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FILE NO: 11616/02

August 28, 2009

Mr. James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Docket No. M-2009-2093216 – Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan**

Dear Mr. McNulty:

Enclosed herewith please find an original and three (3) copies of the “**Main Brief on Behalf of EnerNOC, Inc.**” in the above captioned proceeding. Please enter this into the docket and timestamp the additional five (5) copies. A copy of the Brief will also be served to the parties on the service list.

Should you have any questions, please do not hesitate to contact me at (717) 233-5731.

Sincerely,

RHOADS & SINON LLP

By:   
Scott H. DeBroff, Esq.

Enclosures

cc: Service List for Docket M-2009-2093216

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PPL ELECTRIC UTILITIES  
CORPORATION FOR APPROVAL OF ITS  
ENERGY EFFICIENCY AND  
CONSERVATION PLAN

DOCKET NO. M-2009-2093216

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**MAIN BRIEF ON BEHALF OF ENERNOC, INC.**

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**DATED: AUGUST 28, 2009**

**COUNSEL FOR ENERNOC, INC.**

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## I. INTRODUCTION

EnerNOC, Inc. ("EnerNOC"), a leading demand response ("DR") and energy management services provider throughout the United States, appreciates the opportunity to offer comments on PPL Electric Utilities Corporation's ("PPL" or "Company") Energy-efficiency and Conservation Plan ("EE&C Plan"). As discussed in more detail herein, EnerNOC supports several aspects of PPL's EE&C Plan, specifically regarding its Load Curtailment Plan for Large Commercial and Industrial ("C&I") customers.

EnerNOC currently manages over 3,150 MW of demand response resource capability from over 2,400 customers across 5,450 sites nationwide. As an active demand response provider across three Independent System Operators ("ISOs") or Regional Transmission Organizations ("RTOs") (*i.e.*, New York Independent System Operator, Inc., ISO New England, Inc., and PJM) and numerous states with various statutory and regulatory regimes, EnerNOC has a broad base of experience on which to draw and, as a result, has a unique perspective to offer in this proceeding. EnerNOC also has signed contracts with a variety of utilities to provide demand response services, including Southern California Edison, Pacific Gas & Electric, San Diego Gas & Electric, the Tennessee Valley Authority, Tampa Electric Company, Public Service Company of New Mexico, Xcel Energy (Colorado), Salt River Project, Idaho Power, Allegheny Power, Baltimore Gas and Electric, Delmarva Power and PEPCO.

EnerNOC's demand response activities are implemented via automated, aggregated, and intelligent management of end-user lighting, HVAC, distributed generation, and industrial process equipment. Every one of EnerNOC's thousands of sites is connected to its Network Operations Center (the "NOC" in EnerNOC) and communicates real-time load data over a secure Internet connection, allowing its operations staff to monitor and verify facility load reductions in

real time. This customer visibility allows EnerNOC to ensure that customers are delivering their contracted reductions and where they are not to take efforts to "coach" them, or to dispatch technicians to take corrective action. As a result, EnerNOC dispatched emergency demand response resources in its network over 100 times during 2008 and delivered performance that averaged over 100% during the year, based on nominated versus delivered capacity.

## **II. PROCEDURAL HISTORY**

Governor Rendell signed into law House Bill 2200, or Act 129 of 2008 ("Act 129" or "Act"), on October 15, 2008. Among other things, Act 129 expands the Pennsylvania Public Utility Commission's ("PUC" or "Commission") oversight responsibilities and sets forth new requirements on electric distribution companies ("EDCs") for energy conservation. With regard to energy efficiency and conservation, Act 129 requires EDCs to adopt a plan, approved by the Commission, to reduce electric consumption by at least 1% of its expected consumption for June 1, 2009, through May 31, 2010, and by at least 3% by May 31, 2010, adjusted for weather and extraordinary loads.<sup>1</sup> In addition, by May 31, 2013, peak demand is to be reduced by a minimum of 4.5% of the EDC's annual system peak demand in the 100 hours of highest demand,<sup>2</sup> measured against the EDC's peak demand during the period of June 1, 2007 through May 31, 2008.<sup>3</sup> Consistent with the Act's requirements, on July 1, 2009, all Pennsylvania EDCs filed with the Commission proposed energy efficiency and conservation plans ("EE&C Plan") that seek to meet the Act's energy efficiency and conservation requirements.

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<sup>1</sup> This one percent reduction is to be accomplished by May 31, 2011. *See* 66 Pa. C.S. § 2801.6(c)(1), (2).

<sup>2</sup> Consistent with the Commission's January 16, 2009, *Energy Efficiency and Conservation Plan Implementation Order* at Docket No. M-2008-2069887 (hereinafter "Implementation Order"), the Commission has adopted the use of 4.5% of the EDC's average of the 100 highest peak hours during the summer months of June, July, August and September in 2007. Implementation Order, p. 21.

<sup>3</sup> *See* 66 Pa C.S. § 2806.1(d)(1).

On January 16, 2009, the Commission issued an Implementation Order ("Implementation Order") establishing the substantive requirements for EDCs in preparing and submitting their EE&C Plans and outlining the process by which the Commission will consider and review the EE&C Plans. As articulated in the Implementation Order, the PUC review process is structured in a way that "balances the desire to provide all interested parties an opportunity to be heard, with the need to complete the process within the statutory time constraints."<sup>4</sup>

As required by the Implementation Order, on July 1, 2009, the Company submitted its EE&C Plan.

On August 3, 2009, EnerNOC filed a Petition to Intervene in this proceeding. On August 7, 2009, EnerNOC filed its initial comments in this proceeding. EnerNOC is an energy services provider operating throughout the United States, including the Commonwealth of Pennsylvania, and Canada. EnerNOC operates specifically in the Commonwealth of Pennsylvania as a Curtailment Service Provider ("CSP") within the footprint of PJM Interconnection, L.L.C. ("PJM").<sup>5</sup> As a PJM Curtailment Service Provider, EnerNOC provides commercial, industrial and institutional organizations with demand response and energy efficiency services. By letter issued July 2, 2009, the PUC also approved EnerNOC's Application to Register as a Conservation Service Provider.<sup>6</sup>

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<sup>4</sup> Implementation Order, p. 10.

<sup>5</sup> In this context, a Curtailment Service Provider refers to a PJM Member, "which action on or behalf of itself or one or more other Members or non-Members, participates in the PJM Interchange Energy Market by causing a reduction in demand." *See* PJM Operating Agreement, § 1.3.1B.02, *available at* [www.pjm.com](http://www.pjm.com).

<sup>6</sup> *See generally* Docket No. A-2009-2102368.

### **III. DESCRIPTION OF PPL'S PLAN**

The Company's EE&C Plan proposes to fulfill the requirements of Act 129 through the implementation of 14 energy efficiency and demand reduction programs for Residential, Low-Income, Small Commercial and Industrial ("C&I"), Large C&I and Governmental/Institutional customers.<sup>7</sup> Of these, the Companies have multiple targets for many of its programs, with nine programs targeted to Residential customers; five programs targeted to low-income customers; six programs targeted to Small C&I customers; seven programs targeted to Government and non-profit customers; and three programs targeted to Large C&I customers.<sup>8</sup>

Consistent with the procedural schedule for this proceeding, EnerNOC is submitting this Brief in order to address its positions and concerns regarding the Company's Petition.

### **IV. SUMMARY OF ARGUMENT**

As stated previously, EnerNOC supports several elements of the proposed PPL Load Curtailment Program and commends its focused and cost-effective nature. EnerNOC supports PPL's proposed target of 50 hours of dispatch each summer as a realistic and cost effective approach. EnerNOC also supports PPL's plan to coordinate with PJM's Demand Response programs. PPL also realizes the incentives that are required to contribute meaningfully towards the Act 129 goals. Notwithstanding the commendable aspects of the Curtailable Load Program,

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<sup>7</sup> See EE&C Plan, p. 1

<sup>8</sup> See *id.* at 28-32.

EnerNOC recommends that it would be more cost effect if PPL propose a plan that would have this program continue to run after the statutory deadline of May 31, 2013.

## V. ARGUMENT

### A. **Act 129's Conservation and Demand Reduction Requirements for Overall Conservation Requirements beyond the 2013 Requirements: EnerNOC Recommends That PPL's Proposed Plan For Its Load Curtailment Program should Continue on Past May 31, 2013.**

Each of the EDCs has proposed C&I DR plans that have one thing in common: they all end after the 2012/2013 delivery year. This completely distorts the legislative intent of requiring utilities to achieve a peak load reduction requirement in 2012/2013. The notion that the Legislature would then intend that the utility allow a successful peak load reduction to snap back in the following year is absurd. If that is what is allowed to occur here, the Governor and Legislators, indeed electric customers in the Commonwealth, will be justifiably outraged.

If the pre-Act 129 activities of DR providers are resumed, peak load will snap back to pre-Act 129 levels and the success of Act 129 and the large investments made into the Demand Response programs will be completely erased. Without certainty beyond 2012-2013, Pennsylvania customers will lose the program benefits that flow directly from the direct incentives to participants, specifically the impact of demand reductions on reducing capacity and energy prices.

It is important to consider the impact of certainty on both the cost of delivering C&I DR on an annual basis, and the ability to recruit providers. From a cost standpoint, recruiting and

enabling demand response providers requires up-front investment. To the extent that a CSP can amortize these costs over an extended contractual term, the annual incentives required are reduced, thus benefiting all stakeholders. Regarding the EDC's Act 129 requirements, the use of a 3 year program term versus a longer term will likely have the following significant impacts.

First, where prices will be determined through an RFP process, CSPs will likely require higher incentives for a 3 year (or shorter) contract term than for a 5 to 7 year term, for example. There are business decisions made by the CSP to invest time and resources in a program, and the utility commitment for a longer term makes a difference.

Second, where prices have been set through the Act 129 planning process, the capacity available to the EDC will be impacted by term length, with less capacity available for a 3 year (or shorter) term than for a 5 to 7 year contract.

From a Demand Response participant's perspective, length is also an important consideration. Particularly in EDC territories where participants can receive attractive PJM payments for participation in emergency-only programs, the desirability of providing 50 to 100 hours of dispatch will be weighed against the potential incentive stream over the life of a program. A participant must consider the impact of the business process changes required for 50 to 100 hours of dispatch, and weigh that impact against either 1-3 years of compensation, or weigh that impact against 5-7 years or more of compensation. The longer option (5-7 years or more of certain incentives) will deliver more providers, and therefore more capacity.

Furthermore, Act 129 states that the proposed cost-recovery tariff mechanism for the plans will only allow recovery of the “prudent and reasonable costs of the plan including administrative costs.” 66 Pa. C.S. §2806.1. EDCs in the Commonwealth are charged with making prudent investments. It would not be “prudent or reasonable” for the utility to invest money in a short term program that would eventually have to be expanded again at higher costs and ultimately result in greater expenses for the ratepayers. It would be prudent if the program was originally designed to go on for a longer initial period.

In regards to demand reduction, Act 129 indicates that as long as it is cost effective, the Commission can allow for continued reductions of peak demand:

By November 30, 2013, the Commission shall compare the total costs of energy efficiency and conservation plans and capacity costs to retail customers in this Commonwealth or other costs determined by the Commission. If the Commission determines that the benefits of the plans exceed the costs, the commission shall set additional incremental requirements for reduction in peak demand for the 100 hours of great demand or an alternative reduction approved by the Commission. Reductions from demand shall be measured from the Electric Distribution Company’s peak demand for the period from June 1, 2011 through May 31, 2012. The reduction in consumption required by the Commission shall be accomplished no later than May 31, 2017.

66 Pa. C.S. 2806.1.

It appears thus that the intent of the Legislature was to have the EDCs maintain their status quo while the potential for further reductions was assessed. Unlike energy efficiency investments, demand response programs will only work if the EDCs initiate an active role. It would be prudent and most beneficial to the ratepayers if the EDCs maintained the current demand response and peak load reductions during the time of the Commission review. If these

levels are not maintained, the EDCs will have to incur more costs to meet the new requirements beyond the 4.5% demand reduction goal for 2013.

Furthermore, other elements of the EE&C plan, like smart meters that work in conjunction with the Load Control Program will continue to be in service long after the May 31, 2013 deadline. Ultimately, PPL will be modernizing its entire infrastructure, like much of the rest of the country, in order to develop and support a Smart Grid. To achieve a Smart Grid, it will take a combination of programs and technology. Energy Efficiency Programs and Demand Response Programs work together in the same demand side management spectrum, and in conjunction with Smart Metering, which contributes the platform for measurement, verification and evaluation of such programs. With this Commonwealth's commitment to the deployment of advanced metering and the creation of a Smart Grid, there is every reason to infer that the Demand Response and Energy Efficiency programming once started, was meant to endure. It will be more cost effective to plan now for the continuation of a program that will be important to aid in these future reductions that the Commission may require.

Finally, it is important to note that most programs envision resources enrolled in both the EDC Act 129 program and PJM demand response programs. As the PJM Base Residual Actions (BRA) for 2013-2014 approaches, it is possible that CSPs will consider their ability to enroll those resources in Act 129 programs when determining capacity commitment levels. The absence of such an assurance will reduce the demand response capacity available for the 2013-2014 and subsequent BRAs, impacting prices in the PJM market to the detriment of Pennsylvania rate-payers.

The Commission should state its expectation that demand reductions achieved by the summer of 2012 will continue to persist for some reasonable period of time and certainly through its consideration of the second phase of Act 129. Second, it should provide the EDCs with assurances that prudently incurred costs for demand response not in excess of those expended in 2012, will be recoverable on a full and current basis until such time as the Commission determines otherwise. By the same token, the Commission should make clear that imprudently incurred costs will not be recoverable.

We are encouraged by the law in this Commonwealth that recognizes the importance of a well-planned and effective Demand Response Program as a component of a well-planned and effective overall Act 129 implementation. We contend that the conservation of energy requires effective programming that lasts and we encourage this Commission to see the forest through the trees.

**B. Cost Issues: EnerNOC supports PPL's Cost Recovery Mechanism**

EnerNoc supports PPL's proposal to recover the costs of its EE&C Plan through an Energy Efficiency & Conservation Program Charge ("EEPC") that will be imposed under Section 1307 of the Public Utility Code and will be reconcilable and non-bypassable.

## C. CSP ISSUES

### 1. **EnerNOC Supports PPL's Proposed Target of 50 Hours of Dispatch Each Summer As a Realistic and Cost-Effective Approach.**

As stated previously in EnerNOC's initial comments, in its Load Curtailment Program for Large C&I customers, PPL proposes to utilize approximately 180 MW of participants averaging 50 hours of interruption each summer in order to achieve the peak load reduction target.<sup>9</sup> In EnerNOC's view, this element of PPL's proposal has two distinct advantages. First, the proposed parameter reflects a realistic assessment of the uncertainty associated with accurately predicting the top 100 peak load hours and obtaining capacity related to C&I load. By affording this reasonable "cushion," PPL and the curtailment service provider will be better positioned to assure that the hours dispatched occur within PPL's top 100 hours. Second, it is EnerNOC's experience across several markets that the cost to induce customer response, relative to the hours of response sought, is non-linear. In other words the cost of having 100 MW of customers respond for 100 hours will far exceed the cost of having 200 MW of customers respond for 50 hours. As a result, PPL's proposed program parameter is not only more likely to achieve Act 129's goals, but also serves as a cost-effective approach for doing so.

### 2. **PPL's Proposal To Coordinate with PJM Demand Response Programs Maximizes Value to PPL and Its Customers.**

In its EE&C Plan, PPL proposes to coordinate its Load Curtailment Program for Large C&I customers with PJM's demand response programs, including a marketing strategy to

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<sup>9</sup> See PPL EE&C Plan, at 148 n.65.

encourage customers to participate in these programs.<sup>10</sup> Leveraging this existing PJM infrastructure will maximize value to PPL and its customers by delivering reliable, cost-effective capacity through a proven, established program. Under this approach, sites already registered in the PJM Emergency Load Response Program may also be attracted to participate in the Load Curtailment Program in exchange for an incremental incentive, thereby increasing the opportunity for participation. Given the potential efficiencies to be gained by leveraging the PJM demand response program "infrastructure," EnerNOC supports PPL's plan in this important regard.

**3. PPL Appropriately Recognizes the Incentives Required To Contribute Meaningfully Toward Its Act 129 Goals.**

In its EE&C Plan, PPL appropriately recognizes the substantial incentives required to deliver sufficient levels of capacity to contribute meaningfully toward its Act 129 goals.<sup>11</sup> Based on EnerNOC's experience serving as a CSP in multiple markets, the incentives contemplated in PPL's Load Curtailment Program budget reflect realistic incentive requirements for the delivery of reliable capacity available for dispatch for 50 hours per year.<sup>12</sup> Accordingly, EnerNOC supports Commission approval of this component of PPL's EE&C Plan as instrumental to PPL achieving its statutory objectives.

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<sup>10</sup> *See id.* at 148 and 150.

<sup>11</sup> *See id.* at 19-21.

<sup>12</sup> *See id.* at 153 (Table 109).

## **VI. CONCLUSION**

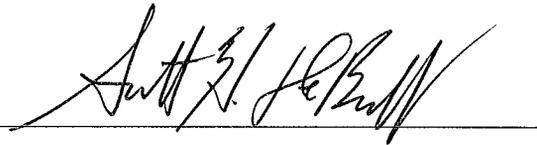
For all of the foregoing reasons as well as the reasons expressed in EnerNOC's initial comments, EnerNOC proposes that these changes be made to PPL's EE&C Plan.

**VII. PROPOSED ORDERING PARAGRAPHS**

IT IS ORDERED:

1. That PPL's Load Curtailment Program be structured in a way in which it can continue on successfully after the statutory deadline of May 31, 2009.

Respectfully submitted,

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**DATED: AUGUST 28, 2009**

**COUNSEL FOR ENERNOC, INC.**

**COMMONWEALTH OF PENNSYLVANIA  
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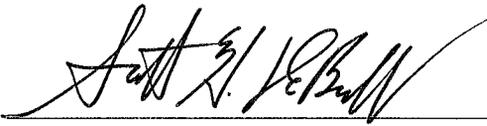
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**CERTIFICATE OF SERVICE**

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I hereby certify that I have served the foregoing document upon the parties, listed on the next page, in accordance with the requirements of §1.54 (relating to service by a party).

Dated: **August 28, 2009**

By: 

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