



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Fax
www.postschell.com

Andrew S. Tubbs

atubbs@postschell.com
717-612-6057 Direct
717-731-1985 Fax
File #: 2507-140069

November 12, 2010

BY E-FILE

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

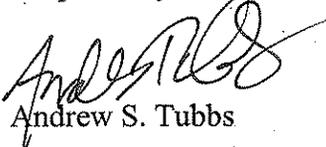
RE: Petition of PPL Electric Utilities Corporation for Approval of Changes to its Act 129 Energy Efficiency and Conservation Plan - Docket No. M-2009-2093216

Dear Secretary Chiavetta:

Enclosed is the original Answer of PPL Electric Utilities Corporation to the Amended Petition to Intervene of the Pennsylvania Communities Organizing for Change in the above-referenced proceeding.

Copies have been provided to the persons in the manner indicated on the certificate of service.

Respectfully Submitted,



Andrew S. Tubbs

AST/jl
Enclosures
cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

James A. Mullins
Tanya J. McCloskey
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
E-Mail: jmullins@paoca.org
E-Mail: tmccloskey@paoca.org

Allison Curtin Kaster
Office of Trial Staff
Commonwealth Keystone Building
400 North Street, 2nd Floor West
PO Box 3265
Harrisburg, PA 17105-3265
E-Mail: AKaster@state.pa.us

Sharon Webb
Office of Small Business Advocate
Commerce Building
300 North Second Street, Suite 1102
Harrisburg, PA 17101
E-Mail: swebb@state.pa.us

Thomas J. Sniscak
Kevin J. McKeon
Tori Giesler
Hawke McKeon & Sniscak LLP
100 North Tenth Street
PO Box 1778
Harrisburg, PA 17105
E-Mail: tjsniscak@hmsk-law.com
E-Mail: kjmckeon@hmslegal.com
E-Mail: tlgiesler@hmslegal.com
UGI Utilities, Inc. – Gas Division
UGI Penn Natural Gas, Inc. and
UGI Central Penn Gas, Inc.

Kurt E. Klapkowski
PA Department of Environmental Protection
400 Market Street, 9th Floor
Harrisburg, PA 17101-2301
E-Mail: kklapkowski@state.pa.us
PA Department of Environmental Protection

Craig R. Burgraff
Todd A. Stewart
Hawke, McKeon & Sniscak LLP
Harrisburg Energy Center
100 North Tenth Street
PO Box 1778
Harrisburg, PA 17105-1778
E-Mail: crburgraff@hmsk-law.com
E-Mail: TSSStewart@hmslegal.com
Sustainable Energy Fund for Central
Eastern PA

Pamela C. Polacek
Shelby A. Linton-Keddie
McNees, Wallace & Nurick
100 Pine Street
PO Box 1166
Harrisburg, PA 17108-1166
E-Mail: ppolacek@mwn.com
E-Mail: skeddie@mwn.com
PP&L Industrial Customer Alliance

Craig A. Doll
25 West Second Street
PO Box 403
Hummelstown, PA 17036
E-Mail: CDoll76342@aol.com
Richards Energy Group, Inc.

Daniel Clearfield
Kevin J. Moody
Carl R. Shultz
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
PO Box 1248
Harrisburg, PA 17108-1248
E-Mail: dclearfield@eckertseamans.com
E-Mail: kmoody@eckertseamans.com
E-Mail: cshultz@eckertseamans.com
Direct Energy Business, LLC

Mark C. Morrow
UGI Utilities, Inc.
460 North Gulph Road
King of Prussia, PA 19406
E-Mail: morrowm@ugicorp.com
*UGI Utilities, Inc. – Gas Division
UGI Penn Natural Gas, Inc. and
UGI Central Penn Gas, Inc.*

Kent D. Murphy
UGI Utilities, Inc.
460 North Gulph Road
King of Prussia, PA 19406
E-Mail: murphyke@ugicorp.com
*UGI Utilities, Inc. – Gas Division
UGI Penn Natural Gas, Inc. and
UGI Central Penn Gas, Inc.*

John K. Baillie
Citizens for Pennsylvania's Future
425 Sixth Avenue, Suite 2770
Pittsburgh, PA 15219
E-Mail: baillie@pennfuture.org
Citizens for Pennsylvania's Future

Frank Richards
Richards Energy Group
781 S. Chiques Road
Manheim, PA 17545
E-Mail: frichards@richardsenergy.com
Richards Energy Group, Inc.

Eric Joseph Epstein
4100 Hillsdale Road
Harrisburg, PA 17112
E-Mail: lechambon@comcast.net
Eric J. Epstein, Pro se

Carolyn Pengidore
President/CEO
ClearChoice Energy
1500 Oxford Drive, Suite 210
Bethel Park, PA 15102
E-Mail: Carolyn@ClearChoice-Energy.com
Comperio Energy d/b/a ClearChoice Energy

Harry S. Geller
Julie George
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414
E-Mail: hgellerpulp@palegalaid.net
E-Mail: jgeorgepulp@palegalaid.net
*Pennsylvania Communities Organizing for
Change*

Christopher A. Lewis
Christopher R. Sharp
Blank Rome, LLP
One Logan Square
Philadelphia, PA 19103
E-Mail: Lewis@blankrome.com
E-Mail: Sharp@blankrome.com
*Field Diagnostic Services, Inc.
Constellation New Energy*

Ruben S. Brown, M.A.L.D.
President, The E Cubed Company, LLC
1700 York Avenue
New York, NY 10128
E-Mail: ruben.brown.ecubed.llc@gmail.com
The E-Cubed Company, LLC

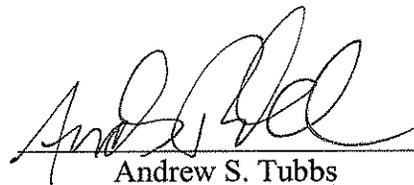
Kathleen M. Greely
Program Manager
PA Home Energy
Performance Systems Development
297 ½ Chestnut Street
Meadville, PA 16335
E-Mail: kgreely@psdconsulting.com
PA Home Energy

Steve Pincus
Assistant General Counsel
PJM Interconnection, LLC
955 Jefferson Avenue
Norristown, PA 19403
E-mail: pincus@pjm.com
PJM Interconnection, LLC

Peter J. Krajsa
Chairman and CEO
AFC First Financial Corporation
Great Bear Center at Brookside
1005 Brookside Road
PO Box 3558
Allentown, PA 18106
E-Mail: pkrajsa@afcfirst.com
*Keystone HELP Energy Efficiency Loan and
Rebate Program c/o AFC First Financial
Corporation*

Scott H. DeBroff
Alicia R. Duke
Rhoads & Sinon LLP
One South Market Square
12th Floor
PO Box 1146
Harrisburg, PA 17108-1146
E-Mail: sdebroyff@rhoads-sinon.com
E-Mail: aduke@rhoads-sinon.com
EnerNOC, Inc.

Date: November 12, 2010



Andrew S. Tubbs

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION
TO THE AMENDED PETITION TO INTERVENE OF
THE PENNSYLVANIA COMMUNITIES ORGANIZING FOR CHANGE**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to Section 5.66 of the Pennsylvania Public Utility Commission's ("Commission") regulations, 52 Pa. Code § 5.66, PPL Electric Utilities Corporation ("PPL Electric") hereby answers the Amended Petition to Intervene ("Amended Petition") of the Pennsylvania Communities Organizing for Change ("PCOC") in the above-captioned proceeding. By way of general response, PPL Electric objects to PCOC's intervention in this proceeding because it has failed to comply with the Commission's regulations regarding petitions to intervene and because it has failed to allege sufficient facts to support its standing to participate in this proceeding. *See* 52 Pa. Code §§ 5.71-5.74. In support of this Answer, PPL Electric states as follows:

1. No response is required to Paragraph No. 1, as the paragraph merely identifies PCOC's Petition to Intervene.
2. The averments of Paragraph No. 2 of the Amended Petition are admitted.
3. In response to Paragraph No. 3 of the Amended Petition, it is admitted that 66 Pa.C.S. § 2806.1(b)(i)(G), states in pertinent part that:

The [Energy Efficiency and Conservation Plans] shall include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines. The number of measures shall be proportionate

to those households' share of the total energy usage in the service territory.

4. In response to Paragraph No. 4 of the Amended Petition, it is admitted that the *Energy Efficiency and Conservation Program Implementation Order*, Docket No. M-2008-2069887, (Order Entered January 15, 2009), at p. 22 states that:

There are clear requirements in the Act regarding proportionate measures for low-income customers (within a residential customer class) as well as for governments, schools, etc. (within a commercial customer class). Beyond those requirements, we believe that EDCs should develop plans to achieve the most energy savings per expenditure.

5. The averments of Paragraph No. 5 of the Amended Petition are admitted.

6. The averments of Paragraph No. 6 of the Amended Petition are admitted in part and denied in part. PPL Electric admits that the Pennsylvania Association of Community Organizations for Change Now ("ACORN") filed, on October 18, 2010, a Petition to Withdraw in Docket No. M-2009-209321. The remaining averments of Paragraph No. 6 are denied. It is denied that ACORN was the only intervener in this proceeding representing low-income customers and that with ACORN's withdrawal low-income households would be without an active advocate in this proceeding. The Pennsylvania Office of Consumer Advocate intervened and has been active in this proceeding advocating on behalf of PPL Electric's residential customers, including low income residential customers.

7. The averments of Paragraph No. 7 of the Amended Petition are admitted.

8. The averments of Paragraph No. 8 of the Amended Petition are admitted.

9. The averments of Paragraph No. 9 of the Amended Petition are admitted in part and denied in part. It is admitted that PCOC is a non-profit domestic corporation operating and existing pursuant to the laws of the Commonwealth. After reasonable investigation, PPL Electric is without sufficient information as to the truth of the averment that PCOC is a

membership-based advocacy organization or that its application for 501(c)(4) status is pending and, therefore, denies the same.

Further, it should be noted that, after reasonable investigation, PPL Electric alleges that there is no corporate entity "Action United, Inc." Rather, it appears that "Action United" is a fictitious name registered with the Pennsylvania Department of State and is not a separate corporate entity. A true and correct copy of Pennsylvania Department of State Business Entity Filing for Action United is attached hereto as Appendix A. Also, it is not clear whether individuals or entities that become members are actually members of PCOC or Action United. Indeed, it is unclear from PCOC's membership enrollment/donation website whether the members are joining PCOC or Action United. A true and correct copy of the membership enrollment/donation page is attached hereto as Appendix B. In fact, it is not clear that individuals who enroll through the website even know whether or not they are becoming members of PCOC.

PPL Electric also denies that PCOC's mission is to advocate on behalf of low and lower income persons for the purpose of access to affordability of utility service. Rather, PCOC's mission statement provides that "Action United is a membership organization of low and moderate income Pennsylvanians working to build power through organizing communities to win changes on the issues that are important to them." A true and correct copy of the PCOC/Action United Mission Statement is attached hereto as Appendix C. It is therefore denied that PCOC represents exclusively the interests of low and lower income citizens. In addition, it does not appear that there is any income requirement for membership in PCOC. Indeed, it appears that anyone can join PCOC regardless of income. *See Appendix B.*

10. The averments of Paragraph No. 10 of the Amended Petition are admitted in part and denied in part. It is admitted that PCOC does not have an office within PPL Electric's service territory. The remainder of the averments set forth in Paragraph 10 of the Amended Petition are denied. PCOC has failed to sufficiently show that it has an adequate interest in this proceeding.

Pursuant to the Commission's regulations, a petition to intervene may be filed by a person claiming, *inter alia*, an interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding. *See* 52 Pa. Code § 5.72(a).¹ A petition to intervene must set out clearly and concisely, *inter alia*, the facts from which the alleged intervention right or interest can be determined, and the grounds of the proposed intervention. *See* 52 Pa. Code § 5.73(a).

From the representations made in the Amended Petition, PCOC has no interest, direct or otherwise, that can be affected by this proceeding in which it seeks to intervene. PCOC does not assert that it is a customer of PPL Electric, consequently, there is no factual basis on which PCOC can assert that its interests are or could be affected by the outcome of this proceeding. In the absence of such an interest, PCOC is not eligible to intervene in this proceeding. *See* 52 Pa. Code § 5.72(a). Therefore, because PCOC's Petition contains no statement of any interest, direct or otherwise, that could be affected by the outcome of this proceeding, the Petition does not comply with 52 Pa. Code § 5.73 and, on that basis alone, should be denied.

¹ The purpose of the requirement of standing is to protect against improper parties. In order to meet that requirement, a party must allege and prove an interest in the outcome of the action that surpasses the common interest of all citizens in procuring obedience to the law. To surpass the common interest, the interest is required to be, at least, substantial, direct, and immediate. *Application of Biester*, 487 Pa. 438, 442-443, 409 A.2d 848, 851 (1979) (*citing William Penn Parking Garage v. City of Pittsburgh*, 464 Pa. 168, 192, 346 A.2d 269, 281 (1975)).

To the extent that PCOC purports to obtain standing through its members that reside within PPL Electric's service territory and are customers of PPL Electric, the Amended Petition fails to comply with the requirements for representational standing. An association may have standing solely as a representative of its members. *Tripps Park v. Pa. PUC*, 415 A2d 967 (Pa. Cmwlth. 1980). However, to have representational standing before the Commission, the association must not only demonstrate an immediate direct and substantial interest or injury, it must also demonstrate either: (a) the representative will fairly and adequately represent those who have a sufficient interest, and that those entitled to complain are unable to adequately pursue their interests; or (b) there is a showing that the allowance of the representative's participation will aid the Commission in the development of facts necessary for a proper disposition of the proceedings. *Manufacturers Association of Erie v. The City of Erie-Bureau of Water*, Docket No. 20518, 50 Pa. PUC 43, 1976 Pa. PUC LEXIS 79 (1976). On the facts alleged, PCOC does not have representational standing to represent the interests of low income customers in PPL Electric's service territory. As explained above, it appears that anyone can join PCOC regardless of income, and that PCOC does not exclusively represent the interests of low income citizens. See Appendix B. Further, the Amended Petition fails to allege how PCOC's participation will aid the Commission in the development of the facts necessary in this proceeding.

Further, the Amended Petition fails to comply with the Commission's regulations regarding representational standing. Section 5.73(b) of the Commission's regulations provide that:

When circumstances warrant, petitions to intervene filed on behalf of more than one person may be required to list those persons and entities comprising the represented group.

52 Pa. Code § 5.73(b). Although PCOC has inserted a footnote into the Amended Petition indicating that four of its members are customers of PPL Electric, PCOC has failed to provide a

list of its members as required by the Commission's regulations.² Therefore, consistent with 52 Pa. Code § 5.73(b), to the extent that PCOC claims to represent more than one person it should be required to list those persons and entities comprising the represented group, confirm whether the members are members of PCOC or Action United, confirm whether its members are low income individuals and/or actually participate in the Universal Service and Energy Conservation programs at issue in this proceeding, and confirm that it is authorized to represent the interests of those individuals in this proceeding.

Moreover, the Amended Petition does not explain the relationship between Action United and PCOC. The verification appended to the Amended Petition is signed by the Executive Director of PCOC d/b/a Action United, Inc. However, as explained above, there is no corporate entity "Action United, Inc." and it is not clear whether individuals or entities that become members are actually members of PCOC or Action United. As such, it is unclear whether the members of PCOC/Action United have authorized PCOC to represent any interests they may have in this proceeding.

11. The averments of Paragraph No. 11 of the Amended Petition are denied. The averments of Paragraph 11 of the Amended Petition contain statements of PCOC's subjective intent in this proceeding. As such, they are not averments of facts, and therefore, no response is required. To the extent that a response is deemed necessary, PPL Electric denies the same.

By way of further response, it is denied that no other active party exclusively represents the interests of low-income customers. PCOC does not exclusively represent the interests of

² PPL Electric acknowledges that the four individuals referenced in footnote 2 of the Amended Petition are customers of PPL Electric. However, footnote 2 of the Amended Petition fails to satisfy the requirement that PCOC provide a list of its members and identify whether these members have a substantial, direct, and immediate interest that may be affected by this proceeding, or whether these members have authorized PCOC to represent any interests they may have in this proceeding.

low-income customers. Indeed, as noted above, PCOC's mission statement indicates that it is "a membership organization of both low and moderate income Pennsylvanians." See Appendix C. Further, it appears from the membership enrollment/donation website that any individual or entity may become a member of PCOC/Action United regardless of their economic status. See Appendix B. The Pennsylvania Office of Consumer Advocate intervened and has been active in this proceeding advocating on behalf of all PPL Electric's residential customers, including low-income residential customers. For these reasons, PCOC has failed to allege sufficient facts to support a finding that, absent PCOC's intervention, the interests of its purported members will not adequately be represented in this proceeding.

PPL Electric also denies that ACORN's withdrawal constitutes extraordinary circumstances. The withdrawal of ACORN does not affect the interests of the low or lower income PPL customers. Those customers are adequately represented by the Office of Consumer Advocate. PCOC does not assert that there is no representation of low or lower income customers, it simply alleges that no party is "exclusively advocating" on their behalf. PCOC has given no information to show that its intervention is necessary to prevent prejudice to low-income customers. The withdrawal of ACORN does not leave low-income customers unrepresented in these proceedings, and therefore cannot constitute extraordinary circumstances which would allow PCOC's belated intervention.

12. The averments of Paragraph No. 12 of the Amended Petition are statements of PCOC's subjective intent in this proceeding. As such, they are not averments of facts, and therefore, no response is required.

13. Paragraph No. 13 of the Amended Petition identifies PCOC's counsel in this proceeding, to which no response is required. To the extent a response is deemed necessary, PPL Electric denies the same.

WHEREFORE, PPL Electric Utilities Corporation objects to intervention of the Pennsylvania Communities Organizing for Change d/b/a Action United, Inc. in the above-referenced proceeding and, for the reasons explained above, respectfully requests that the Commission deny the Amended Petition to Intervene.

Respectfully submitted,



David B. MacGregor (ID #28804)
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
Phone: 215-587-1197
Fax: 215-320-4879
E-mail: dmacgregor@postschell.com

Paul E. Russell (ID #21643)
Associate General Counsel
PPL Services Corporation
Office of General Counsel
Two North Ninth Street
Allentown, PA 18106
Phone: 610-774-4254
Fax: 610-774-6726
E-mail: perussell@pplweb.com

Matthew J. Agen
Post & Schell, P.C.
607 14th Street N.W.
Washington, DC 20005-2006
Phone: 202-661-6952
Fax: 202-661-6953
E-mail: matthewagen@postschell.com

Andrew S. Tubbs (ID #80310)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-612-6057
Fax: 717-731-1985
E-mail: atubbs@postschell.com

Of Counsel:

Post & Schell, P.C.

Date: November 11, 2010

Attorneys for PPL Electric Utilities Corporation

VERIFICATION

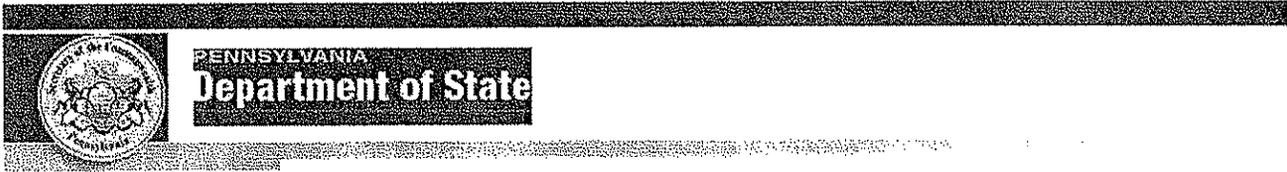
I, Joseph M. Kleha, being the Manager – Regulatory Compliance and Rates at PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that PPL Electric Utilities Corporation to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 11-12-10



Joseph M. Kleha

Appendix A



Corporations

[Online Services](#) | [Corporations](#) | [Forms](#) | [Contact Corporations](#) | [Business Services](#)

- Search
- By Business Name
- By Business Entity ID
- Verify
- Verify Certification
- Online Orders
- Register for Online Orders
- Order Good Standing
- Order Certified Documents
- Order Business List
- My Images
- Search for Images

Business Entity Filing History

Date: 11/8/2010 (Select the link above to view the Business Entity's Filing History)

Business Name History

Name	Name Type
Action United	Current Name

Fictitious Names - Domestic - Information

Entity Number: 3970067
Status: Active
Entity Creation Date: 7/26/2010
State of Business.: PA
Principal Place of Business: 846 North Broad Street
 Philadelphia PA 19130
Mailing Address: No Address

Owner Information

Owner(s) for: Action United

Owners

Name: Pennsylvania Communities Organizing for Change, Inc.
Mailing Address: 846 N Broad St
 Philadelphia PA 19130



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Commonwealth of PA Privacy Statement

Appendix B

Your Information

First Name*

Last Name*

Email*

Phone*

Cell Phone

Street*

Street 2

City*

State/Province*

Zip/Postal Code*

Organization

Donation Amount

By contributing on a recurring, monthly basis, your contribution goes further and allows us to focus more on organizing, and less on fund raising. However, to make a one time donation click here.

Please select your monthly membership level:

I want to make a recurring donation. (what's this?)

Every Month for Unlimited times

\$10 \$15
 \$20 \$25
 \$35 \$50
 \$65 \$80
 \$100
 other \$

This donation is...

in honor of *Keep blank if none*

Name

Email

Address

in memory of *Keep blank if none*

Name

Credit Card Information

Card Type:

Please enter your card number with no spaces or dashes.

Card Number:

Expires:

Security Code (What's this?)

Please click the submit button only once.

Action United *For the common good*

Appendix C

Mission Statement

Action United is a membership organization of low and moderate income Pennsylvanians working to build power through organizing communities to win changes on the issues that are important to them.

Action United *For the common good*