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March 5, 2012

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

VIA HAND DELIVERY

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

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission are the Comments 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 the extra copy of this transmittal letter and Comments, and kindly return them to our messenger for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By Pamela C. Polacek

Pamela C. Polacek

Counsel to the PP&L Industrial Customer Alliance

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

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF THE PP&L INDUSTRIAL CUSTOMER ALLIANCE

I. INTRODUCTION

On October 15, 2009, Governor Rendell signed into law House Bill 2200, otherwise known as Act 129 of 2008 ("Act 129" or "Act"). Among other things, Act 129 expanded the Pennsylvania Public Utility Commission's ("PUC" or "Commission") oversight responsibilities and set forth new requirements on Electric Distribution Companies ("EDCs") regarding the reduction of energy consumption and demand. In accordance with the Act, 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, at Docket No. M-2009-2093216 ("October 26 Order").

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 to their EE&C Plans. Purportedly in compliance with both the October 26 Order and the Commission's two Secretarial Letters, on September 15, 2010, PPL submitted a Petition to the Commission that requested "approval for two modifications to its EE&C Plan."[1]

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[1] *See Petition of PPL Electric Utilities Corporation for Approval of Changes to its Act 129 Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216, at 2 (Sept. 15, 2010) ("September Petition").

Afterwards, on October 18, 2010, PPL circulated a presentation in preparation for an upcoming Act 129 EE&C Stakeholder Meeting. The presentation included PPL's explanation that the two changes requested in the September Petition were the only changes requiring PUC approval. The presentation listed more than 20 additional changes which PPL considered minor and within its discretion to implement. These changes were not proposed in the 2010 Petition or the accompanying black-lined EE&C plan.

The Commission subsequently assigned the proceeding to an Administrative Law Judge for hearings on PPL's September Petition. The PP&L Industrial Customer Alliance ("PPLICA") fully participated in the litigation. PPLICA is an ad hoc association of energy-intensive commercial and industrial customers receiving electric service in PPL's service territory. PPLICA members purchase service from PPL primarily under Rate Schedules LP-4, LP-5, LP-6, IS-P and IS-T, as well as available riders.[2] These Rate Schedules make up the Large Commercial and Industrial ("Large C&I") class. PPLICA filed a Main Brief, Reply Brief, and Exceptions addressing the September Petition and specifically opposing the changes scheduled for implementation, but omitted from the filing.

On January 28, 2011, the Commission entered an Opinion and Order ("January 2011 Order"), which in part: (1) approved the two changes included in PPL's September 15, 2010, Petition; (2) directed that all proposed changes be fully reflected in revised EE&C plans so they can be reviewed by the Commission and affected parties; and (3) required PPL to file a revised Plan within thirty days for Commission and other parties' review and comment before the Commission makes a ruling on the 20+ additional changes originally omitted in the September Petition, including the proposed changes to the Load Curtailment Program. See generally, January Order.

[2] Some PPLICA members also have accounts on Rate Schedules GS-1 and GS-3.

In accordance with the PUC's January 2011 Order, on February 28, 2011, the Company submitted a revised Petition for Approval of Changes to its Act 129 EE&C Plan as well as a revised black-line version of its Act 129 EE&C Plan. In its Petition, PPL requested approval of the remaining 20+ changes and additionally, "encouraged the Commission to consider revising the standard articulated in the January 2011, Order and grant EDCs the flexibility to make minor modifications to their EE&C Plans, while maintaining Commission authority over those changes that would result in a shift of EE&C Plan program funds within a customer class, a shift in EE&C Plan program funds between customer classes and the discontinuance of a program."[3]

On May 6, 2011, the Commission issued an Opinion and Order approving PPL's proposed changes, but reiterating that "PPL must include *all* changes to its Plans, including forecasts of costs, participation, and energy and demand reductions when it files Plan revisions."[4] The Commission reasoned that other parties could not practically review proposed revisions unless the Company's request comprehensively illustrated the effects of all proposed revisions.[5]

The Commission further clarified the procedure for proposing modifications to EE&C plans in a June 2011 Order outlining an expedited review process for minor changes to an EE&C plan. Under the terms of the June Order, the Commission considers a proposed change to be minor if it 1) eliminates a measure, 2) transfers funds from one measure to another, or 3) adds or changes the condition of a measure, provided that no such change results in allocations across customer classes.[6] An EDC requesting approval to implement minor changes must file a black-lined plan reflecting the changes and, at minimum, an explanation documenting how the

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[3] *See Petition of PPL Electric Utilities Corporation for Approval of Changes to its Act 129 Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216, pp. 5-6 (Pa. PUC Feb. 28, 2011) ("February 2011 Petition").
[4] Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan, Opinion and Order, Docket No. M-2009-2093216, p. 22 (Pa. PUC May 6, 2011) ("May 2011 Order").
[5] See id.
[6] Energy Efficiency and Conservation Program, Docket No. M-2008-2069887, p 19-20 (Pa. PUC June 10, 2011). ("June 2011 Order")

proposed changes affect the existing plan. Interested parties can file Comments within 15 days of the Company's filing, with an additional 10 days for Reply Comments. After the Comment period, the Commission's staff will determine whether to rule on the proposed changes or refer the matter to an Administrative Law Judge ("ALJ") for hearing and a decision. For all other proposed changes, i.e. major changes, the EDC must file a Petition to amend its approved plan pursuant to 52 Pa. Code §§ 5.41 and 5.572. Parties will have 30 days to file Comments and an additional 20 days to file Reply Comments. Additionally, the Commission itself will determine whether to refer the matter to an ALJ or rule upon the Comment record.

On February 2, 2012, PPL submitted a Petition to Amend its EE&C Plan to the Commission ("Petition"). The Petition proposes 56 minor changes and 6 major changes. Although the Petition proposes multiple minor changes, PPL is not requesting expedited review due to the accompanying major changes. PPLICA files the foregoing Comments in response to PPL's Petition.

II. SUMMARY

Overall, PPL has reduced its expected energy efficiency and peak demand reductions. Projected energy savings for the EE&C Plan decreased approximately 91,000 MWh/year (6.6%). Peak load reductions, as reported in the Petition, also decreased by 61 MW (16%). PPL claims that it will still meet the Commission's mandated 2013 reductions as the decrease in projected savings eliminates only portions of the "cushion" built into initial estimates. The Company also avers that it will not meet the mandated reductions if the proposed modifications are denied.

The reported revised cost per kWh/yr of savings illustrates the stark contrast between Small C&I and Large C&I program performance to date. Program-wide, the direct cost per kWh/yr remained constant at $0.16 per kWh/yr. For the underperforming Small C&I class, cost per kWh/yr almost doubled, rising from $0.123 to $0.212. Comparatively, for Large C&I customers, the cost per kWh/yr dropped from $0.210 to $0.126. Although this represents an improvement for the Large C&I portion of the plan, the cost remains far above the PJM average wholesale cost of power, which was $61.65 per MWh (or $0.06165 per kWh) in 2011. According to PPL, Large C&I performance has been so robust that, as of December 2011, the class had exceeded the initial savings estimates for the entire 4-year program. PPL claims that the strong performance of Large C&I programs to date forms the basis for several proposed changes. The Comments below raise issues with the following changes proposed in the Petition:

<u>Minor Changes</u>

15. Transfer Funds from the Large C&I Portion of the Efficient Equipment Incentive Program to the Large C&I Portion of the C&I Custom Incentive Program

18. Reduce the Projected Cost of the Large C&I Load Curtailment Program

36. Change Rebate for C&I Custom Incentive Program Technical Studies and Add Expiration Dates to Ensure Customers Can Implement the Project by May 2013

<u>Major Changes</u>

3. The Addition of a CSP for the C&I and Institutional Portions of Efficient Equipment Incentive and Custom Incentive Programs

4. Adjustments to the Estimated Common Costs

Although PPLICA provides specific Comments only on the above proposed changes, PPLICA does not necessarily endorse any other proposed change not addressed in these Comments.

III. COMMENTS

A. Proposed Minor Change No. 15 Effectively Ends PPL's Large C&I Efficient Equipment Incentive Program and Diverts funding to the Large C&I Custom Incentive Program

Proposed Minor Change No. 15 appears to end the Efficient Equipment Incentive Program.[7] This change may adversely affect customers desiring to implement energy efficiency measures without committing to the application process required for the Custom Incentive Program. Notwithstanding, PPLICA does not oppose this change and, as discussed subsequently regarding Minor Change No. 36, urges the Commission to modify the rebate structure of the Custom Incentive Program to ensure that customers who use internal expertise to analyze and pursue projects receive appropriate compensation. In the upcoming process to examine whether EE&C plans should be reauthorized, the Commission also should consider whether the public interest supports continuing energy efficiency programs aimed at Large C&I Customers.

PPL's description of Minor Change No. 15 fails to disclose that the change eliminates substantially all budgeted funding for Years 3 and 4 of the Efficient Equipment Incentive Program. PPL describes Minor Change No. 15 as a reallocation of approximately $10 million from the Efficient Equipment Incentive Program to the Custom Incentive Program. Petition, p. 19. *Table 79 in the black-lined EE&C Plan shows that PPL had originally budgeted* approximately $4.7 and $6.2 for Program Years 3 and 4 of the Efficient Equipment Incentive Program, respectively. Following the $10 million reallocation, PPL's budget for Program 4 is eliminated and the budget for Program Year 3 falls to $1.2 million. See Black-lined EE&C Plan, Table 79.

As recognized in PPL's Petition, Act 129 requires each EDC to demonstrate that its plan "provides a diverse cross section of alternatives for customers of all rate classes." 66 Pa. C.S. §

[7] Unless otherwise stated, all EE&C Program references are to the Large C&I Sector Programs.

2806.1(b)(1)(i)(i), see Petition, p. 13. PPLICA recognizes that the Custom Incentive Program provides participating customers with flexibility to implement efficiency measures not specifically contemplated by PPL's EE&C Plan. Even with this flexibility, the Custom Incentive Program benefits a small proportion of PPL's Large C&I customers. PPL anticipates that it will fund 123 projects, which is a substantial reduction to its prior projection of funding 349 projects (at the lower budget). See Black-lined EE&C Plan, Table 81. The program requires significant participant expenditures, but the investments and accompanying benefits are restricted to a small group of customers. Although PPL claims that it has a waiting list of projects, this popularity of the program amongst the approximately 100 customers receiving a direct benefit does not make the program cost-effective for the remaining 1,300-1,400 Large C&I customers. As previously discussed, in the reauthorization investigation, the Commission should strongly consider whether the subsidization of energy efficiency projects by others in the class is appropriate.

B. The Effects of Proposed Minor Change No. 18 Are Unclear

Proposed Minor Change No. 18 decreases the cost of the Large C&I Load Curtailment Program from approximately $15 million to approximately $11 million due to increased efficiencies and cost reductions. PPLICA has concerns regarding PPL's elimination of additional hours of load curtailment, which the Company characterizes as a cost reduction that remains a cost exposure. Additionally, the black-lined EE&C Plan filed with the Petition reflects an increase in the Large C&I projected peak load reduction. As this increase was not addressed in the Petition, PPLICA cannot determine whether the increase is an updated calculation based on the program efficiencies referenced in Minor Change No. 18 or an independently modified program goal.

PPL attributes the Load Curtailment Program cost reductions to smaller than expected CSP contract costs and the elimination of an allowance for calling additional hours of load curtailment. Petition, p. 22. The reduction to curtailment hours raises some concerns. PPL states that the allowance has been deleted because it would increase program costs for the Large C&I class beyond the current budget. Id. PPL then appears to recite the reasoning for implementing the additional curtailment in the first place, referencing both the requirement to achieve a 4.5% reduction in peak load during the Summer of 2012 and the inability to preemptively identify the 100 peak hours. Id. PPL claims that, despite its elimination of the cost of additional curtailment, the additional curtailment remains a cost exposure. Id. This statement suggests that PPL is prepared to purchase additional Large C&I load curtailment despite deleting its budgetary provision for the expense. Id. If this is the case, then the $2 million "reduction" should be investigated to determine whether it constitutes an actual reduction or whether PPL's modified EE&C Plan has effectively exceeded the budget allotment for the Large C&I class.

In addition to the uncertainty surrounding the purportedly reduced curtailment hours, PPLICA also requires additional information regarding the relationship between the proposed change and the increased peak load reduction projection for the Large C&I class. None of the changes to the Petition directly address changes to the projected peak load reduction for the Large C&I class. However, the black-lined EE&C Plan shows an increased peak load reduction for Large C&I customers. Table 87 of the black-lined EE&C Plan shows projected peak load reduction of approximately 140 MW, a 15 MW increase from the current 125 MW target. See Black-lined EE&C Plan, Table 87. Additionally, page 197 of the black-lined EE&C Plan states that PPL's program targets a 156 MW peak load reduction in the summer of 2012. Black-lined

EE&C Plan, p. 197. For purposes of these Comments, PPLICA assumes the 140 MW reduction is the actual projection, pending further clarification from the Company.

The Commission clearly requires PPL to present every change in a revised EE&C Plan and explain how each change effects the current EE&C Plan. See June 2011 Order, p. 8. The increased peak load reduction for the Large C&I class necessarily constitutes a program change or an effect of a program change. In either case, PPL bore a duty to address the modified peak load reduction in the Petition. PPLICA recommends that the Commission investigate the dual peak load reductions reported in the black-lined EE&C Plan and the cause for increasing Large C&I projected peak load contribution. Additionally, as a related point of inquiry, the Commission should investigate an apparent conflict between the Petition, which reports a 61 MW decline in the system-wide projected peak load reduction, and the black-lined EE&C Plan, which reports a decline in system-wide peak load reduction of only 13 MW, from 334 MW to 321 MW. Petition, p. 9, but cf Black-lined EE&C Plan, p. 13.

C. Proposed Minor Change No. 36 Should Be Revised to Allow Customers That Use Internal Resources to Study and Pursue an Energy Efficiency Project to Recover Reasonable Compensation

Proposed Minor Change No. 36 revises PPL's rebate policies for the technical studies employed by customers to identify feasible projects for the Custom Incentive Program. Unfortunately, the modified rebate structure continues to exclude recovery of internal costs. As explained below, this exclusion creates a discriminatory rebate policy, and should be modified.

Under PPL's revised technical studies rebates, a customer will receive 10 cents per square foot for a comprehensive audit of an entire facility or 0.5 cents per kWh/yr for a feasibility study of specific equipment or systems. Petition, p. 27. Either technical study will be capped at the lesser of 25% of the potential custom incentive, 100% of the study costs, or $50,000. Id. The study must be conducted by an outside entity to be eligible for the rebate.

PPLICA is primarily concerned with a restriction on the study costs to be included in any rebate amount. PPL proposes that "for purposes of determining the rebate cap for custom projects, the incremental cost of custom projects will include only the customer's external costs (internal costs, such as the customer's staff, are excluded)." Petition, p. 27. While PPLICA understands the necessity to ensure that Act 129 funds flow to actual program expenses rather than a customer's general operating expenses, this provision becomes unreasonable when applied to larger customers who often have in-house energy management specialists or other energy personnel qualified to conduct a technical study for potential projects. For custom projects, these employees have expansive knowledge of the facility's operations and processes to indentify appropriate energy efficiency measures. However, by issuing rebates only for external, i.e., contracted expenses, PPL is incentivizing customers to retain contract services for Act 129 programs even when internal personnel remains the most knowledgeable, and may be available at a lower cost.

Moreover, from an equity standpoint, the rebate policy discriminates against Large C&I customers that have in-house energy management staff. As mentioned above, many Large C&I customers retain energy managers. Conversely, smaller customers generally do not consume enough energy to justify retention of an energy specialist. The smaller customers requiring assistance with the Custom Incentive Program will have no choice but to retain a contractor. Under Minor Change No. 36, such small business customers may claim the expense as a study cost. The Large C&I customer, employing an internal energy manager to perform the same function, would be ineligible for a refund, but would also endure a lost opportunity cost while its employees are working on the study rather than attending to other duties. PPLICA recommends that the Commission change the internal cost exclusion for technical studies.

Alternatively, to address the costs incurred when internal personnel are used to study and develop a project, the Commission could modify the current 50% cap on the actual project rebate. Currently, PPL caps the rebate for all projects at 50% of the total project cost, less in-house labor. See Black-lined EE&C Plan, p. 165. The Commission could consider allowing Large C&I customers that use internal expertise to study and pursue a project to recover 75% or 100% of the project costs to offset the time and resources expended by internal energy specialists on the project.

D. The Addition of a CSP to the Efficient Equipment Incentive and Custom Incentive Programs Under Proposed Major Change No. 3 Raises Cost Allocation Concerns

Proposed Major Change No. 3 would add a Conservation Service Provider ("CSP") to manage the Small C&I, Large C&I, and Institutional portions of the Efficient Equipment Inventive and Custom Incentive Programs. Although PPL claims that this change can benefit Large C&I customers, the program goals clearly indicate that this program was designed to address lackluster participation from the Small C&I and Institutional classes. Accordingly, PPLICA recommends that the cost be allocated to the Small C&I and Institutional classes.

The Petition leaves no doubt as to the primary beneficiaries of this change. In developing the modification, PPL recounts that "A review of the existing implementation method indicates that it is not resulting in a satisfactory level of participation from Small C&I and Institutional customers, as previously described." Petition, p. 34. The Company then describes the myriad of benefits flowing to Small C&I and Institutional customers, including greater direct contact and increased technical expertise. Id. Regarding Large C&I customers, PPL notes that the CSP "can" assist Large C&I customers with rebate applications and supporting documents, but correctly observes that the CSP can forego marketing to Large C&I customers based on the sector's robust participation. Petition, p. 35.

Absent a showing of clear benefits to the class, no portion of any expenses related to the addition of the CSP should be recovered from Large C&I customers. Based on the capabilities outlined in the Petition, PPLICA asserts that the CSP's services would be duplicative for Large C&I customers. Implementing efficiency measures for a Large C&I customer requires expertise beyond the basic support outlined in the Petition. Petition, p. 35. Most of the duties conducted by the CSP would likely be served by contractors or staff familiar with the scale or scope of Large C&I projects. PPL professes that the program will result in no cost impact, but this position reflects the Company's interpretation of a cost impact as an increase in budget. Petition, p. 35. PPLICA acknowledges PPL's discretion to spend budgeted program revenues; but, as the program balances remain subject to reconciliation, PPLICA would characterize an increase in projected expenses as a cost impact. As such, PPLICA recommends the Commission investigate the effects of this proposed change and deny any portion of the Large C&I Efficient Equipment Incentive or Custom Incentive Program costs associated with the addition of the CSP.

E. The Increase to Overall Common Costs and the Large C&I Allocation of Common Costs Under Proposed Major Change No. 4 Should Be Investigated and Modified in Proportion to any Adjustments to the Company's Proposed Changes to Direct Costs

Proposed Major Change No. 4 increases both total common costs and the Large C&I share of projected common costs. Common costs for the Large C&I class increase significantly as a result of PPL's proposed changes. As such, PPLICA recommends that the Commission investigate the cost increases for prudence and modify the allocation of common costs in proportion to any adjustments to PPL's proposed direct cost.

As described in the Petition, common costs are program costs applicable to multiple customer classes or system-wide. Petition, p. 35. The costs included are allocated to customer sectors based on the sector's percentage of direct EE&C Plan costs versus total EE&C Plan direct costs. Id. Overall, projected total common costs increase approximately 13% from $38 million to $43 million. Petition, p. 36. This approximately $5 million increase equates to 2% of PPL's total EE&C budget. Further, the percentage of common costs attributable to the Large C&I class also increases due in large part to many direct cost reductions which do not flow to Large C&I customers, i.e., the $5 million total cost reduction from elimination of the Time-of-Use Program. See Petition, p. 37.

Among the customer classes, only Large C&I and Residential customers experienced increases to common costs under PPL's proposed changes. PPL claims that the common costs increases are necessary due to various underestimated program costs. Petition, p. 36. Regarding the allocation of the common costs, PPLICA has recommended modifications to other proposed changes that would, if adopted by the Commission, require adjustments to direct costs. Accordingly, PPLICA recommends that the Commission investigate PPL's claimed expenses for prudence, and modify the allocation of common costs in accordance with any adjustments to the Company's proposed direct costs.

IV. CONCLUSION

WHEREFORE, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission:

1. Consider and adopt the foregoing Comments;
2. Take any other action as necessary and deemed appropriate.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

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Dated: March 5, 2012

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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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Counsel to the PP&L Industrial Customer Alliance

Dated this 5th day of March, 2012, at Harrisburg, Pennsylvania.