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November 10, 2010

VIA HAND DELIVERY

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RE: PPL Electric Utilities Corporation for Approval of Changes to its Act 129 Energy Efficiency and Conservation Plan; Docket No. M-2009-2093216

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") are the original and three (3) copies of the Prehearing Memorandum of the PP&L Industrial Customer Alliance ("PPLICA"), in the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp an extra copy of this transmittal letter and Prehearing Memorandum, and kindly return them for our filing purposes. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

Shelby A. Linton-Keddie

Counsel to the PP&L Industrial Customer Alliance

SLK

c: Certificate of Service
Administrative Law Judge Elizabeth H. Barnes (via Hand Delivery and E-mail)
Administrative Law Judge Dennis J. Buckley (via Hand Delivery and E-mail)

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :
For Approval of Changes to its Act 129 Energy : Docket No. M-2009-2093216
Efficiency and Conservation Plan :

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**PREHEARING MEMORANDUM OF THE
PP&L INDUSTRIAL CUSTOMER ALLIANCE**

As requested by Administrative Law Judges ("ALJs") Dennis J. Buckley and Elizabeth H. Barnes in the November 4, 2010, Prehearing Conference Order, the PP&L Industrial Customer Alliance ("PPLICA") hereby submits this Prehearing Conference Memorandum in the above-captioned proceeding.

I. HISTORY OF THE PROCEEDING

On July 1, 2009, PPL Electric Utilities Corporation ("PPL" or "Company") submitted a Petition for Approval of an Energy Efficiency and Conservation Plan ("EE&C Plan" or "Plan"), which was approved in part and rejected in part by Commission Order entered October 26, 2009.¹ As part of that Order, the Commission clearly stated that "[t]he General Assembly authorized the Commission, not the EDC, to make decisions in regard to modifying an approved Act 129 Plan."² Similarly, while the Commission encouraged "the use of a stakeholder process to consider the need for corrections to make mid-course corrections to [the Company's] cost recovery mechanism,"³ the Commission unambiguously ordered that it will "require PPL Electric Utilities Corporation to seek Commission approval of any mid-course changes to the Plan that it intends to make."⁴

¹ See 66 Pa. C.S. § 2806.1. Specifically, PPL's EE&C Plan outlines how the Company plans to meet consumption reduction requirements of 1% by May 31, 2011, and 3% by May 31, 2013, as well as a 4.5% reduction in annual system peak demand by May 31, 2013.

² October 26 Order at 92 (emphasis added).

³ *Id.* at 114.

⁴ *Id.* (emphasis added).

On June 24, 2010, and September 1, 2010, the Commission issued Secretarial Letters addressing the filing procedures for EDCs' Act 129 Annual Reports and proposed revisions. Specifically, the PUC's June 24, 2010, Secretarial Letter "directs that EDCs submit their 2010 Act 129 annual report and any proposed EE&C plan revisions by September 15, 2010."⁵ Additionally, the Commission explained its interpretation of its January 16, 2009, *Implementation Order*,⁶ regarding annual reports and plan modifications as follows:

As set forth in the *Implementation Order*, the annual report and any proposed EE&C plan revisions are to be served on the Office of Consumer Advocate, the Office of Small Business Advocate and the Office of Trial Staff. The Commission will post the annual reports and any proposed EE&C plan revisions on the Commission's EE&C program web page. Any interested party can make a recommendation for plan improvements or object to proposed EE&C plan revisions within 30 days of the filing of the annual reports and proposed EE&C plan revision filings. Interested parties will have 20 days to file replies to any recommendations for plan improvements or objections to plan revisions, after which the Commission will determine whether to rule on the recommended changes or refer the matter to an ALJ for hearings and a recommended decision.⁷

Purportedly in compliance with both the October 26, 2009, Order at Docket No. M-2009-2093216 and the Commission's two Secretarial Letters, on September 15, 2010, PPL submitted to the Commission a Petition that requested "approval for two modifications to its EE&C Plan: (1) a change to its Compact Fluorescent Lighting Program; and (2) a change to the classification of direct and common costs."⁸ Upon review of what it believed were the only two proposed modifications to the Company's EE&C Plan, and in accordance with the Commission's June 24, 2010, Secretarial Letter, PPLICA filed a letter with the Commission on October 15, 2010, encouraging the PUC to "vigilantly review all of the Company's proposed changes to its cost allocation method related to the classification of 'Direct Program Costs' and 'Common Costs,' as well as the resulting interclass cost

⁵ June 24, 2010, Secretarial Letter, Docket No. M-2008-2069887, at 1 (emphasis added).

⁶ *Implementation Order*, Docket No. M-2008-2069887, Order entered Jan. 16, 2009.

⁷ June 24, 2010 Secretarial Letter at 2 (emphasis added) (internal citations omitted).

⁸ *Petition of PPL Electric Utilities Corporation for Approval of Changes to its Act 129 Energy Efficiency and Conservation Plan* at 2 (Sept. 15, 2010).

shifting and rate impacts associated with these changes."⁹ In addition, by its letter, PPLICA reserved its right to file Reply Comments in response to other parties' Comments or recommendations to the Company's Plan and to participate fully in any hearings scheduled in this matter.¹⁰

Shortly thereafter, in preparation of the Company's October 20, 2010, Act 129 EE&C Stakeholder Meeting, on October 18, 2010, PPL circulated a presentation (attached to PPLICA's Comments submitted on October 19, 2010, as Exhibit A) that includes, among other things, PPL's explanation that the only two changes requiring PUC approval were filed with the Commission on September 15, 2010 (Slide 28) and lists more than 20 "minor changes to program implementation details" (Slides 31-39) that "include things such as the rebate amount, measure descriptions, add/delete a relatively minor measure within a program, and implementation dates for a measure/program." (Slide 32). Further, the Company specifically states that "the changes summarized in this appendix were not included in PPL Electric's Petition to modify its EE&C Plan because they: Do not impact the projected cost of a program; Do not impact the projected cost of the EE&C Plan; Do not reduce the projected savings of a program; Do not reduce the projected savings of the EE&C Plan; [and] Do not impact the cost allocation between customer classes." (Slide 32). Notably, other utilities have submitted proposed Plan revisions that meet these requirements.

Moreover, on Slide 39 (and referenced earlier on Slide 20), the Company indicates, in part, that "the projected peak load reductions in the Load Curtailment Program have increased from 100 MW to 150 MW based on bids from CSPs. These increased peak load reductions can be achieved within the original budget of this program, will provide more benefits to customers, and will provide more margin for compliance if other programs do not achieve their projected peak load reductions."

It is clear that all of the changes included in Appendix 1 have admittedly not been submitted for Commission approval in contravention of the October 26, 2009, Commission Order approving

⁹ PPLICA Letter re *PPL Electric Utilities Corporation for Approval of Changes to its Act 129 Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216, dated Oct. 15, 2010.

¹⁰ *Id.*

PPL's EE&C Plan and the June 24, 2010, Secretarial Letter outlining the process for submitting Plan revisions.

II. SERVICE LIST

PPLICA is represented in this matter by Pamela C. Polacek and Shelby A. Linton-Keddie. All correspondence, notices, documents, orders or other communications with respect to this proceeding should be addressed to Pamela C. Polacek at the following address:

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In addition, PPLICA requests that all parties add Shelby A. Linton-Keddie to any electronic mail service lists. The e-mail address for Ms. Linton-Keddie is skeddie@mwn.com.

III. ANTICIPATED ISSUES AND SUBISSUES

Since the submission of PPL's original EE&C Plan, PPLICA has been concerned with whether the Plan is in the public interest and whether the EE&C Plan and accompanying programs and amendments comport with Act 129, as well as all other applicable statutes, regulations and Commission orders. As indicated above and in PPLICA's Comments submitted on October 19, 2010, PPLICA is concerned not only about the Company's unilateral decision to submit only a portion of the changes to the EE&C Plan as part of the annual review process, which contravenes clear Commission directives and deprives parties of due process, but also is concerned about the effect that these modifications may have on PPL's Large Commercial and Industrial ("C&I") customers. PPLICA has issued discovery to PPL requesting an explanation of each of the changes to the EE&C Plan that were noted in the October 20 Stakeholder Presentation. PPLICA has also requested information regarding the cost of the additional 50MW demand reduction "cushion" that

PPL unilaterally decided to obtain as part of the Load Curtailment Program, what other programs the Company believes will underperform and projected adjustments to the program budgets for the underperforming measures. Accordingly, PPLICA anticipates pursuing issues related to the Company's proposed program costs, the allocation of those costs and PPL's cost recovery mechanism, as well as other issues attendant to PPL's Large C&I customers' interests. PPLICA reserves the right to raise further issues and to respond to issues raised by other parties.

IV. PROPOSED WITNESSES

PPLICA is still evaluating whether it will present any witnesses in this proceeding. If PPLICA determines that it will present such witnesses, PPLICA will inform the ALJs and the other parties as soon as possible. PPLICA intends to participate in this proceeding through the submission of discovery, cross-examination of other parties' witnesses, and the submission of briefs, exceptions and reply exceptions, if necessary.

V. PROPOSED SCHEDULE AND DISCOVERY RULES

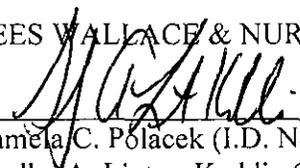
PPLICA will adhere to the schedule contained in the ALJs' Prehearing Conference Order and will cooperate with the ALJs and the parties at the Prehearing Conference to develop appropriate discovery rules in accordance with the Commission's regulations and any directives issued by the ALJs in this proceeding. Given the hearing date that has been established by the Commission, expedited discovery timeframes will be necessary.

VI. POSSIBILITY OF SETTLEMENT

PPLICA is willing to participate in discussions with the other parties to amicably resolve the issues in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Counsel to the PP&L Industrial Customer Alliance

Dated: November 10, 2010

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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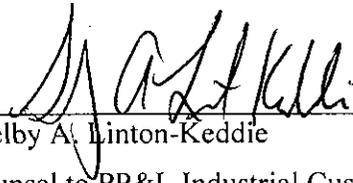
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Dated this 10th day of November, 2010, at Harrisburg, Pennsylvania.