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File #: 2507/140069

March 31, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
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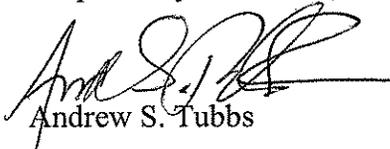
**RE: Petition of PPL Electric Utilities Corporation for Approval of Changes
to its Act 129 Energy Efficiency and Conservation Plan
Docket No. M-2009-2093216**

Dear Secretary Chiavetta:

Enclosed for filing are the Reply Comments of PPL Electric Utilities Corporation 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: Honorable Dennis J. Buckley
Honorable Elizabeth Barnes
Certificate of Service

CERTIFICATE OF SERVICE

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

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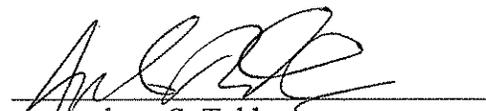
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Andrew S. Tubbs

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities
Corporation for Approval of Changes to its
Act 129 Energy Efficiency and
Conservation Plan

Docket No. M-2009-2093216

REPLY COMMENTS OF PPL ELECTRIC UTILITIES CORPORATION

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), by and through its attorneys, in accordance with the Pennsylvania Public Utility Commission’s (“Commission”) January 28, 2011 Opinion and Order at Docket No. M-2009-2093216 (“January 28, 2011 Order”), hereby submits these Reply Comments to the March 21, 2011 comments of the PP&L Industrial Customer Alliance (“PPLICA”) and the comments of the Sustainable Energy Fund of Central Eastern Pennsylvania (“SEF”) filed out of time on March 22, 2011. The Commission should reject the comments of PPLICA and SEF. In support thereof, PPL Electric states as follows:

I. BACKGROUND

PPL Electric filed its Act 129 Energy Efficiency and Conservation Plan (“EE&C Plan”) on July 1, 2009. The Commission approved PPL Electric’s EE&C Plan, with modifications, on October 26, 2009, in *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (Order Entered October 26, 2009) (“EE&C Order”).¹

On September 15, 2010, pursuant to Section 5.41 of the Commission’s Rules of Administrative Practice and Procedure, 52 Pa. Code § 5.41, and consistent with the

¹ The EE&C Plan was further revised by *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (Order Entered February 17, 2010).

Commission's annual reporting requirements in its June 24, 2010 Secretarial Letter at Docket No. M-2008-2069887, PPL Electric filed a petition requesting approval to modify its previously approved EE&C Plan. Consistent with PPL Electric's interpretation of the EE&C Order, there were two modifications to the EE&C Plan which it believed required Commission approval: (1) a change to its Compact Fluorescent Lighting Program ("CFL Program"); and (2) a change to the classification of certain direct and common costs. PPL Electric presented evidence in this proceeding that these two proposed modifications were reasonable and necessary, and no party presented any evidence to the contrary or argued that the Commission should not permit PPL Electric to implement these proposed changes.

In addition, consistent with the Commission's orders, the Company filed its Act 129 EE&C Program Year 1 Annual Report ("PY1 Annual Report"). The PY1 Annual Report, *inter alia*, provided a summary of other modifications to the EE&C Plan which the Company believed, based upon its interpretation of the EE&C Order, did not require Commission approval. In response to other parties' position that the other changes included in the PY1 Annual Report submitted to the Commission required Commission review and approval, PPL Electric submitted testimony supporting these additional changes.²

By order entered on January 28, 2011, the Commission approved the Company's proposed modifications identified in its September 15, 2010 petition. January 28, 2011 Order, pp. 11-13. Further, the Commission determined that the remaining modifications identified in the PY1 Annual Report and detailed in PPL Electric's testimony also require Commission approval. *See* January 28, 2011 Order, p. 19. However, the Commission deferred acting on these additional proposed modifications to the Company's EE&C Plan. Prior to acting on the

² *See* PPL Electric Statement No. 5, pp. 16-31 and Exhibit PDC-2. Exhibit PDC-2, appended to PPL Electric Statement No. 5, contains a black-line version of the EE&C Plan that incorporates the revisions submitted with the PY1 Annual Report.

other proposed modifications to the Company's EE&C Plan, the Commission stated it was "reluctant to approve plan changes that have not been fully integrated into a revised plan submitted to the Commission for review." January 28, 2011 Order, p. 20. Therefore, the Commission directed PPL Electric to "file, with the Commission and all Parties of record in this proceeding, a black-line version of its Energy Efficiency and Conservation Plan reflecting all proposed modifications to its Plan, as approved by this Commission up to the date of filing, within thirty (30) days of the entry of this Opinion and Order." January 28, 2011 Order, Ordering Paragraph No. 7.

Consistent with the Commission's January 28, 2011 Order, on February 28, 2011, PPL Electric submitted a petition and a black-line version of its EE&C Plan reflecting all proposed modifications to its plan, as approved by the Commission up to the date of the filing ("February 28, 2011 Petition"). Moreover, the black-line version also incorporated the modifications identified in the Company's PY1 Annual Report and supported by testimony entered into the record in this proceeding.

In the January 28, 2011, Order the Commission stated that interested parties could submit comments within twenty days of the date the black-line version of the EE&C Plan was submitted. The Commission also stated that reply comments could be submitted within ten days of the date that the comments were due. On March 21, 2011, PPLICA filed comments concerning PPL Electric's February 28, 2011 ("PPLICA Comments"). On March 22, 2011, SEF filed its comments out of time ("SEF Comments"). PPL Electric hereby addresses the issues raised by PPLICA and SEF.

II. REPLY OF PPL ELECTRIC

In its February 28, 2011 Petition, PPL Electric requested that the Commission approve multiple modifications to the EE&C Plan which were discussed in detail in the PY1 Annual

Report and the Company's testimony filed in this proceeding. Only one party that actively participated in this phase of the proceeding (*i.e.*, since September 15, 2010), PPLICA, filed comments addressing one of the proposed modifications. SEF, a party which was not active in any of phase of this proceeding, now requests, without any evidentiary support, that the Commission modify certain portions of PPL Electric's February 28, 2011 Petition. The Commission should approve, without modification, all of the changes to PPL Electric's EE&C Plan listed in the February 28, 2011 Petition. PPL Electric has provided unrefuted record evidence in support of the proposed modification. The arguments raised by PPLICA and SEF against the modifications should be rejected as both parties failed to support their arguments with any record evidence.

A. PPL Electric Satisfied Its Burden Of Proof Regarding The Need To Add 50 MW Of Load Reductions To The Load Curtailment Program

In its Comments, PPLICA incorrectly argues that PPL Electric failed to prove that increasing the load reductions in the Load Curtailment Program is necessary. PPLICA Comments, p. 5. PPL Electric successfully satisfied its burden of proof and this fact was confirmed by the Administrative Law Judges ("ALJs") in the Recommend Decision issued in this proceeding on December 17, 2010. *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216, Recommended Decision (December 17, 2010). In the Recommended Decision the ALJs concluded that "[t]here appears to be substantial evidence in the form of testimony from [PPL Electric Witness] Peter Cleff regarding the change to the Load Curtailment Program to support a finding that this modification should be approved." Recommended Decision, p. 13. In so finding, the ALJs rejected PPLICA's unsupported arguments against the PPL Electric's proposal to increase by 50 MWs the load reductions in the Load Curtailment Program.

Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. It is axiomatic that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. P.U.C.*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). The preponderance of evidence standard requires proof by a greater weight of the evidence. *Cmwlth. v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). This standard is satisfied by presenting evidence more convincing, by even the smallest amount, than that presented by another party. *Brown v. Cmwlth.*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008).

Additionally, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence. *Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm’n*, 942 A.2d 274, 281 (Pa. Cmwlth. 2008). Although substantial evidence must be “more than a scintilla and must do more than create a suspicion of the existence of the fact to be established,” *Kyu Son Yi v. State Bd. of Vet. Med.*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted), the “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.” *Allied Mechanical and Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

If the applicant sets forth a *prima facie* case, then the burden shifts to the opponent. *McDonald v. Pennsylvania Railroad Co.*, 348 Pa. 558, 36 A.2d 492 (1940). Establishing a *prima facie* case requires either evidence sufficient to make a finding of fact permissible or evidence to create a presumption against an opponent which, if not met, results in an obligatory decision for

the proponent. Once a *prima facie* case on a point has been established, if contrary evidence is not presented, there is no requirement that the applicant produce additional evidence in order to sustain its burden of proof. *District of Columbia's Appeal*, 343 Pa. 65, 21 A.2d 883 (1941). See, e.g., *Application of Pennsylvania Power & Light Co.*, Doc. Nos. A-110500F0196, et al.; 1994 Pa. PUC LEXIS 65 (Oct. 21 1994) (holding that the company met its burden to prove that there was an immediate need for the reinforcement of the power supply where the need for the project was uncontested and no party presented any evidence challenging the need for the project).

PPLICA argues that PPL Electric has not provided any “meaningful evidence, let alone substantial evidence” with regard to the necessity to add 50 MW to the Load Curtailment Program. In making this statement, however, PPLICA simply ignores the direct testimony served by PPL Electric and presented by PPL Electric’s witness Cleff at the hearing held on November 17, 2010. In pre-filed testimony and at the hearing, PPL Electric presented substantial evidence to support Commission approval of all of its requested modifications, including the change to the Load Curtailment Program.³ Indeed, the ALJs which presided over this proceeding analyzed the record evidence and determined that PPL Electric presented substantial evidence supporting the requested change to the Load Curtailment Program. Therefore, the Company set forth its *prima facie* case, then burden shifted to PPLICA as the opponent. PPLICA, however, presented no testimony to support its position, therefore, no evidence contrary to that presented by PPL Electric is in the record, and there is no requirement that PPL Electric produce additional evidence in order to sustain its burden of proof as advocated in PPLICA’s Comments.

³ See Direct Testimony of Mr. Peter D. Cleff, PPL Electric St. 5.

B. The Increase In The Projected Peak Load Reductions From 100 MW to 150 MW For The Load Curtailment Program Is Reasonable And Necessary

In its comments, PPLICA inaccurately asserts that PPL Electric failed to show a need for the additional 50 MW of peak load reduction in the Load Curtailment Program. PPLICA Comments, p. 5. The basis for PPLICA's assertion is that the Company's black-line EE&C Plan that accompanied its February 28, 2011 Petition did not reduce the Company's projected peak load reductions for the Time of Use ("TOU") Program or any other program. PPLICA asserts that because PPL Electric has not reduced the projected load reductions for other program in its EE&C Plan, PPL Electric is in fact increasing the "cushion" built into its EE&C Plan.⁴ PPLICA's argument is without merit.

First, PPL Electric did not show the reduced peak load forecasts for the TOU Program and other programs in its February 28, 2011 black-line EE&C Plan because those specific details are not part of the record in this proceeding. The black-line reflected only changes that are on the record in this proceeding.

Second, and more importantly, PPL Electric has presented unrefuted record evidence to support the reasonableness and necessity of the increase to the projected peak load reductions from 100 MW to 150 MW for the Load Curtailment Program. See PPL Electric Statement No. 5, p. 29. As the record illustrates, peak load reduction shortfalls are expected in other programs.

⁴ Pursuant to Act 129, PPL Electric is required to achieve 297 MWs of peak demand reductions. EE&C Order, p. 16. The Commission, in approving the Company's EE&C Plan, adopted PPL Electric's estimated peak load reductions designed to exceed the statutory minimum requirements. No party, including PPLICA, challenged PPL Electric's demand reduction requirements or its estimates to achieve compliance. Indeed, the issue of a "cushion" being built into PPL Electric's EE&C Plan was never raised until PPLICA filed its comments during this phase of the instant proceeding. PPLICA's arguments in this regard should be disregarded in their entirety as PPLICA has waived its right to raise these arguments by not challenging the estimates approved by the Commission in its EE&C Order. *Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania*, Docket Nos. R-00049783, 2005 Pa. PUC LEXIS 14 at *165-66; 245 P.U.R.4th 1 (November 4, 2005) (concluding as reasonable the ALJ's recommendation that when parties have been directed to file briefs and fail to include an issue in their briefs, the unbrieffed issues may properly be viewed as having been waived).

For example, the TOU Program was originally expected to produce 61 MW of peak load reduction (from 150,000 participants); however, as the record in this proceeding clearly indicates, it will likely fall significantly short of this projection. PPL Electric St. 5, p. 29. The TOU Program is open only to customers who take default electric supply from PPL Electric (*i.e.*, customers who do not shop for their generation supply). *Id.* The number of shopping customers has been much higher than originally expected and customers will likely save more by shopping than by participating in the TOU Program. *Id.* The Company's original estimate of 150,000 participants in the TOU Program turned out to be much too high, and the current projection for participation are far lower. *See* Tr., p. 47. In fact, as of October 31, 2010, there were only 443 participants in the Company's TOU Program that was launched in June 2010 as compared to the original projections of 150,000. PPL Electric St. 5, pp. 29-30.

In addition, the peak load reductions from energy efficiency measures (such as appliances, lighting, HVAC equipment, etc.) in other programs are lower than expected and are relatively uncertain because of changes in the TRM that tend to decrease savings and peak load reductions (compared to the TRM in effect when the Company's EE&C Plan was approved). PPL Electric St. 5, p. 30. Also, it is uncertain whether net-to-gross adjustments will apply, further reducing energy and peak load savings. *Id.* Therefore, to make up for those expected shortfalls, PPL Electric must increase peak load reductions from other programs in order to meet its peak load compliance target by September 2012. *Id.* The Load Control Program was identified as an appropriate measure because the Company was able to obtain the original forecast peak reduction for this program at substantially less than the projected cost. *Id.*, p. 28. Moreover, PPL Electric determined that it can obtain 50 MW of additional peak load reductions with no increase in the amount of dollars originally budgeted for this measure. *Id.*

As discussed above, the ALJs determined that there was substantial evidence, in the form of Mr. Cleff's testimony, regarding the change to the Load Curtailment Program that supports a finding that the increase in the peak load reduction should be approved. Recommended Decision, p. 13. As the ALJs acknowledged and the record demonstrates, the increase in the projected peak load reductions from 100 MW to 150 MW for the load curtailment program is reasonable and necessary. The testimony on this issue was unrefuted as PPLICA declined to submit any testimony on this issue. The assertion in PPLICA Comments that PPL Electric failed to prove the increase in the load reductions for the Load Curtailment Program is baseless and not supported by the record in this proceeding.

C. Current Status of PPL Electric's TOU Program And The Energy Efficiency Measures

Since the initiation of this proceeding, the Company has been able to gather further information about the TOU Program and the likely MW shortage in other programs. This information was not available during the course of this proceeding. Although a full record has been developed in this proceeding upon which the Commission can act, to the extent that the Commission permits PPLICA to re-litigate the facts of the proceeding, PPL Electric is compelled to respond to the assertions raised in the PPLICA Comments that there is no reason to increase the load reductions for the Load Curtailment Program. *See generally*, PPLICA Comments, pp. 9, 11.

1. The TOU Program

Although the actual participation level is difficult to predict, the Company currently estimates that TOU participation will be no more than approximately 20,000 customers as compared to the original estimate of 150,000. As of March 2011, TOU participation is at approximately 19,000, and that is with the current pricing that strongly encourages TOU

participation. For January 1, 2011 through May 31, 2011, both on-peak and off-peak TOU prices are less than around-the-clock default supply and EGS offerings. Therefore, there is no “downside” to participating in TOU. Everyone who participates currently saves money (as compared to default supply rates and, possibly, most EGS rates) without the need to change their electricity usage habits (*i.e.*, shifting usage from on-peak to off-peak periods). Despite these favorable conditions, only approximately 19,000 customers have enrolled in the TOU Program, far short of the 150,000 assumed in PPL Electric’s EE&C Plan. Although PPL Electric cannot predict with precision what the exact participation level will be during the June - September 2012 compliance period, the only period that TOU peak load reductions will count toward the peak load reduction compliance, the Company projects that participation levels will be well short of the original estimate of 150,000 participants. Further, the continuing decline in the difference between on-peak and off-peak energy prices in the PJM market suggests that there will be less economic incentive for customers to participate in a TOU program resulting in fewer participants and fewer reductions per participant. Accordingly, PPL Electric anticipates that the estimated load reductions to be achieved from the TOU Program will not be achieved. Therefore, it is critical for PPL Electric and the Commission to address this matter now so that PPL Electric has at least some prospect of achieving the demand reduction requirement of Act 129.

2. Energy Efficiency Measures

Peak load reductions from Energy Efficiency Measures will likely be 21 MW less than forecasted in the current EE&C Plan (*i.e.*, 122 instead of 143), including the February 28, 2011 black-line, based on actual performance to date. The actual (and forecast at completion) peak load reductions from Energy Efficiency Programs are less than previously estimated because of:

- Differences between planning assumptions and actual peak load contribution of each energy efficiency measure. For example, the EE&C Plan assumed 1 MW of peak load reduction for every 6400 MWh/yr of energy savings for CFLs whereas

actual is 1 MW of peak load reduction for every 18,185 MWh/yr of energy savings. The current projection is only 35% of the peak load reductions assumed in the Plan. This cannot be made-up. In fact, the gap will widen for every CFL sold.

- Differences between planning assumptions and actual number of measures installed. Some energy efficiency measures contribute more peak load reductions than others. For example, a recycled room air conditioner contributes 0.6 kW of peak load reduction and a recycled refrigerator contributes 0.2 kW. The actual mix of installed measures has differed from planning assumptions. Therefore, even if the per device savings is predicted accurately, the actual total peak load reductions will differ from planning assumptions.
- Changes to the 2010 and 2011 Technical Reference Manual have decreased the energy savings of measures and, therefore, reduced their associated peak load reductions. This cannot be made-up unless more energy efficiency measures are installed than planned. *See Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources – Technical Reference Manual 2011 Update, Docket No. M-00051865 (Order Adopted February 24, 2011).*

3. Summary Of The Forecasts For Peak Load Reductions As Of September 30, 2012

The Company originally estimated the load reductions to be achieved from the TOU Program and energy efficiency measures to be 61 MW and 143 MW, respectively. However, as discussed above, PPL Electric now anticipates that the peak load reductions to be achieved from the TOU Program and from the energy efficiency measures likely will fall short of these original estimates. For the TOU Program, the Company currently estimates that approximately 20,000 customers may participate as compared to the original estimate of 150,000 participants – approximately 13 percent (13%) of the original estimate ($20,000/150,000 \times 100\%$). Applying this new estimate to the original estimate for 61 MW of reductions from this program results in lowering the original estimate by approximately 53 MW. Accordingly, the Company now anticipates achieving approximately 8 MW of load reductions from the TOU Program.⁵

⁵ PPL Electric believes that, for several reasons, the estimate of 8 MWs of reduction may still overstate the level of reductions that can be achieved through a TOU program. Those reasons include:

Further, the Company now anticipates that the peak load reductions to be achieved from energy efficiency measures (such as appliances, lighting, HVAC equipment, etc.) will be approximately 21 MW lower than originally expected.

Based on these revised estimates the estimated total load reductions declines from 334 MWs to approximately 260 MW. This is 37 MW short of the 297 MW of load reductions required for PPL Electric to be found in compliance with Act 129. Increasing the load reductions to be achieved from the Load Curtailment Program by 50 MW would enable the Company to comply with its requirements under Act 129, with only 13 MW over the 297 MW compliance target to accommodate differences between forecast participation and performance and actual participation and performance.

D. PPL Electric Fully Examined Alternatives To Modifying The Load Curtailment Program And PPLICA Has Simply Ignored The Record In This Proceeding

PPLICA incorrectly asserts that PPL Electric never examined any other alternatives (other than increasing load curtailment by 50 MW) and never determined whether it will be cost-effective to achieve 50 MW from a combination of other programs. PPLICA Comments, p. 7. The testimony in the proceeding expressly states that: “PPL Electric investigated alternatives to increase peak load reductions from other programs or from new programs,” and, as cited below, the investigated alternatives were expressly addressed. PPL Electric St. 5, p. 31. In the

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- The earliest adopters of such a program are likely to be those customers who don't have to change their behavior to achieve savings. PPL Electric does not believe that the program will be attractive to a larger population of its customers.
 - The proration assumes the current number of participants, however, the Company believes that a significant number of the current participants will exit the program during summer months when prices will be higher and enroll, instead, in either fixed-price default service or EGS service.
 - PPL Electric has become aware of at least one EGS who has enrolled customers in a TOU program. A proliferation of such competitive programs will erode PPL Electric's share of the TOU market and result in fewer reductions than would otherwise occur.

Nevertheless, PPL Electric believes it appropriate to plan around the pro rata estimate until further information is available.

Recommended Decision, the ALJs expressly stated that, “[w]e are persuaded that PPL [Electric] has examined other alternatives to increasing peak load reductions from other programs ...” Recommended Decision, p. 13. Notably, the ALJs explained that PPL Electric’s “testimony was not refuted or rebutted by any other witness.” *Id.*

The testimony further explained that “[i]ncreasing projected peak load reductions from the Load Curtailment Program is the only feasible alternative and the only alternative to increase peak load reductions within the original approved cost budget.” PPL Electric St. 5, p. 31. The evidence also provides that “it would cost significantly more than \$3 million to achieve 50 additional MW of peak load reductions from other demand response measures.” PPL Electric St. 5, p. 31.

The difference between 100 MW and 150 MW of load curtailment is approximately \$3 million (*i.e.*, \$60,000 per MW). PPL Electric St. 5, p. 30. PPL Electric did explore getting additional MW from different programs. The cost per MW in the Direct Load Control is \$200,000 to \$320,000, or in other words an additional cost of \$10 - \$16 million for 50 MW. PPL Electric St. 5, p. 31; PPL Electric M.B., pp. 29-30; PPL Electric R.B., p. 14. The cost per MW in the CFL Program is \$600,000, therefore, if PPL Electric sought to get just 30 MW from this program, the projected cost would be \$18 million. *Id.* The cost per MW in the Efficient Equipment Program is \$1.2 million, therefore, if the Company was to get 38 additional MW from this program, the cost would be \$46 million. *Id.* All of the aforementioned alternatives were considered which is why they were expressly discussed in the unrebutted testimony filed in this proceeding. All of these options, whether implemented singularly or in combination, are significantly more costly than changing the Load Curtailment Program and they may not be possible in the marketplace because of practical limitations. *Id.*

Moreover, any combination of the above listed alternatives is more costly than modifying the Load Curtailment Program and would cause PPL Electric to exceed its \$246 million Act 129 cost cap unless PPL Electric reduces costs in other programs.

Importantly, the difference between 100 MW and 150 MW of load curtailment is approximately \$3 million. On average, that amount equates to approximately \$2,500 per customer, over the 4-year EE&C Plan for 1,200 customers in the Large Commercial and Industrial (“C&I”) sector. PPL Electric St. 5, p. 30. In the end, however, the Large C&I customers will pay no more than they were required to pay under the original Commission-approved plan. Therefore, Large C&I customers are paying what the Commission has already found reasonable.

Even if the cost of the listed alternatives were comparable to modifying the Load Curtailment Program, the likelihood of achieving the additional MW from those alternatives is much less certain than achieving 50 MW from load curtailment for several reasons. First, there are major market saturation challenges to getting more MW from direct load control and it may not be possible to get enough participants. Similarly, it may not be possible to double the number of discounted CFLs given retailer and market constraints and the remaining available time frame. Second, if these alternatives are implemented, it will take some time to determine if they are successful, leaving little time to correct the situation before the June 2012 peak load compliance period starts. These uncertainties do not exist for load curtailment. PPL Electric will have a contract with a CSP for firm load curtailment, with penalties for non-compliance. Also, PPL Electric will know well before June 2012 if that CSP is on track enrolling load curtailment customers. Additional analysis (as advocated by PPLICA) adds no value if these alternatives do not even pass the total dollar and the dollar per MW basis analysis undertaken by PPL Electric.

Furthermore, if it were feasible to make-up the TOU program deficiency within the same customer sector as TOU Program (primarily residential and Small C&I sectors) within budget, PPL Electric would have proposed that approach. However, as discussed above, no such alternative exists.

PPLICA also takes issue with the fact that the Total Resource Cost (“TRC”) benefit-cost ratios for certain programs are above the Load Curtailment Program’s value and argues that the Company should have examined the TRC values of alternatives. PPLICA Comment, p. 8. In response, PPL Electric acknowledges that the Load Curtailment Program, on a stand alone basis, was not cost-effective as originally presented in the approved EE&C Plan and this remains true under the revised plan. Further, as noted by SEF,⁶ it is anticipated that the benefit-cost ratio of the Load Curtailment Program will decrease if there are no curtailments before 2012 because the total cost of the program will remain the same, without any real benefits in 2010 and 2011 due to the fact that there are no curtailments in those years. However, the Load Curtailment Program, as revised, must proceed regardless of its cost-effectiveness because PPL Electric cannot meet its peak load reduction compliance target without the Load Curtailment Program (regardless of whether this program expects 100 MW or 150 MW of peak load reductions). Moreover, it is important to emphasize that Act 129 does not require each individual program to be cost-effective. Act 129 requires the entire portfolio (*i.e.*, all programs in aggregate) to be cost-effective.

Additionally, there is no reason to have curtailments in any year other than 2012. The summer of 2012 is the only period that peak load reductions apply; peak load reductions do not count in any other period. Curtailing load in 2010 and 2011 will significantly increase the cost

⁶ SEF Comment, p. 8.

of the Load Curtailment Program (far above the existing approved program budget per the approved EE&C Plan) for no reason. Demand response type programs, such as the Load Curtailment Program, will likely not be cost-effective because of their high cost, a 1-year measure life, and how the avoided costs are determined (based primarily on installed-capacity values that are set 3 years in advance). Unlike energy efficiency measures, such as an efficient heat pump or lighting, a demand response program has a 1-year life and demand response incentives must be paid in each year that peak load reductions are required. With energy efficiency measures, the incentive (*i.e.*, the rebate) is paid once and the benefits (*i.e.*, the energy reductions) apply for the life of the measure.

E. No Stakeholder Responded To PPL Electric's Request For Input And Suggestions On How To Increase Peak Load Reductions

In its comments, PPLICA, as it has throughout this proceeding, assails PPL Electric's proposal to increase the expected peak load reductions in the Load Curtailment Program from 100 MW to 150 MW. *See* PPLICA Comments, pp. 5-11. To support this attack, PPLICA argues the fact that no stakeholder, including PPLICA, offered input and suggestions on how to increase peak load reductions in other programs, should not have any bearing on whether the proposed modification to increase the peak load reduction target for the Large C&I Load Curtailment program is reasonable, necessary or appropriate. PPLICA Comments, pp. 9-10. However, the fact that PPL Electric made extensive efforts to elicit stakeholder input on the feasible alternative changes to the Load Curtailment Program and it received none, has a direct bearing on this proceeding because if there was an alternative, one would have been offered. However, as PPLICA states, "no stakeholder gave any direct input on where else the Company could achieve this reduction." PPLICA Comments, p. 10. Implicit in this statement is the fact that not even PPLICA offered any suggestions, but PPLICA now criticizes PPL Electric for investigating and

identifying a solution when it chose to sit on the sideline and offered no suggestions. Even at this late date after multiple opportunities via testimony or pleadings, it has consciously decided not to offer a direct alternative to the Company's proposal.

F. PPL Electric Must Act Now To Add The Additional 50 MW To The Load Curtailment Program Or The Company Will Not Have Enough Time To Implement Corrective Action Or Recruit Additional Load Curtailment Customers

Action must be taken immediately in order to add the additional 50 MW to the Load Curtailment Program or there will likely not be enough time to implement corrective action or recruit additional load curtailment customers in time for the summer 2012 peak load reduction compliance period. If the 50 MW is not added, PPL Electric likely will not comply with the peak load compliance target. PPL Electric St. 5, p. 30. If during the preparation of the original EE&C Plan the Company knew what it knows today about the participation in the TOU program and the peak load reductions from the energy efficiency measures, the original EE&C Plan would have included substantially lower TOU projections, would have included 150 MW for the Load Curtailment Program, and the EE&C Plan would likely have been approved as such.

G. The SEF Comments Should Be Rejected For Being Filed Out of Time And For Not Being Supported By Any Record Evidence

SEF filed its comments after the deadline established by the Commission in the January 28, 2011 Order and it provided no reasonable grounds as to why the Commission should accept the late pleading.⁷ Therefore, for procedural reasons, the SEF Comments should be rejected as being out of time.

Notably, SEF intervened in Docket No. M-2009-2093216 via a July 10, 2009 petition to intervene which was granted on July 29, 2009 by Administrative Law Judge Susan D. Colwell.

⁷ See 52 Pa Code § 1.15 ("Upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act.").

However, following the September 15, 2010 Petition filed by PPL Electric, the petition that initiated this phase of the proceeding, SEF has not filed any pleading and did not appear at the hearing held on November 17, 2010. SEF chose to remain silent on the Company's September 15, 2010 Petition and opted not to participate at the hearings held relative to the Petition, despite being served all of the documents filed by the Company. Indeed, SEF did not sponsor a witness, did not cross-examine the Company's witness and has presented no evidence in this proceeding with regard to the issues raised in its comments. SEF has not even attempted to sustain any level of proof and, therefore, the SEF Comments should be rejected.⁸

Importantly, the modifications discussed in the February 28, 2011 Petition, which SEF seeks to alter at the 11th hour were listed in the PY1 Annual Report and in the testimony submitted to the parties (including SEF) on November 15, 2010.⁹ PPL Electric's testimony was served on SEF and it clearly received the document because it references the testimony in its comments.¹⁰ Yet SEF choose not to file testimony of its own. Moreover, while other parties cross examined PPL Electric's witness at the November 17, 2010, hearing, SEF choose not appear. As the parties filed briefs, the Recommended Decision was issued and exceptions were filed, SEF remained silent. SEF remained silent for over five months following the September 15, 2010 initiation of this phase of Docket No. M-2009-2093216, and now it seeks to

⁸ See *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan For the Period January 1, 2011 Through May 31, 2013 for Approval to Modify its Procurement of Solar Alternative Energy Credits*, Docket No. P-2008-2060309, Opinion and Order entered March 1, 2011 at p. 15 (“With regard to the burden of proof issue, we agree with the ALJ and PPL that SEF has not provided any evidence that solar aggregators can meet the long-term contract requirement, nor has it produced any evidence that aggregators or small system owners want long-term contracts. Therefore, we agree with the ALJ’s conclusion that SEF has failed to sustain its burden of proof.”).

⁹ See PPL Electric Statement No. 5, pp. 16-31 and Exhibit PDC-2. Exhibit PDC-2, appended to PPL Electric Statement No. 5, contains a black-line version of the EE&C Plan that incorporates the revisions submitted with the PY1 Annual Report.

¹⁰ Notably, SEF attended in stakeholder meetings that occurred both before and after September 15, 2010 at which the changes to the EE&C Plan were discussed.

have the Commission ignore its prolonged silence and order the Company to revise its EE&C Plan without submitting any evidence whatsoever. SEF's request should be rejected.

H. The Modifications Requested By SEF Comments Should Rejected

To the extent that the Commission does not reject the comments of SEF for being out of time, the modifications sought by SEF should be rejected. In its comments SEF requests that the Commission order PPL Electric to revise its Renewable Energy Program, the Energy Assessment & Weatherization Program and the RTS Fuel Switching program. As discussed in detail below, SEF's requests to alter these programs should be rejected.

SEF also recommends, based on certain cost/benefit ratios, that the Commission investigate the EE&C Program to determine if a better path exists to obtain demand reductions. The Commission should reject SEF's request because it is essentially requesting that the Commission micro-manage PPL Electric's demand reduction efforts. SEF's request is contrary to the Commission's determination that it "will not micro-manage the Company's compliance efforts."¹¹ Moreover, SEF's request that certain TOU program marketing costs be excluded from the EE&C Plan should be rejected. In *Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation*, Docket No. R-2009-2 122718 (order entered March 9, 2010), the Commission directed the Company to exclude any education and marketing costs associated with its TOU Program offered as a default service option in its Consumer Education Plan or EE&C Plan budget.¹² PPL Electric notes that changes to its TOU Program are not on the record of this

¹¹ *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (Order Entered October 26, 2009), p. 88. See January 28, 2011 Order at p. 19 ("it is not the Commission's intention to micromanage EE&C plans").

¹² SEF also makes certain assertions with regard to the Company's efforts to obtain approval for CSPs for various customer sectors. These CSPs are not part of the modifications addressed in this proceeding or in the February 28, 2011 Petition, therefore, they are not a subject of this proceeding.

proceeding and, therefore, were excluded from the February 28, 2011 compliance filing and the updated EE&C Plan.

1. Residential PV Rebate Cap

SEF argues that PPL Electric should expand or remove caps applicable to residential photovoltaic (“PV”) systems. SEF Comments, pp. 4-5. SEF’s arguments should be rejected. The Company’s Renewable Energy Program for the residential sector projected the installation of 45 residential systems over the four year life of the plan. The program was launched in March 2010 and demand for the program was very high. PPL Electric received so many applications at the same time that there was no reasonable way to prioritize them and the PV portion of the program was quickly closed. It quickly became evident that demand for residential PV was higher than anticipated, due in part because of decreasing prices for PV, American Recovery and Reinvestment Act of 2009 funding, and Federal tax credits. A total of 129 residential customers received rebates averaging \$4,800. Absent a rebate cap, the number of qualifying projects to receive a rebate would have been significantly less. PPL Electric estimates that without a rebate cap only approximately 45 projects would have received a rebate. In addition, without a rebate cap in place, PPL Electric would have paid out over \$1.5 million in rebates for the 129 projects, greatly exceeding the program’s budget.

Like rebates for all other measures in the EE&C Plan, the PV rebate is not intended to cover 100% of the cost of a PV installation; rather, it is intended to offset a sufficient amount of the cost to make installation of a PV system a more attractive option for residential customers. Typically, rebates are designed to cover 25% to 50% of a measure’s incremental cost. The purpose of the residential PV cap, \$5,000 per project is intended to: (1) retain a rebate level that was sufficient to incentives customers to take action; (2) preclude a few large residential PV

projects from depleting the limited budget; and (3) distribute the limited budget over a larger number of residential customers.

2. Additional Funding for the Residential Renewable Energy Program

SEF recommends that the Renewable Energy Program should be allocated more funding. SEF Comments, p. 5. SEF's recommendation should be rejected because it fails to provide any quantitative information or justification such as how much the funding should be increased, what other programs' funding should be decreased to make additional funding available for renewable energy, the impact on the portfolio's cost-effectiveness, and why the funding should be increased for the Renewable Energy Program when it has one of the least cost-effective programs in the EE&C Plan. Adding funding to the Renewable Energy Program and reducing funding in another program will reduce the cost-effectiveness of the portfolio and adversely affect another program which likely has a much higher benefit-to-cost ratio.

3. Energy Assessment & Weatherization Program

SEF's recommendation to reduce the Rebate in the Energy Assessment & Weatherization Program or require PPL Electric to provide a rebate for customers that do not have electric heat or air conditioning should be rejected. SEF Comments, pp. 5-6. The Energy Assessment & Weatherization Program is focused on reducing infiltration and heat loss through the home envelope, sealing duct work, and recommending more efficient appliances, lighting and HVAC (heating ventilation and air conditioning). An energy audit provides no savings. Savings are achieved through the installation of energy efficiency measures that are directly installed during the audit (such as CFLs) and through the implementation of audit recommendations. The basic premise of Act 129 is to reduce electricity usage and peak demand. There are no Act 129 savings or benefits associated with reduction of non-electric devices such as heating systems fueled by oil, gas, or propane. Efforts pursuant to Act 129 are funded by electric customers and

that funding should be used to cost-effectively reduce electricity usage and not used to incent a customer to reduce oil, gas, or propane usage. Notably, residential customers that do not have electric heat or air conditioning are eligible for Act 129 incentives in every other PPL Electric residential program except Direct Load Control.

4. RTS Fuel Switching

SEF's recommendation to extend Residential Thermal System ("RTS") Fuel Switching to renewable resources should be rejected. SEF Comments, p. 6. Under the EE&C Plan, the \$550 rebate for high-efficiency gas furnaces is only available to customers on the RTS rate. The RTS rate required that customers install a meter controlled thermal storage system with sufficient heat storage capacity to carry the heating load of the home for a 10 hour period during the day time. The rate had a constant price per kwh and a demand charge for any use above 2 KW during the on peak hours. That rate has significantly changed to date and will be completely phased out on January 1, 2012. PPL Electric's rebate for fuel-neutral (gas, oil, propane, or other fuels) high efficiency furnaces was intended to promote a cost effective alternative that would utilize the ductwork that is installed in many of the RTS homes. A \$550 rebate for the installation of renewable technologies listed in Tier 1 of the Alternative Energy Portfolio Standards Act would be insufficient to incent customers to install a Tier 1 technology given the total cost of a Tier 1 system versus a high efficiency furnace. In addition, the rebate is intended to make a home heating option more attractive as a replacement for a thermal storage system. The Tier 1 technologies do not readily or cost effectively lend themselves to home heating applications (with the exception of ground source heat pumps for which there is rebate).

I. The Commission Should Consider Granting EDCs The Flexibility To Make Minor Modifications To Their EE&C Plans

In the February 28, 2011 Petition, PPL Electric stated that it does not request that the Commission revise its determinations in the January 28, 2011 Order. However, the Company encouraged the Commission to consider revising the standard that an EDC is required to seek approval for any mid-course changes to their EE&C Plans and grant EDCs the flexibility to make certain modifications. February 28, 2011 Petition at p. 5. PPL Electric expressly stated that it did not wish to re-litigate the determinations made in the January 28, 2011 Order and simply encouraged the Commission to institute a generic proceeding in order to evaluate permitting EDCs to implement minor changes to the Commission-approved Act 129 plans without specific Commission approval for each minor modification. February 28, 2011 Petition at n.5. PPLICA outright opposes the initiation of the generic proceeding encouraged by the Company. PPLICA Comment, p. 12.

In its February 28, 2011 Petition, PPL Electric simply encouraged the Commission to consider revising, on a generic basis, the standard it has articulated at all modifications to an approved EE&C Plan require Commission approval. The proper place for PPLICA to raise its arguments concerning the standard to be used to determine what modifications require Commission approval is a generic proceeding on the issue.¹³ PPL Electric's February 28, 2011 Petition did not raise this issue with regard to the black-lined EE&C Plan filed in compliance with the January 28, 2011 Order and PPL Electric is not challenging the Commission's determination in that Order.

¹³ PPL Electric notes that the Commission at its March 31, 2011 Public Meeting approved a Tentative Order releasing for comment a proposed expedited process for approving minor changes to EDC EE&C plans.

III. CONCLUSION

PPL Electric Utilities Corporation requests that the Commission approve, without modification, all of the changes to its EE&C Plan requested in the February 28, 2011 Petition, reject the comments filed by SEF and PPLICA.

Respectfully submitted,

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