLs and 5 CP for retail NSPLs); *PJM Interconnection, L.L.C.*, Docket No. ER14-2340-000 (Aug. 7, 2014) (accepting a 5 CP methodology); *PJM Interconnection, L.L.C. and Virginia Electric and Power Company*, 169 FERC ¶ 61,041 (Oct. 17, 2019) (approving a 12 CP methodology).

Third, it is uncontested that there are numerous methods currently in use to allocate transmission costs within PJM. FERC recently approved Dominion's use of a 12 CP method in *PJM Interconnection, L.L.C. and Virginia Electric and Power Company*, 169 FERC ¶ 61,041 (Oct. 17, 2019). PPL Electric, along with Duke Energy Ohio, Commonwealth Edison Co., Baltimore Gas & Electric, and PECO Energy Co. all use the 5 CP method.[17] The 1 CP method is used by utilities including Duquesne Light Co., Allegheny Power System, and American Electric Power. PPLICA Statement 1-SR, p. 4. Clearly, there is no singular method for allocating transmission costs, even within the RTO that PPL Electric operates in. This wide range of practices is certainly persuasive in showing that that there is no inherent flaw in the use of the 5 CP method versus other methods, nor is there some clear and compelling legal principle that requires adoption of the 1 CP method in this proceeding. Similarly, the Commission has approved a variety of multi-peak demand allocators consistently for decades. *See, e.g., Pa. PUC v. Pennsylvania Power and Light Company*, Docket No. R-822169, *et al.*, 1983 Pa. PUC LEXIS 22 (order entered August 19, 1983). There is simply no legal basis for concluding that either the 5 CP method must be rejected, or that the 1 CP method should be adopted in this proceeding.

PPLICA and IECPA do not cite to any authority to show that their 1 CP methodology is better or more appropriate, particularly for a seasonal peaking system like PPL Electric's. PPLICA and IECPA do not show that the 1 CP method will produce better or more fair results than the 5 CP method currently used by PPL Electric. PPLICA and IECPA have not made any showing in this proceeding sufficient for the Commission to determine that (1) it should reject PPL Electric's

[17] *See, e.g., Commonwealth Edison Co.*, 133 FERC ¶ 61,118 (2010); *Duke Energy Ohio, Inc.*, 155 FERC ¶ 61,163 (2016); *PJM Interconnection, L.L.C.*, Docket No. ER14-2340-000 (Aug. 7, 2014) (accepting Attachment M-2 of PECO Energy Company); *PJM Interconnection, L.L.C.*, Docket No. ER14-2339-000 (Aug. 6, 2014) (accepting Attachment M-2 of Baltimore Gas and Electric Company); *Duke Energy Ohio, Inc.*, Docket No. ER16-1150-001 (Jul. 27, 2016) (accepting Attachment M-2 of Duke Energy Ohio, Inc.).

5 CP method, and (2) that it should then adopt the proposed 1 CP method. Without support in law or fact, the Commission should reject the challenge raised by PPLICA and IECPA in this proceeding.

3. PPLICA's Proposal To Include The Wholesale Interstate Transmission Allocator In PPL Electric's Retail and Supplier Tariffs Should Be Denied.

In its Main Brief, PPLICA asks the Commission to require PPL Electric to include its PLC and NSPL calculations in its retail and supplier tariffs. PPLICA MB, pp. 11-12. PPLICA supports its position by claiming that the language currently included in the Company's tariff is inaccurate, and that it only addresses default service customers without adequately identifying whether the same allocator is used for shopping customers.

PPLICA's proposal should be rejected on the basis that the transmission cost demand allocator is used purely by PPL Electric in its role as a transmission owner for the purpose of facilitating cost recovery for wholesale interstate transmission service, and not in its role as a Load Serving Entity. To the extent that the method should be reflected in any tariff, it would be PPL Electric's FERC-approved tariff for transmission service, and not the Pennsylvania retail or supplier tariffs. FERC does not require that the demand allocator be included in the FERC transmission tariff, although it has approved such tariff provisions in a number of recent proceedings. *See Amtrak Order*, 171 FERC ¶ 61,237 at ¶ 45.

PPLICA has not shown any basis in state or federal law that requires PPL Electric to reflect its wholesale interstate transmission demand allocator in its Pennsylvania state tariffs. Without such a showing, the Commission should not compel PPL Electric to modify its tariff to include the method for allocating interstate transmission costs to customers.

III. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that Administrative Law Judge Elizabeth H. Barnes issue an Initial Decision recommending that the Pennsylvania Public Utility Commission:

(a) Approve the proposals set forth in the "Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2021 through May 31, 2025" and the related attachments, as modified by the terms and conditions of the Partial Settlement;

(b) Approve PPL Electric's proposal to end the CAP SOP and require CAP customers to receive default service at the PTC;

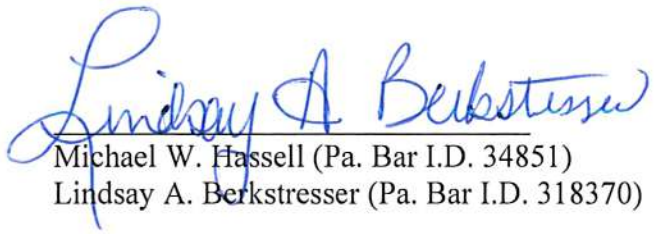
(c) Approve PPL Electric's proposal to return customers to default service at the end of the SOP contract terms unless the customer affirmatively elects otherwise;

(d) Deny Starion's and the EGS Parties' proposal that PPL Electric be required to provide EGSs with the telephone numbers and e-mail addresses (if available) of SOP customers to the EGS serving the customer;

(e) Approve PPL Electric's proposal that EGSs be required to commit to a semi-annual SOP enrollment, which would correspond to the semi-annual PTC price change; and

(f) Deny PPLICA's and IECPA's proposal to change the method for allocating transmission costs from a 5 coincident peak methodology to a 1 coincident peak methodology.

Respectfully submitted,



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