

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

RECOMMENDED DECISION

Before
Elizabeth H. Barnes
Administrative Law Judge

INTRODUCTION

This Recommended Decision recommends that the Pennsylvania Public Utility Commission (Commission) approve by December 24, 2020, the Fifth Default Service Plan of PPL Electric Utilities Corporation (PPL Electric) as modified by a Joint Petition for Partial Settlement. Approval of the Joint Partial Settlement is recommended because the Settlement meets the requirements of the Public Utility Code and the Commission regulations, is supported by substantial evidence and is in the public interest.

This decision further recommends: (1) that PPL Electric's Customer Assistance Program (CAP) Standard Offer Program be ended and CAP customers be required to receive default service at the Price to Compare; (2) that other PPL Electric's customers be returned to default service at the end of their Standard Offer Program contracts unless the customers have affirmatively elected to continue service with the EGS or chose another EGS; (3) that PPL Electric not be required to provide an Electric Generation Supplier with the telephone numbers and e-mail addresses (if available) of Standard Offer Program customers to the Electric Generation Supplier serving the customer; (4) that Electric Generation Suppliers be required to commit to a semi-annual Standard Offer Program enrollment, which would correspond to PPL Electric's semi-annual Price

To Compare price change; and (5) that PPL Electric be given leave to continue to use a 5 coincident peak methodology for allocating transmission costs.

HISTORY OF THE PROCEEDINGS

On March 25, 2020, PPL Electric Utilities Corporation (PPL Electric or Company) filed a Petition for Approval of its Default Service Plan (also referred to as the PPL DSP V Petition) at Docket No. P-2020-3019356. The Petition was filed pursuant to Section 2807(e) of the Public Utility Code, 66 Pa.C.S § 2807(e), the Commission’s Default Service Regulations, 52 Pa.Code §§ 54.181-54.189, and the Commission’s Policy Statement on Default Service, 52 Pa.Code §§ 69.1801-69.1817.

The DSP V Program consists of a proposal for competitive procurement of Default Service supply and related Alternative Energy Credits (“AECs”) during the DSP V Program Period; an implementation plan; a proposed rate design, including a Time-of-Use (“TOU”) rate option for Default Service during the DSP V Program Period; a proposal to modify the Company’s current Standard Offer Referral Program (“SOP”); a proposal to require Customer Assistance Program (“CAP”) customers to take Default Service; a proposal to establish an optional Renewable Rate Program; and a contingency plan for the DSP V Program. Copies of a *pro forma* Default Service Request for Proposals Process and Rules (“Default Service RFP”), a *pro forma* Default Service Supply Master Agreement (“Default Service SMA”), a *pro forma* Block Energy Request for Proposals Process and Rules (“Block RFP”), a *pro forma* Block Energy Supply Master Agreement (“Block SMA”), a *pro forma* Alternative Energy Credit Request for Proposals Process and Rules (“AEC RFP”), and a *pro forma* Alternative Energy Credit Supply Master Agreement (“AEC SMA”) were included with the Petition. The filing also contained *pro forma* tariff pages to implement rates under the DSP V Program and *pro forma* tariff pages for the proposed Renewable Rate Program. PPL Electric Exhibit 1.

Together with the DSP V Petition, PPL Electric filed the following prepared direct testimony, with related exhibits in support of the DSP V Program: PPL Electric Statement

No. 1, Direct Testimony of James R. Rouland; PPL Electric Statement No. 2, Direct Testimony of A. Joseph Cavicchi; PPL Electric Statement No. 3, Direct Testimony of Melinda Stumpf; and PPL Electric Statement No. 4, Direct Testimony of Michele LaWall-Schmidt. Therein, PPL Electric more fully explained the details of the proposed DSP V Program and why the Company believes that the proposed DSP V Program includes and/or addresses all of the elements prescribed by Section 2807(e) of the Public Utility Code, the Commission's regulations, and the Commission's policies for a Default Service plan.

On April 10, 2020, the Commission issued a notice scheduling a prehearing conference for May 15, 2020. The Petition was published in the *Pennsylvania Bulletin* on April 18, 2020, with a deadline to file protests, petitions to intervene and answers by May 8, 2020. 50 Pa.B. 2164.

A Notice of Intervention was filed by the Commission's Bureau of Investigation and Enforcement (I&E) on May 6, 2020.

A Notice of Intervention and Answer was filed by the Office of Consumer Advocate (OCA) on May 8, 2020.

A Notice of Intervention was filed by the Office of Small Business Advocate (OSBA) on May 8, 2020.

Petitions to Intervene were filed by all the following parties: Coalition for Affordable Utility Service in PA ("CAUSE-PA"), Sustainable Energy Fund ("SEF"), Calpine Retail Holdings, LLC ("Calpine"), Statewise Energy Pennsylvania LLC and SFE Energy Pennsylvania, Inc. (collectively "Statewise"), Interstate Gas Supply, Inc., Shipley Choice LLC, NRG Energy, Inc, Vistra Energy Corp., ENGIE Resources LLC, WGL Energy and Direct Energy Services, LLC (collectively, the "EGS Parties"), Starion Energy PA, Inc. ("Starion"),

Inspire Energy Holdings, LLC (“Inspire”), Industrial Energy Consumers of Pennsylvania (“IECPA”) and PP&L Industrial Customer Alliance (“PPLICA”).¹

An initial prehearing conference was held before me on May 15, 2020 and a Scheduling Order was issued the same date. On May 28, 2020, PPL Electric filed an unopposed Motion for Protective Order, which was granted on June 1, 2020. On June 25, 2020, I&E served the Direct Testimony of Christopher Keller, I&E Statement No. 1; OCA served the Direct Testimony of Steven L. Estomin, OCA Statement No. 1, and the Direct Testimony of Barbara R. Alexander, OCA Statement No. 2; OSBA served the Direct Testimony of Robert D. Knecht, OSBA Statement No. 1; CAUSE-PA served the Direct Testimony of Harry Geller, CAUSE-PA Statement No. 1; SEF served the Direct Testimony of John M. Costlow, SEF Statement No. 1; PPLICA served the Direct Testimony of Michael Peters, PPLICA Statement No. 1; IECPA served the Direct Testimony of David F. Ciarlone, IECPA Statement No. 1; EGS Parties served the Direct Testimony of Christopher H. Kallaher, EGS Parties Statement No. 1; Inspire served the Direct Testimony of Aaron Jacobs-Smith, Inspire Statement No. 1; and Starion served the Direct Testimony of Pete Muzsi, Starion Statement No. 1. No other party served direct testimony.

On July 23, 2020, PPL Electric served: the Rebuttal Testimony of James R. Rouland, PPL Electric Statement No. 1-R, the Rebuttal Testimony of A. Joseph Cavicchi, PPL Electric Statement No. 2-R, the Rebuttal Testimony of Melinda Stumpf, PPL Electric Statement No. 3-R, the Rebuttal Testimony of Michele LaWall-Schmidt, PPL Electric Statement No. 4-R, the Rebuttal Testimony of Gary M. Hartman, Jr., PPL Electric Statement No. 5-R and the Rebuttal Testimony of Scott R. Koch, PPL Electric Statement No. 6-R; OCA served the Rebuttal Testimony of Steven L. Estomin, OCA Statement No. 1-R and the Rebuttal Testimony of Barbara R. Alexander; OSBA served the Rebuttal Testimony of Robert D. Knecht, OSBA Statement No. 1-R; CAUSE-PA served the Rebuttal Testimony of Harry Geller, CAUSE-PA Statement No. 1-R; PPLICA served the Rebuttal Testimony of Michael Peters, PPLICA

¹ Retail Energy Supply Association (“RESA”) initially intervened in the proceedings, but subsequently withdrew its intervention. Collectively, PPL Electric and the Intervenors in this proceeding are hereinafter referred to as the “Parties.”

Statement No. 1-R; EGS Parties served the Rebuttal Testimony of Christopher H. Kallaher, EGS Parties Statement No. 1-R; and Calpine served the Rebuttal Testimony of Becky Merola, Calpine Statement No. 1.

The following surrebuttal testimony was served by certain parties on August 6, 2020: PPL Electric served the Surrebuttal Testimony of James R. Rouland, PPL Electric Statement No. 1-SR, and the Surrebuttal Testimony of Melinda Stumpf, PPL Electric Statement No. 2-SR; I&E served the Surrebuttal Testimony of Christopher Keller, I&E Statement No. 1-SR; OCA served the Surrebuttal Testimony of Richard S. Hahn, OCA Statement No. 1-SR, and the Surrebuttal Testimony of Barbara R. Alexander, OCA Statement No. 2-SR; OSBA served the Surrebuttal Testimony of Robert D. Knecht, OSBA Statement No. 1-S; CAUSE-PA served the Surrebuttal Testimony of Harry Geller, CAUSE-PA Statement No. 1-SR; SEF served the Surrebuttal Testimony of John M. Costlow, SEF Statement No. 1-SR; PPLICA served the Surrebuttal Testimony of Michael Peters, PPLICA Statement No. 1-SR; IECPA served the Surrebuttal Testimony of David F. Ciarlone, IECPA Statement No. 1-SR; EGS Parties served the Surrebuttal Testimony of Christopher H. Kallaher, EGS Parties Statement No. 1-SR; Inspire served the Surrebuttal Testimony of Aaron Jacobs-Smith, Inspire Statement No. 1-SR; and Starion served the Surrebuttal Testimony of Pete Muzsi, Starion Statement No. 1-SR.

On August 10, 2020, the following rejoinder testimony was served: PPL Electric served the Rejoinder Testimony of Gary M. Hartman, Jr., PPL Electric Statement No. 5-RJ and the Rejoinder Testimony of Scott R. Koch, PPL Electric Statement No. 6-RJ. No other parties served rejoinder testimony.

An evidentiary hearing was held on August 13, 2020. The following attorneys appeared on behalf of their clients: Michael Hassel, Lindsay Berkstresser, Kimberly Klock, and Michael Shafer appeared on behalf of PPL Electric; David Evrard and Aron Beatty appeared for OCA; Gina Miller appeared for I&E; Steven Gray appeared for OSBA; Todd Stewart appeared for the EGS Parties; Kenneth Mickens appeared for the Sustainable Energy Fund; Adeolu Bakare and Jo-Anne Thompson appeared for PPLICA; Elizabeth Marx appeared for CAUSE-PA;

Deanne O'Dell appeared for Inspire and Starion; Barry Naum appeared for IECPA and John Lushis and James Laskey appeared for Calpine.

The parties agreed to waive cross-examination and moved their respective testimonies and exhibits into the record. CAUSE-PA and Starion entered into a Stipulation that was admitted into the record. CAUSE-PA and Inspire also entered into a Stipulation that was admitted into the record. Tr. p. 44.

At the hearing, the parties were encouraged to continue settlement discussions and given leave to file a partial or full settlement by the reply brief deadline of September 17, 2020. Except for I&E, the parties filed main briefs on or about September 3, 2020.

On September 17, 2020, PPL Electric, I&E, OCA, OSBA, CAUSE-PA, SEF, the EGS Parties, and Calpine (the Signatory Parties) filed a Joint Petition for Approval of Partial Settlement, along with Statements in Support of the Petition. The Partial Settlement resolves all but three of the issues and concerns raised by the parties in the instant proceeding. The Partial Settlement is not contested by any party. The OCA, CAUSE-PA, PPLICA, IECPA, Inspire, Starion, PPL, Interstate Gas, Supply, Inc., Shipley Choice LLC, NRG Energy, Inc., Vistra Energy Corp., ENGIE Resources LLC., WGL Energy Services, Inc., and Direct Energy Services, LLC filed reply briefs addressing the three outstanding issues.

The record closed on September 17, 2020. This matter is ready for disposition.

SETTLEMENT

The terms of the Partial Settlement agreed to by the Signatory Parties are as follows:²

² See Joint Petition for Approval of Partial Settlement, pages 7-10, paragraph numbers 17-28. Although the terms are renumbered herein from the Joint Partial Settlement, the terms above are quoted *verbatim* from the Settlement.

A. GENERAL

1. Subject to the terms and conditions of the Partial Settlement and excluding the issues reserved for litigation, the Signatory Parties agree that the proposals set forth in PPL Electric's Petition requesting approval of its fifth Default Service Program and Procurement Plan ("DSP V Program"), including the Default Service Supply Master Agreement ("Default Service SMA"), Request for Proposals ("RFP") Process and Rules, Program Product Procurement Schedule, and Tariff provisions for the Generation Supply Charge-1 ("GSC-1"), the Generation Supply Charge-2 ("GSC-2") and the Transmission Service Charge ("TSC"), are acceptable and should be adopted by the Pennsylvania Public Utility Commission ("Commission"). Any proposals of other parties not expressly addressed in this Section III or reserved for litigation in Section IV are withdrawn.

2. The Signatory Parties agree that PPL Electric's DSP V Program, as modified by the terms and conditions of the Partial Settlement and excluding the issues reserved for litigation, includes and/or addresses all of the elements prescribed by Section 2807 of the Public Utility Code, the Commission's regulations, and the Commission's policies for a Default Service plan.

B. NITS

3. The EGS Parties' proposal for PPL Electric to create a non-by passable charge to recover NITS costs is withdrawn for purposes of this proceeding only.

C. GSC-1 RECONCILIATION

4. The Signatory Parties agree to settle this issue in accordance with the PPL Electric rebuttal testimony of Mr. Scott Koch, PPL Electric Statement No. 6-R, page 8, lines 4-15. Specifically, the Company will reconcile 12 months of over/under collections over a 12-month period consistent with its other Section 1307 surcharges. In the event the GSC-1 E-factor exceeds 10 percent of the Price-to-Compare for Small C&I GSC-1 customers, the Company

agrees to consult with the OSBA regarding the causes for this variance and steps being taken to reduce GSC-1 variances.

D. RENEWABLE ENERGY RIDER

5. The Company agrees to withdraw its proposed Renewable Energy Rider without prejudice to future re-filing in a default service docket either as part of a new plan or an amendment to an existing plan.

E. AEC AUCTION

6. The Company agrees to operate this program as a pilot program for the DSP V program period; provided, however, this proposal is contingent on full recovery of all costs of the program through the GSC-1 rate. Full-cost recovery in the GSC-1 rate will be subject to the determination that the costs are prudent and reasonable in the filing(s) in which PPL proposes recovery.

7. The Company will provide a summary report on each AEC Auction conducted throughout DSP V in its next DSP filing. This report will include forecast and actual AECs procured by customer group and Tier type; average pricing information by Tier type, customer group by period; number of customers by customer group; and reconciliation details by customer group.

F. SOP

8. The Company will work with OCA, OSBA, and other interested parties in revising the guidelines used by CSRs and scripts used by Hansen employees. Any such revisions will be completed within 90 days after the entry of a Commission order approving this Partial Settlement without modification.

9. The Company agrees to increase its monitoring of Hansen employees to ensure that the complete conversation accurately reflects the SOP contract terms and required disclosures. The Company further agrees to take any necessary actions, including, but not limited to, additional training of Hansen employees, or terminating the Company's contract with Hansen, as may be necessary.

G. TOU ANALYSIS

10. The Company agrees to perform additional analysis and reporting on the TOU program in its next DSP proceeding. Such analysis will include evaluation of the PPL Electric Residual Aggregation Point Locational Margin Prices (LMP) for the preceding two calendar years, and residential and small commercial and industrial customer load, by hour, for the preceding two calendar years. Analysis will focus on evaluating the appropriate on-peak hours for the next DSP TOU program. PPL Electric agrees to include the following information on its website regarding its time of use rate: (1) Time of Use rates may not be appropriate for customers that cannot change the time of day that they rely on electricity, such as those with medical devices that require electricity or customers who are home during peak hours; and (2) If you are a low income customer, other programs and rate assistance may be available to help you to afford your bill. Contact PPL at [add phone number] for more information and to apply.

11. PPL Electric will evaluate the impacts of the Company's TOU rates on confirmed low-income customers as part of the annual report required by Act 129 of 2008.

ISSUES RESERVED FOR LITIGATION

The following issues are not resolved by the Partial Settlement and will be discussed below: (1) all SOP issues except for the use of guidelines and scripts in PPL Electric's and Hansen's communications with customers as set forth above; (2) all CAP SOP issues; and (3) the use of 1 coincident peak (CP) versus 5 coincident peak (CP) for calculating NSPL.

FINDINGS OF FACT

1. PPL Electric is a “public utility,” an “electric distribution company” (“EDC”), and a Default Service provider regarding 1.4 million residential and commercial customers as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 102, 2803. (PPL Electric Ex. 1, p. 3).

2. On March 25, 2020, PPL Electric filed a Petition requesting Commission approval of its DSP V Program.

3. The DSP V Program consists of a proposal for competitive procurement of Default Service supply and Alternative Energy Credits (“AECs”) during the DSP V Program Period; an implementation plan; a proposed rate design, including a Time-of-Use (“TOU”) rate option for Default Service during the DSP V Program Period; a proposal to modify the Company’s current Standard Offer Referral Program (“SOP”); a proposal to require Customer Assistance Program (“CAP”) customers to take Default Service; a proposal to establish an optional Renewable Rate Program; and a contingency plan for the DSP V Program.

4. Copies of a *pro forma* Default Service Request for Proposals Process and Rules (“Default Service RFP”), a *pro forma* Default Service Supply Master Agreement (“Default Service SMA”), a *pro forma* Block Energy Request for Proposals Process and Rules (“Block RFP”), a *pro forma* Block Energy Supply Master Agreement (“Block SMA”), a *pro forma* Alternative Energy Credit Request for Proposals Process and Rules (“AEC RFP”), and a *pro forma* Alternative Energy Credit Supply Master Agreement (“AEC SMA”) were included with the Petition.

5. The filing also contained *pro forma* tariff pages to implement rates under the DSP V Program and *pro forma* tariff pages for the proposed Renewable Rate Program. Pursuant to the Settlement, PPL Electric will extend its current default service procurement plan from June 1, 2021 through May 31, 2025.

6. Pursuant to the Settlement, the Company will reconcile 12 months of over/under collections over a 12-month period consistent with its other Section 1307 surcharges.

7. Pursuant to the Settlement, in the event the GSC-1 E-factor exceeds 10 percent of the Price-to-Compare for Small C&I GSC-1 customers, PPL Electric will consult with the OSBA regarding the causes for this variance and steps being taken to reduce GSC-1 variances.

8. Twenty percent of the Standard Offer Program (SOP) 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.

9. More than 50% 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. PPL Electric St. No. 4-R.

10. Nearly all (93%) residential customers who remained with their SOP EGS after the conclusion of their contract were paying at or above the Price to Compare (PTC) in the first month after their SOP contract expired, and over 50% of those customers were paying at least 25% over the PTC. PPL Electric St. No. 4-R, p. 12.

11. 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.

12. The supplier prices identified in PPL Electric's analysis of charges to customers based on negative option renewals of SOP contracts are not justified since those prices are far in excess of the PTC and far in excess of prices advertised on PaPowerSwitch. OCA St. No. 2, p. 15.

13. The PTC is an appropriate measure of whether the current SOP design is successful.

DISCUSSION

The Commission's policy is to encourage settlements. The Commission has stated that settlement rates are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code §§ 5.231, 69.401. However, the Commission must review proposed settlements to determine whether the terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, M-00031768 (Order entered January 7, 2004); *Pa. Pub. Util. Comm'n v. CS Water and Sewer Assocs.*, 74 Pa. PUC 767 (1991); *Warner v. GTE North, Inc.*, C-00902815 (Opinion and Order entered April 1, 1996). 52 Pa. Code § 69.1201.

The requirements for a Default Service plan appear in Section 2807 of the Public Utility Code. 66 Pa.C.S. § 2807.³ Also applicable are the Commission's Default Service Regulations, 52 Pa. Code §§ 54.181-54.189, and a Policy Statement addressing Default Service plans, 52 Pa. Code §§ 69.1802-69.1817. Finally, the Commission has directed EDCs to consider incorporating certain program changes into their Default Service plans in order to foster a more robust retail competitive market. *See Proposed Policy Statement Regarding Default Service and Retail Electric Markets*, Docket No. M-2009-2140580, 2011 Pa. PUC LEXIS 65 (Final Policy Statement entered Sept. 23, 2011) (hereinafter "*DSP Policy Statement*"); *Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952, 2013 Pa. PUC LEXIS 306; 303 P.U.R.4th 28 (Final Order entered Feb. 15, 2013) (hereinafter "*End State Order*").

³ These requirements include that the Default Service provider follow a Commission-approved competitive procurement plan; that the competitive procurement plan include auctions, requests for proposal, and/or bilateral agreements; that the plan include a prudent mix of spot market purchases, short-term contracts, and long-term purchase contracts designed to ensure adequate and reliable service at the least cost to customers over time; and that the Default Service provider shall offer a TOU program for customers who have smart meter technology. 66 Pa.C.S. §§ 2807(e), (f).

For the following reasons, I find the proposed Joint Partial Settlement to be in the public interest and recommend that it be approved without modification.

A. Partial Settlement

I find that PPL's DSP V Program Partial Settlement, is in the public interest because it includes and/or addresses all of the elements prescribed by Section 2807 of the Public Utility Code, the Commission's regulations, and the Commission's policies for a Default Service plan.

Pursuant to Section 2807(e)(3.1) of the Public Utility Code, a Default Service provider shall provide Default Service pursuant to a Commission-approved competitive procurement plan that includes auctions, RFPs, and/or bilateral agreements. 66 Pa.C.S. § 2807(e)(3.1). Under the proposed DSP V Program, PPL Electric will acquire the Residential and Small Commercial and Industrial (Small "C&I") Customer Class default service supply through a series of 6- and 12-month fixed-price, load-following, full-requirements supply contracts. (PPL Electric Statement No. 1, pp. 14, 18-20). PPL Electric will also procure 100 MWs for Block Energy supply through staggered 5-year contracts to be used in serving the Residential customer class. (PPL Electric Statement No. 1, p. 14). For the Large Commercial and Industrial ("Large C&I") Customer Class, PPL Electric will enter into annual contracts with suppliers for the provision of the default service spot market full-requirements supply. (PPL Electric Statement No. 1, p. 24).

The Company will obtain its default service supply needs through transparent competitive solicitations, with all qualified wholesale suppliers being eligible to participate. PPL Electric will implement the DSP V Program by holding solicitations pursuant to a series of RFPs to obtain the default service products from competitive wholesale generation suppliers. Separate bids will be solicited for the Residential, Small C&I, and Large C&I Customer Classes. (PPL Electric Statement No. 1, p. 9).

Section 2807(e)(3.2) of the Public Utility Code provides that electric power procured by a Default Service provider shall include a prudent mix of spot market purchases, short-term contracts, and long-term purchase contracts. 66 Pa.C.S. § 2807(e)(3.2). PPL Electric's proposed DSP V plan consists of a prudent mix of products that include spot market purchases, short-term contracts, and long-term purchase contracts. For both the Residential and Small C&I Customer Classes, PPL Electric's DSP V Program proposes to use fixed-price, full-requirements, load-following products with 6- and 12-month contract terms. (PPL Electric Statement No. 1, p. 48). In addition, the Company will procure a meaningful percentage (approximately 10.5%) of Residential supply through long-term block contracts. (PPL Electric Statement No. 1, p. 20). PPL Electric's DSP V Program also proposes to continue to obtain Default Service supply on a real-time hourly basis through the PJM spot market for Large C&I Customer Class. (PPL Electric Statement No. 1, p. 24). PPL Electric's DSP V Program will include spot market purchases, short-term contracts, and long-term purchase contracts. Thus, PPL Electric's DSP V Program as a whole contains a prudent mix of products as required by Section 2807(e)(3.2) of the Public Utility Code. Based upon a review of these products, PPL Electric's independent, outside expert concluded that PPL Electric's DSP V Program procurements are consistent with the "prudent mix" requirement. (PPL Electric Statement No. 2, p. 28).

Consistent with the requirements of 66 Pa.C.S. § 2807(e)(3.4), PPL Electric's DSP V Program will provide adequate and reliable service to customers. Default Service supply will be procured primarily through load-following, full requirements contracts. These products obligate a wholesale electricity supplier to provide a fixed percentage (referred to as a "tranche") of PPL Electric's default service hourly load during every hour of a product's term. By assuming this obligation, wholesale suppliers are responsible for managing the acquisition of energy, capacity, transmission (other than defined non-market based transmission services), ancillary services, and any other related products (exclusive of AECs and net of transmission and distribution losses) to meet Default Service customers' hourly load. (PPL Electric Statement No. 2, p. 4). These contracts will ensure that PPL Electric will be able to provide sufficient and reliable Default Service to customers.

Pursuant to Section 2807(e)(3.4) of the Public Utility Code, Default Service providers are to obtain Default Service supply at the “least cost to customers over time.” 66 Pa.C.S. § 2807(e)(3.4). The fixed-price, load-following supply for Residential and Small C&I Default Service customers will be procured through widely advertised, well-defined solicitations where the overarching objective is to seek out the lowest-cost suppliers. By obtaining the Residential and Small C&I Default Service supplies through competitive solicitations in the form of an auction, PPL Electric is able to obtain default supplies at the lowest possible cost for the product being procured. (PPL Electric Statement No. 2, p. 33). Wholesale competition among suppliers of the spot market-priced product will ensure that PPL Electric provides default service for Large C&I customers at the lowest possible cost available at the time. (PPL Electric Statement No. 2, p. 21). Based upon a review of these products, PPL Electric’s independent, outside expert concluded that PPL Electric’s DSP V Program procurements are consistent with the “least cost to customers over time” requirement. (PPL Electric Statement No. 2, pp. 31-33).

Section 2807(f)(5) of the Public Utility Code provides that a Default Service provider shall offer TOU rates to all customers that have been provided smart meter technology. 66 Pa.C.S. § 2807(f)(5). The Company’s TOU rate option is addressed in the Partial Settlement as further explained below.

The Alternative Energy Portfolio Standards Act (“AEPS Act”), 73 P.S. §§ 1648.1 – 1648.8, and the Commission’s implementing regulations further require EDCs to obtain AECs in an amount equal to certain percentages of electric energy sold to retail customers in this Commonwealth. *See* 52 Pa. § Code 54.182. The Company proposal to procure AECs to meet its obligation under the AEPS Act is addressed in the Partial Settlement as further explained below.

The Commission’s Default Service Regulations require that a default service plan include copies of agreements or forms to be used in the procurement of electric generation supply for Default Service customers. *See* 52 Pa. Code § 54.185(e)(6). Copies of a Default Service Request for Proposals Process and Rules (“RFP”), Default Service Supply Master Agreement (“SMA”), Block Energy Request for Proposals Process and Rules (“Block RFP”), Block Energy Supply Master Agreement (“Block SMA”), Alternative Energy Credit Request for

Proposals Process and Rules (“AEC RFP”), and an Alternative Energy Credit Supply Master Agreement (“AEC SMA”) were included with the Petition as Attachments A through F, respectively. (PPL Electric Exhibit No. 1, Attachments A-F). PPL Electric’s Petition also contained *pro forma* tariff provisions for the Generation Supply Charge-1 (“GSC-1”), the Generation Supply Charge-2 (“GSC-2), and the Transmission Service Charge (“TSC”) to implement rates under the DSP V Program. (PPL Electric Exhibit No. 1, Attachment G), as well as *pro forma* tariff provisions for the proposed Renewable Rate Program (PPL Electric Exhibit No. 1, Attachment H).

Section 69.1807(8) of the Commission’s Default Service and Electric Retail Markets Statement of Policy provides that the competitive bid solicitation process should be monitored by an independent evaluator to achieve a fair and transparent process for each solicitation. 52 Pa. Code § 69.1807(8). The Default Service and Electric Retail Markets Statement of Policy also states that the independent evaluator should have expertise in the analysis of wholesale energy markets, including methods of energy procurement. *Id.* Consistent with these requirements, PPL Electric has retained NERA Economic Consulting as the independent third-party manager to administer each procurement, analyze the results of the solicitations for each customer class, select the supplier(s) that will provide services at the lowest cost and submit all necessary reports to the Commission. (PPL Electric Statement No. 1, p. 30).

The Commission’s Default Service Regulations require that a Default Service plan include contingency plans to ensure the reliable provision of default service if a wholesale generation supplier fails to meet its contractual obligations. *See* 52 Pa. Code § 54.185(e)(5). In this proceeding, PPL Electric proposed to continue the contingency plan from the DSP IV Program for previously offered products. (PPL Electric Statement No. 1, p. 58). PPL Electric will implement different contingency plans for block energy contracts and AEC contracts. (PPL Electric Statement No. 1, pp. 59-60). For the block energy contracts, if the Commission rejects all bids for a given product, in any solicitation, or if there are not at least two wholesale suppliers submitting offers for the block energy tranches, the Company will offer the unsuccessful block energy tranches during the next default service auction. The term of the block contract will remain at five years when rebid. Following the third unsuccessful auction for the block products,

PPL Electric will cease offering the block product and instead seek Commission guidance. For AEC contracts, the contingency plan includes two steps – first, procuring AECs necessary for compliance from brokers, and second, in the instance procurement from brokers is unsuccessful, PPL Electric will seek guidance from the Commission. (PPL Electric Statement No. 1, pp. 59-60).

The Commission’s Default Service Regulations require that a Default Service plan include a rate design plan recovering all reasonable costs of Default Service, including a schedule of rates, rules, and conditions of default service in the form of proposed revisions to its tariff. *See* 52 Pa. Code § 54.185(e)(3). The costs incurred by PPL Electric to provide Default Service to the Residential and Small C&I Customer Classes will be recovered through the Generation Supply Charge-1 (“GSC-1”), which is separately computed with respect to each Customer Class. Costs recovered in the GSC-1 will include, among other costs, those costs incurred under the various supplier contracts, AEC-only contract costs, and costs incurred to acquire the supply and administer the DSP V Program. (PPL Electric Statement No. 1, p. 23). The Partial Settlement addresses GSC-1 reconciliation and is discussed below. The costs incurred by PPL Electric to provide Default Service to the Large C&I Customer Class will be recovered through the Generation Supply Charge-2 (“GSC-2”). Costs recovered in the GSC-2 will include PJM spot market energy, PJM capacity charges, the suppliers’ charge for all other services based upon winning bids in the annual solicitation, the AEC-only contract charges allocated to the Large C&I class, and PPL Electric’s costs to acquire the supply and administer the DSP V Program. (PPL Electric Statement No. 1, p. 25)

The Commission’s Default Service Regulations require that a Default Service plan be consistent with the legal and technical requirements pertaining to the generation, sale and transmission of electricity of the RTO or other entity in whose control area the default service provider is providing service, and that the default service procurement plan’s period of service must align with the planning period of that RTO or other entity. *See* 52 Pa. Code § 54.185(e)(4). The Company will provide Default Service within the control area of PJM Interconnection, LLC (“PJM”), which is an RTO approved by the Federal Energy Regulatory Commission (“FERC”). PPL Electric’s DSP V Program is consistent with the legal and technical requirements pertaining

to the generation, sale, and transmission of electricity of PJM. (PPL Electric Statement No. 1, pp. 56-57). PPL Electric's DSP V Program aligns with the PJM's planning period, *i.e.*, begins June 1. (PPL Electric Statement No. 1, p. 57).

1. NITS

Network Integration Transmission Service ("NITS") charges are part of a broader group of charges defined within the PPL Electric Default Service SMA as Non-market-based Transmission Services ("NMB"). This group of charges includes: 1) NITS, 2) Transmission Service Credits, 3) Regional Transmission Expansion Plan ("RTEP"), 4) and Generation Deactivation Charges. Appendix C of PPL Electric's SMA ("DS Supply Specifications") specifically states that "the Company shall be responsible, at its sole cost and expense, for the costs of Non-market-based Transmission Services." These costs, as being defined within the SMA, cover default service load only. All other costs are the responsibility of each individual wholesale supplier. Additionally, all costs incurred by Retail Electric Generation Suppliers ("EGS") are the responsibility of the EGS. (PPL Electric Statement No. 1-R, p. 11).

In this proceeding, PPL Electric did not propose any changes to the responsibility for or the recovery of NMBs. PPL Electric proposed to continue assuming the responsibility for directly acquiring NMB services with respect to default service customers only. (PPL Electric Statement No. 1-R, p. 11) The EGS Parties, on the other hand, proposed that PPL Electric should treat NITS as it treats other NMBs and collect and remit them on behalf of all customers through a non-by passable charge. EGS Parties' Statement No. 1, p. 36. As PPL Electric explained, the EGS Parties' proposal is based on the incorrect premise that PPL Electric recovers some NMBs through a non-by passable charge. The Company does not recover any NMBs through a non-by passable charge. All NMBs for default service customers are recovered in the same way – through the TSC, as a component of the PTC. Retail suppliers are responsible for recovering NMBs associated with the customers who shop with them. (PPL Electric Statement No. 1-R, p. 14).

PPL Electric opposed the EGS Parties’ proposal, noting that the Commission has already rejected this proposal on two previous occasions – in the PPL Electric DSP II Plan⁴ and the PPL Electric DSP III Plan.⁵ In fact, in the DSP III Order, the Commission specifically noted that the approach taken by the Company in DSP III - assuming NMB responsibility for default service load only, whereas EGSs assume responsibility for NMBs of shopping load – was already approved by the Commission in PPL Electric’s DSP II Plan. Further, the Commission stated that “[i]n that proceeding, we rejected a similar proposal to that proffered by RESA in the instant proceeding to require PPL to assume responsibility for NMB costs related to both default service load and shopping load, and to recover those costs through a non-by passable charge. We find nothing on the record to indicate that there has been any significant change in circumstances surrounding PPL’s current approach with regard to these NMB costs since our prior approval of it in PPL DSP II.”⁶ The EGS Parties have presented no new reasons or changed circumstances why their proposal should be adopted in the DSP V and instead relied on the same arguments that were previously rejected by the Commission.

Further, there are many problems associated with its proposal to create a NITS non-by passable rider as explained in the rebuttal testimony of PPL Electric witness Rouland. *See* PPL Electric Statement No. 1-R, pp. 14-17. Primary among the problems with the EGS Parties’ proposal is the fact that it is inconsistent with the PJM rules which define Load Serving Entities (“LSE”) as follows: “A Load Serving Entity (LSE) is 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.”⁷ In PJM, all LSEs are charged market-based and NMB costs based on each LSE’s load share. PPL Electric bears the associated costs for default service customers and EGSs

⁴ Pennsylvania Public Utility Commission Opinion and Order on the PPL Electric Default Service Plan II issued January 24, 2013, at Docket No. P-2012-2302074 (DSP II Order).

⁵ Pennsylvania Public Utility Commission Opinion and Order on the PPL Electric Default Service Plan III issued January 15, 2015, at Docket No. P-2014-2417907 (DSP III Order).

⁶ DSP III Order, pp. 63-64.

⁷ *See* PJM Glossary of terms at: https://www.pjm.com/Glossary#index_L (last visited October 13, 2020).

bear the costs for those customers shopping with the EGS. (PPL Electric Statement No. 1-R, p. 15).

Calpine, an EGS, also opposed the EGS Parties' proposal. (Calpine Statement No. 1). According to Calpine, the EGS Parties' proposal would negatively impact competition by taking away the competitive efficiencies and discipline of the market. Under the EGS Parties' proposal, neither the LSE nor their customers would be incentivized to manage load because their obligation to pay for NITS would be based on the average demand experienced by PPL Electric. (Calpine Statement No. 1, p.4).

The Partial Settlement does not adopt the EGS Parties' proposal and provides that the EGS Parties' proposal for PPL Electric to create a non-by passable charge to recover NITS costs is withdrawn for purposes of this proceeding only. (Partial Settlement ¶ 20). By not adopting the EGS Parties' proposal, the Partial Settlement is consistent with the Commission's prior rulings on this subject. EGS's have other options, such as pass-through clauses, to recover transmission costs from customers. (PPL Electric Statement No. 1-R, p. 15). The Partial Settlement provision provides that the proposal is withdrawn for this proceeding only and preserves the EGS Parties' right to advance the proposal in future proceedings. This term is consistent with the Commission's prior directives on this issue, is in the public interest, and should be approved.

2. GSC-1 RECONCILIATION

PPL Electric did not propose any change in the reconciliation process currently used by the Company, which was approved by the Commission as a component of the DSP IV proceeding. The current process involves a reconciliation balance that is calculated over a six-month period and collected (or refunded) with interest, over the following six-month period, with a lag of approximately two months. (PPL Electric Statement No. 6-R, p. 6).

OCA witness Estomin proposed to modify the reconciliation process so that PPL Electric would use a 6-month reconciliation amortized over 12-months instead of being broken

down into two 6-month amortizations. The OCA's proposal is based on witness Estomin's belief that the current reconciliation process used by the Company leads to adjustments of a greater magnitude than those that would be produced using the OCA's approach. (OCA St. No. 1, pp. 19-20).

PPL Electric agreed with Mr. Estomin's assessment of the volatility associated with the current process, which is due primarily to the 2-month lag necessary when filing a rate with 30 days' notice. In a 6-month reconciliation period, one-third of that reconciliation relates to a prior rate period. One of those 2-month periods includes the time frame when PPL Electric typically compensates net metering customers (this occurs one time per year in May). In addition to the 2-month lag, another reason for the volatility is seasonality related to residential usage. (PPL Electric Statement No. 6-R, p. 7).

In rebuttal testimony, the Company agreed that a change in the reconciliation process would produce less volatility. Specifically, PPL Electric agreed with Mr. Estomin's proposal of amortizing the over/under collection over a 12-month period, rather than the current 6-month period with one modification. The Company proposed that the reconciliation should also be calculated for a 12-month period rather than a 6-month period. This is consistent with other PPL Electric rider mechanisms and is consistent with the GSC-1 Section 1307(e) Reconciliation Statement. (PPL Electric Statement No. 6-R, p. 8).

The Partial Settlement adopts the OCA's proposal as modified by PPL Electric. Specifically, the Company will reconcile 12 months of over/under collections over a 12-month period consistent with its other Section 1307 surcharges. (Partial Settlement ¶ 21). This Partial Settlement provision is in the public interest because it will reduce the volatility associated with PPL Electric's current reconciliation process. In addition, the Partial Settlement provides that in the event the GSC-1 E-factor exceeds 10 percent of the Price-to-Compare for Small C&I GSC-1 customers, the Company agrees to consult with the OSBA regarding the causes for this variance and steps being taken to reduce GSC-1 variances. (Partial Settlement ¶ 21) Taking steps to reduce these variances is in the best interest of customers.

3. RENEWABLE ENERGY RIDER

In its DSP V, PPL Electric proposed to offer a new rate program for default service customers. The intent of the rate was to provide a voluntary renewable energy option for customers who receive default service. Mr. Rouland fully explained the proposed Renewable Energy Rate Program in his direct testimony. *See* PPL Electric Statement No. 1, pp. 72-78.

I&E, CAUSE-PA and OCA all offered support for the Company's proposed Renewable Energy Rate Program; however, each party provided recommended adjustments to the program. (I&E Statement No. 1, pp. 6-7; CAUSE-PA Statement No. 1, p. 22; OCA Statement No. 1, p. 18).

Three parties, OSBA, SEF and the EGS Parties, recommended that the Renewable Energy Rate Program be rejected. In SEF's view, the renewable energy market is already vibrant and therefore does not need any intervention by PPL Electric. (SEF Statement No. 1, pp. 6-7). OSBA also recommended against PPL Electric's proposal based on a perceived lack of customer demand that is not already being met by the EGS community. (OSBA Statement No. 1, p. 17). The EGS Parties contended that there is no legal support for the proposal and that the retail market already provides similar offers to customers. (EGS Parties' Statement No 1, p. 23).

PPL Electric has agreed to withdraw its proposed Renewable Energy Rider without prejudice to future re-filing in a default service docket either as part of a new plan or an amendment to an existing plan. (Partial Settlement ¶ 21). This Partial Settlement term reflects a compromise of the parties' positions in that it recognizes the Renewable Energy Rider will not be implemented in the DSP V, but may be proposed in a future default service proceeding in which all interested parties, including EGSs, would have an opportunity to evaluate and comment on the proposal. This Partial Settlement term is in the public interest and should be approved.

4. AEC AUCTION

To fulfill PPL Electric's obligations under the PA Alternative Energy Portfolio Standards ("AEPS") Act, PPL Electric proposed to procure AECs for all default service customer load through AEC-only contracts using a competitive auction process. (PPL Electric Statement No. 1, p. 13). PPL Electric's proposal is detailed in the direct testimony of Company witness Rouland. *See* PPL Electric Statement No. 1, pp. 30-36. PPL Electric believes that conducting AEC-only auctions will increase competition and achieve the least cost products for customers. The AEC auction process achieves increased competition through two fundamental actions: (1) separating the AECs from wholesale contracts, which allows this commodity to be separately auctioned and (2) using new contract terms associated solely with the AEC procurement process to improve supplier participation. A result of increased supplier participation and resulting competition is the opportunity for decrease prices, which results in lower rates for customers. (PPL Electric Statement No. 1, pp. 37-39). Increasing competition and thereby creating an opportunity for lower rates is the public interest.

Many parties either did not comment on the AEC Auction or supported the Company's approach with minor modifications or reporting requirement recommendations. OCA witness Mr. Estomin supported PPL Electric's AEC auction, stating "I expect that the prices associated with the wholesale power supply combined with the prices obtained for the AEC procurements would result in lower overall aggregate prices." (OCA Statement No. 1, p. 13). I&E witness Mr. Keller stated that he does not oppose the procurement of AECs through an AEC-only auction, but recommended that the Company implement the program as a pilot and that the Company report on the results in the next DSP. (I&E Statement No. 1, p. 4). Similarly, SEF witness Mr. Costlow did not object to PPL Electric's approach to procure AECs through an AEC-only auction; however, he recommended PPL Corporation subsidiaries be excluded from the AEC Auction and recommended a modification to the product mix in the form of a solar set aside. (SEF Statement No. 1, p. 7). The only party to object to the implementation of the Company's AEC Auction was OSBA witness Knecht, who recommended the AEC Auction be rejected unless the Company includes EGS AECs in the auction. (OSBA Statement No. 1, pp. 12-13).

In rebuttal testimony, PPL Electric witness Rouland explained why PPL Corporation subsidiaries should not be excluded from the AEC auction. First, based upon the rules set forth in the PPL Electric Default Service, Block Energy, and AEC RFP Process and Rules, it is illegal for any PPL Electric subsidiary to circumvent the auction process and gain non-public information to participate in either the basic default service auctions or AEC Auctions. Second, an affiliate would not have access to non-public information because PPL Electric specifically utilizes a third-party auction manager to manage supplier communications and supplier bids and conduct the supplier bid selection process based upon the least cost offering. PPL Electric has no involvement in these processes. (PPL Electric Statement No. 1-R, p. 24).

Mr. Rouland also expressed the Company's disagreement with SEF's solar set aside proposal. The proposal did not take into account the high costs and extended time required to obtain such AECs. In addition, Mr. Rouland explained PPL Electric's concerns that the solar set aside is overly complex, cumbersome, and is predicated upon an assumption that customers create AECs through PJM, that they are willing to sell them, and will engage with PPL Electric in a significant way to meet the targets set by SEF. In sum, PPL Electric concluded that there was not enough analysis to support the proposal. (PPL Electric Statement No. 1-R, pp. 27-29). Mr. Rouland also explained the Company's disagreement with OSBA's recommendation to allow EGSs to opt-in to the Company AEC Procurements. (*See* PPL Electric Statement No. 1-R, pp. 31-34).

The Partial Settlement provides that PPL Electric will operate the AEC Auction as a pilot program for the DSP V program period; provided, however, this proposal is contingent on full recovery of all costs of the program through the GSC-1 rate. Full-cost recovery in the GSC-1 rate will be subject to the determination that the costs are prudent and reasonable in the filing(s) in which PPL proposes recovery. (Partial Settlement ¶ 23). In addition, the Company has agreed to provide a summary report on each AEC Auction conducted throughout DSP V in its next DSP filing. This report will include forecast and actual AECs procured by customer group and Tier type; average pricing information by Tier type, customer group by period;

number of customers by customer group; and reconciliation details by customer group. (Partial Settlement ¶ 24).

Implementation of the pilot program as provided for in the Partial Settlement is in the public interest because it will allow parties an opportunity to test the program on a pilot basis to determine if the program should be implemented on a permanent basis in the future. In addition, PPL Electric has committed to providing information needed to evaluate the program in its next DSP filing. This information will allow PPL Electric and interested parties to determine if AEC auctions should continue and if any adjustments need to be made. The Partial Settlement terms pertaining to PPL Electric's AEC auction proposal are in the public interest and I recommend they be approved.

5. STANDARD OFFER PROGRAM

The Parties were able to resolve one issue with respect to the Standard Offer Program ("SOP") in the Partial Settlement. The settled issue pertains to the use of scripts versus guidelines in PPL Electric's and the third-party administrator's communications with customers. Other matters pertaining to the SOP have been reserved for litigation and are addressed in the parties' main and reply briefs.

6. TOU ANALYSIS

Section 2807(f)(5) of the Public Utility Code provides that a Default Service provider shall offer TOU rates to all customers that have been provided smart meter technology. 66 Pa.C.S. § 2807(f)(5). In this proceeding, PPL Electric sought to maintain many elements of the currently effective TOU Program, including customer eligibility, seasonality, on-peak and off-peak hours, multipliers, and maintaining a webpage dedicated to the TOU Program. The Company proposed to make the following three changes to the TOU Program: (1) implement the TOU contingency plan employed under the DSP IV Program as the new primary plan in the DSP V Program (thereby eliminating the TOU auction and instead employing the DSP IV's TOU contingency plan calculation methodology); (2) change the release of the TOU rates to be in

conjunction with the issuance of the PTC, 30 days in advance of the TOU and PTC rates going into effect; and (3) remove TOU eligibility from a small subset of grandfathered water heating customers based upon their complex configuration. (PPL Electric Statement No. 1, pp. 64-65).

Two parties, OSBA and CAUSE-PA, offered comments with respect to PPL Electric's TOU proposal. While generally supportive of PPL Electric's TOU proposal, OSBA witness Mr. Knecht recommended that the Company evaluate the key parameters for TOU rates, in particular with respect to on-peak hours and the off-peak percentage discount, in its next default service proceeding. (OSBA Statement No. 1, pp. 13-15) PPL Electric concurred with Mr. Knecht's suggestion and agreed to provide the requested analysis as part of its next default service proceeding. (PPL Electric Statement No. 1-R, p. 35).

To address OSBA's recommendation and as part of the Partial Settlement, PPL Electric agreed to perform additional analysis and reporting on the TOU program in its next DSP proceeding. Such analysis will include evaluation of the PPL Electric Residual Aggregation Point Locational Margin Prices (LMP) for the preceding two calendar years, and residential and small commercial and industrial customer load, by hour, for the preceding two calendar years. The analysis will focus on evaluating the appropriate on-peak hours for the next DSP TOU program. (Partial Settlement ¶ 27). The Partial Settlement term providing for PPL Electric to conduct additional analysis is in the public interest because the analysis will help PPL Electric and other interested parties effectively evaluate the Company's TOU Program as part of its next default service proceeding.

CAUSE-PA witness Geller supported excluding CAP customers from TOU but expressed concern regarding the potential risk of TOU to confirmed low-income customers and those with known medical usage. (CAUSE-PA Statement No. 1, pp. 20-21). PPL Electric witness Stumpf explained that low-income customer participation in the Company's TOU is small, and the Company already provides information needed to help customers make an informed decision regarding TOU. Therefore, customized confirmed low-income customer outreach and general communication is not warranted at this time. (PPL Electric Statement No. 3-R, pp. 10-11). PPL Electric agreed to include the following information on its website

regarding its time of use rate: (1) Time of Use rates may not be appropriate for customers that cannot change the time of day that they rely on electricity, such as those with medical devices that require electricity or customers who are home during peak hours; and (2) If you are a low-income customer, other programs and rate assistance may be available to help you to afford your bill. Contact PPL at [add phone number] for more information and to apply. (Partial Settlement ¶ 27). In addition, PPL Electric will evaluate the impacts of the Company's TOU rates on confirmed low-income customers as part of the annual report required by Act 129 of 2008. (Partial Settlement ¶ 28). I agree with PPL Electric that these Partial Settlement terms are aimed at protecting low-income customers and should be approved.

A diverse group of interested parties have reached an agreement that resolves nearly all of the issues in this case. Accordingly, it is in the public interest to recommend approval of the Joint Petition for Approval of Partial Settlement including all terms and conditions thereof without further modification.

The partial settlement in principle resolved all of the issues and concerns among the Parties, except the following three issues, which will be discussed below: (1) all SOP issues except for the use of guidelines and scripts in PPL Electric's and a third-party administrator's communications with customers;⁸ (2) all CAP SOP issues; (3) and the use of 1 coincident peak ("1 CP") versus a five coincident peak ("5 CP") methodology for calculating Network Service Peak Load ("NSPL"), a primary input to calculating charges for Network Integration Transmission Service, a FERC approved rate for wholesale interstate transmission service.

B. Remaining Disputed Issues

1. PPL's Standard Officer Program

PPL Electric has proposed several changes to its Standard Offer Program ("SOP"), primarily to address the concern that a meaningful number of customers fail to take

⁸ As first established in the Company's DSP II proceeding, the Company uses a third-party to provide details of the SOP program and to enroll customers who elect SOP. PPL Electric Statement No. 4, p. 4.

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”). PPL MB 11-25. 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.

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.

The EGS Parties and Starion oppose both of PPL Electric’s SOP proposals by arguing it would be “slamming” to allow interference of the EDC with their contractual arrangement with the CAP SOP customers, and they 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.

Disposition

I find 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. More than 50% 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. Nearly all (93%) 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. PPL MB at

15-16. 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. I find credible OCA Witness Alexander, who testified:

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.

I recommend PPL Electric be given leave to end CAP SOP as it is unreasonable to require the default service provider to sponsor a program that provides an initial 7% discount under the PTC, but then allows the vulnerable CAP customers 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 there is evidence that customers receive notices from their EGS prior to the end of their contract term, it is apparent from the credible testimony of PPL Electric's witness Schmidt that these notices are being missed or misunderstood. PPL Electric St. No. 4-R, p. 6.

I am unpersuaded by the EGS Parties' and Starion's arguments that the current structure of the SOP is "well designed," "successful," and is providing a "fair opportunity" for shopping. EGS Parties MB, p. 4; Starion MB pp. 1, 2, 12. PPL is handling numerous complaints from thousands of customers unknowingly being rolled into new contracts with rates well above the PTC, and this is substantial evidence that the program is not well-designed or successful.

The PTC is an appropriate measure of whether the current SOP design is successful. I am not persuaded by the EGS Parties' argument 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. 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 Commission has recently rejected a very similar proposal to allocate these categories of distribution costs to the PTC. *See Pa. Pub. Util. Comm'n v. PECO Energy Company – Electric Division*, Docket No. R- 2018-3000164, p. 74 (Opinion and Order entered December 20, 2018). This decision was recently affirmed by the Commonwealth Court in the case of *NRG Energy, Inc. v. Pa. Pub. Util. Comm'n*, 233 A.3d 936 (Pa. Cmwlth. 2020).

Additionally, I am not persuaded by the EGS Parties' argument 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.

There is nothing in the *Final Work Plan Order* precluding PPL Electric from proposing, or the Commission amending the SOP design. 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 jurisdictional authority to change, or even eliminate, the SOP at any time. 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.

The Commission has authority to amend its prior Opinion and Orders. In PPL Electric's DSP IV proceeding, the Commission approved changes to CAP shopping rules were justified by the evidence. *Petition of PPL Electric Utilities Corporation*, Docket No. P-2016-2526627, p. 53 (Order entered October 27, 2016).

I disagree with EGS Parties and Starion that PPL Electric's proposal would illegally regulate EGS prices or constitute "slamming." Starion MB pp. 12-16. 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 versus 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.

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, then they will be returned to default service. There is no bar to EGSs continuing to offer those prices in the future. PPL Electric's proposal does not constitute regulation of EGS pricing or slamming, which generally 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 is not slamming. Finally, I fail to see how PPL Electric's proposal to modify the end of term SOP procedures are anti-competitive or discriminatory. Starion MB pp. 19-25.

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 consistently explained, the Company's interest is in active, informed shopping customers, to avoid customer complaints that the Company's program is poorly structured.

Starion cites to *Mid-Atlantic Power Supply Ass'n v. Pa. Pub. Util. Comm'n*, 755 A.2d 723 (Pa. Cmwlth. 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 may be distinguished and is non-controlling on this instant case.

PPL Electric's proposals are neither designed nor 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.

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. 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.

MAPSA 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*. I am persuaded by the Testimony of PPL’s witness Michelle LaWall-Schmidt:

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.

2. CAP Shopping

According to the EGS Parties, PPL Electric’s proposal violates the Choice Act by prohibiting customers from exercising their ability to shop.⁹ EGS Parties’ MB, p. 4. Conversely, PPL Electric contends that its 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.

⁹ 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.

Disposition

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. The Commonwealth Court held in *Coalition for Affordable Util. Servs. & Energy Efficiency in Pa. v. Pa. Pub. Util. Comm'n*, 120 A.3d 1087 (Pa. Cmwlth. 2015), *app. den.*, 136 A.3d 982 (Pa. 2016) (*Coalition*), that the Commission has the 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 CAP benefits.

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). The Commonwealth Court in *Coalition* held in pertinent part:

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).

Coalition, 120 A.3d at 1104, 1107 (internal citation omitted).

Therefore, 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,” *Id.* at 1103, provided the

Commission's CAP shopping decision is supported by substantial evidence of record. If 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.*

I have weighed PPL Electric's reasons for restricting CAP customers from shopping versus the arguments of EGS Parties and Starion, and find that PPL's proposal, which is supported by unrefuted statistical evidence regarding its CAP SOP, 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 preponderance of evidence shows significant financial harms 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.

I recommend the Commission approve PPL Electric's proposal to 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. 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.

3. 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.

Conversely, PPL Electric argues that 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. PPL Electric's 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.

Disposition

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.”¹⁰ 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.

I agree with PPL Electric that the Commission has no 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. The 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 R.R. Passenger Corp. v. PPL Elec. Utils. Corp. 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.

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 Va. Elec. and Power Co.*, 169 FERC ¶ 61,041 (2019) (“*Coincident Peak Order*”) and *PJM Interconnection, L.L.C. and Va. Elec. and Power Co.*, 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. NITS charges, the NPSL input into the NITS charge and the method used to calculate the NPSL are not under the Pennsylvania Public Utility Commission’s subject 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). FERC has exclusive jurisdiction over these issues.

¹⁰ *See* PJM Glossary of terms at: https://www.pjm.com/Glossary#index_L (last visited October 12, 2020).

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 Tel. Co. 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.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa.C.S. § 2801, *et seq.*, 52 Pa. Code §§ 54.181-54.189.
2. The default service provider has the burden of proof in this proceeding to establish that it is entitled to the relief it is seeking. 66 Pa.C.S. § 332(a).
3. The default service provider must establish its case by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. den.*, 602 A.2d 863 (Pa. 1992).
4. To meet their burden of proof, the default service provider must present evidence more convincing, by even the smallest amount, than that presented by any opposing party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).
5. A party that offers a proposal not included in the original filing bears the burden of proof for such proposal. *Pa. Pub. Util. Comm’n v. Metropolitan Edison Co.*, Docket No. R-00061366 (Opinion and Order entered Jan. 11, 2007).
6. All decisions of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

7. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); and *Murphy v. Pa. Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

8. PPL Electric is a default service provider as defined by the Public Utility Code and has an obligation to provide electric generation supply service. 66 Pa.C.S. § 2807(e).

9. The Electricity Generation Customer Choice and Competition Act mandates that customers have direct access to a competitive retail generation market based on the legislative finding that "competitive market forces are more effective than economic regulation in controlling the cost of generating electricity." 66 Pa.C.S. §§ 2802(3), (5).

10. Default service providers must provide electric generation supply service to all of their default service customers through a Commission-approved competitive procurement plan. 66 Pa.C.S. § 2807(e).

11. Electric power acquired by a default service provider shall be procured through competitive procurement processes and shall include one or more of the following: auctions, requests for proposal, and/or bilateral agreements entered into at the sole discretion of the default service provider. 66 Pa.C.S. § 2807(e)(3.1).

12. Electric power acquired by a default service provider shall include a prudent mix of spot market purchases, short-term contracts, and long-term purchase contracts. 66 Pa.Code § 2807(e)(3.2).

13. The prudent mix of contracts entered into by a default service provider shall be designed to ensure adequate and reliable service at the least cost to customers over time. 66 Pa.Code § 2807(e)(3.4).

14. The “prudent mix” standard references the total DSP portfolio of products not just the procurements available to each set of customers. *See, Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Default Service Programs*, Docket Nos. P-2011-2273650 (Order entered August 2, 2012).

15. The Commission “must exercise some balance and discretion under the circumstances of the case in order for the ‘mix’ in question to be ‘prudent.’” *Popowsky v. Pa. Pub. Util. Comm’n*, 71 A.3d 1112, 1117 (Pa. Cmwlth. 2013).

16. Electric distribution companies must consider the incorporation of certain market enhancement programs into their default service plans in order to foster a more robust retail competitive market. *Investigation of Pennsylvania’s Retail Electricity Market: End State Default Service*, Docket Number I-2011-2237952 (Order entered Feb. 15, 2013).

17. The benchmark for determining the acceptability of a settlement is whether the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. CS Water and Sewer Assocs.*, 74 Pa. PUC 767 (1991); *Warner v. GTE North, Inc.*, Docket No. C-00902815 (Opinion and Order entered April 1, 1996).

18. PPL Electric Utility Corporation’s Default Service Program V as modified by the Joint Petition for Partial Settlement, is in the public interest and complies with precedent; therefore, it should be approved without modification.

19. The CAP SOP should be ended and CAP customers should be required to receive default service at the Price to Compare.

20. PPL Electric’s customers should be returned to default service at the end of their Standard Offer Program contracts unless the customers affirmatively elect to continue service with the EGS or chose another EGS.

21. PPL is not be required to provide EGSs with the telephone numbers and e-mail addresses (if available) of SOP customers to the EGS serving the customer.

22. EGSs should be required to commit to a semi-annual SOP enrollment, which would correspond to the semi-annual PTC price change.

23. The Commission has no 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. *National R.R. Passenger Corp. v. PPL Elec. Utils. Corp. and PJM Interconnection, LLC*, FERC Docket No. EL18-78-000, 171 FERC ¶ 61,237 at P 34 (2020) (subject to reh’g.) (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)).

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Pennsylvania Public Utility Commission approve the proposals set forth in PPL Electric Utilities Corporation’s DSP V Program as modified by the Joint Petition for Approval of Partial Settlement filed on September 17, 2020 consistent with the body of this Recommended Decision.

2. That PPL Electric Utilities Corporation’s CAP Standard Offer Program be ended and CAP customers be required to receive default service at the Price to Compare.

