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File #: 140069

June 25, 2012

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: Energy Efficiency and Conservation Program
Docket Nos. M-2012-2289411 & M-2008-2069887

Dear Secretary Chiavetta:

Enclosed are the Comments of PPL Electric Utilities Corporation for the above-referenced proceeding. Copies have been provided to the persons as indicated on the Certificate of Service.

Respectfully Submitted,



Andrew S. Tubbs

AST/jl

Enclosures

cc: Megan Good (via E-mail)
Kriss E. Brown (via E-mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Energy Efficiency and Conservation Program : **Docket Nos. M-2012-2289411**
: **M-2008-2069887**

**COMMENTS OF
PPL ELECTRIC UTILITIES CORPORATION**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

On May 11, 2012, the Pennsylvania Public Utility Commission (“PUC” or the “Commission”) entered a Tentative Implementation Order¹ in the above-captioned proceeding. In the Tentative Implementation Order, the Commission issued, for public comment, its proposals for implementing the second phase (“Phase Two”) of the Energy Efficiency and Conservation (“EE&C”) Program. As discussed in detail below, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) generally agrees with the Commission’s proposals in the Tentative Implementation Order. However, the Company proposes certain refinements and requests clarification regarding certain proposals in the Tentative Implementation Order.

I. BACKGROUND

PPL Electric is a public utility and an electric distribution company (“EDC”) as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 102, 2803. PPL Electric furnishes electric distribution, transmission, and default supply services to approximately 1.4 million customers throughout its certificated service territory, which includes

¹ *Energy Efficiency and Conservation Program*, Tentative Implementation Order at Docket Nos. M-2012-2289411 and M-2008-2069887 (Order Entered May 11, 2012).

all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

On July 1, 2009, PPL Electric filed its EE&C Plan with the Commission pursuant to Act 129 of 2008, P.L. 1592, 66 Pa. C.S. §§ 2806.1 and 2806.2 (“Act 129”) and various related Commission orders. PPL Electric’s EE&C Plan includes a broad portfolio of energy efficiency and conservation programs and peak load reduction programs. PPL Electric’s portfolio of programs was designed to provide customer benefits and to meet the energy saving and peak load reduction goals set forth in Act 129. The Company’s EE&C Plan includes a range of energy efficiency and demand response programs to assist customers in PPL Electric’s service territory. These programs are the key components of a comprehensive electric energy efficiency initiative designed to achieve the reduced energy consumption and peak demand reductions required by Act 129.

The Commission approved PPL Electric’s EE&C Plan, with modifications, on October 26, 2009² and further revisions were approved on February 17, 2010.³ On September 15, 2010, PPL Electric filed a petition seeking approval to change certain aspects of the previously approved EE&C Plan. On January 28, 2011, the Commission approved certain modifications to the EE&C Plan, but deferred action on other proposed modifications subject to the Company filing a black-line EE&C Plan illustrating all of the proposed changes.

On February 28, 2011, PPL Electric submitted a compliance filing that included the required black-line version of the EE&C Plan. After reviewing comments and reply comments filed in response to the Company’s compliance filing, the Commission approved PPL Electric’s

² *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).

³ *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).

compliance filing on May 6, 2011.⁴ Furthermore, on May 25, 2012, the Commission approved additional modifications to the EE&C Plan, and on June 14, 2012, as directed by the Commission, PPL Electric filed a revised EE&C Plan reflecting the changes approved on May 25, 2012.

PPL Electric continues to support Act 129 EE&C Programs and appreciates the opportunity to provide input regarding this matter. As an EDC operating an EE&C Program, PPL Electric believes that its comments will provide the Commission with a valuable perspective in its evaluation of Phase Two of the EDCs' EE&C Programs.

II. TENTATIVE IMPLEMENTATION ORDER

With the Tentative Implementation Order, the Commission begins the process of establishing the Phase Two energy efficiency and conservation program that requires EDCs to adopt and implement cost effective plans to reduce energy consumption and peak demand throughout the Commonwealth. Tentative Implementation Order at 2. The Tentative Implementation Order proposes required consumption reductions for each EDC, as well as guidelines for implementing Phase Two of the EE&C Program. *Id.* at 1-2. The Commission seeks comments on these proposals.

III. COMMENTS OF PPL ELECTRIC

PPL Electric generally agrees with the proposals in the Tentative Implementation Order and provides the following comments for the Commission's consideration. As discussed in detail below, with these comments the Company requests refinements and clarifications of certain aspects of the Tentative Implementation Order. Furthermore, these comments discuss the

⁴ *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (Order Entered May 6, 2011).

Company's limited areas of disagreement with certain Commission proposals. Specifically, PPL Electric requests that the Commission make the following revisions or clarifications:

- Approve a timeline for planning Phase Three EE&C Plans, particularly as it relates to the potential for a Phase Three demand response program, and permit EDCs to incur some Phase Three expenditures during Phase Two to facilitate the effective implementation of the Phase Three plan;
- Maintain the existing low-income carve out based upon a proportion of measures available;
- Approve parameters related to voluntary expansion of low-income programs to include households up to 250% of the Federal Poverty Income Guidelines, if a reduction target for the low-income sector is established;
- Clarify that there is sufficient market potential for EDCs to obtain 4.5% consumption reduction from the low-income sector;
- Clarify that EDCs are permitted to apply Phase One over-compliance savings to Phase Two at the customer sector level, including the low-income and government/educational/nonprofit sector carve-outs;
- Provide EDCs the option to launch Phase Two EE&C Plans when approved by the Commission and accrue Phase Two costs incurred prior to June 1, 2013 to assure efficiency programs do not "go dark;"
- Advance the release date for the Final EE&C Plan Template to August 2, 2012;
- The Commission should minimize changes to the Technical Reference Manual ("TRM") and ensure that any changes do not hinder an EDC's ability to achieve its Act 129 obligations;
- If the TRM is changed at any time during the development and/or course of Phase Two and those changes hinder an EDC's ability to achieve its Act 129 obligations, then the consumption reduction requirements established in this proceeding and any other targets established by the Commission should be reduced accordingly to reflect the revisions to the TRM;
- Grant EDCs discretion to continue to use existing conservation service providers ("CSPs") for Phase Two without rebidding the contracts;
- Confirm that the costs associated with the statewide evaluator ("SWE") and the determination of Net-to-Gross Ratio in Phase Two will not be subject to the cost cap imposed on the EDCs;
- Clarify that costs associated with Phase One work that are incurred after May 31, 2013 are to be counted against the Phase One EE&C Plan budget;

- Clarify that EDCs are not required to bid energy efficiency resources into PJM Interconnection, LLC (“PJM”) capacity market; and
- Maintain the current EDC process of reconciling program costs without interest.

For ease of reference, the topics addressed in these comments are numbered in the same manner as the topics discussed in the Tentative Implementation Order. If the Company does not address a particular topic, that fact is noted under the topic.

A. EVALUATION OF THE EE&C PROGRAM AND ADDITIONAL TARGETS

1. Evaluation of the EE&C Program

Based upon the actual performance of Phase One EE&C Programs through Program Year 3 and the SWE’s Electric Energy Efficiency Potential for Pennsylvania Final Report (“Market Potential Report”) the Commission determined that the benefits of a Phase Two Act 129 program will exceed the costs and proposes to adopt additional required incremental reductions in consumption for another program term. Tentative Implementation Order at 7.

The Company has no comments on the Commission’s determination in Section A.1 of the Tentative Implementation Order.

2. Proposed Additional Incremental Reductions in Consumption

a. Length of Program

In the Tentative Implementation Order, the Commission proposes to implement a three-year term for Phase Two of the Act 129 EE&C Program that would operate from June 1, 2013 through May 31, 2016. Tentative Implementation Order at 10.

For the reasons set forth in PPL Electric’s April 17, 2012 comments, the Company agrees with the three-year term for Phase Two. In short, a three-year term for Phase Two: (1) provides time for the Commission to review the results of Phase One before including a demand response curtailment (“DR”) program; (2) avoids interruption of Phase Two (compared to the 4-year and

5-year options considered by the Commission that would require demand response in Phase Two if the Commission determines demand response is appropriate); (3) removes uncertainty associated with continuously evolving energy efficiency technology; (4) facilitates the coordination of changes to the TRM with EDC EE&C Plans; (5) recognizes the potential for dramatically fluctuating energy prices and the associated impact on EDC EE&C Plans; and (6) accommodates any potential for future legislative changes to Act 129.

As the EDCs' Phase One DR programs are just now being implemented (June 1 – September 30, 2012), the EDCs will not report the result of the DR programs until after the filing of the EDCs' Phase Two EE&C Programs on November 1, 2012. Therefore, should the Commission determine in December 2012 that further DR targets are warranted, a three year Phase Two EE&C Plan (June 1, 2013 – May 31, 2016) would provide the Commission and stakeholders with time to evaluate the potential structure for future DR targets and more appropriately identify DR targets for inclusion as part of a “Phase Three” EE&C Program. This approach is consistent with Section 2806.1(d)(2) which provides that, should the Commission determine to set additional incremental requirements for peak demand reductions, the required reductions are to be accomplished no later than May 31, 2017. 66 Pa. C.S. § 2806.1(d)(2).

If peak load reductions must be implemented in summer months, then the next DR programs would have to implement reductions June 1, 2016 through September 30, 2016 to meet the “by May 31, 2017” deadline. If the term of Phase Two is three years, as the Commission currently proposes, then the next demand response reductions (if demand response is required by the Commission) would be incorporated into Phase Three and occur at the beginning of Phase Three plans, providing a clean transition from the Phase Two EE&C Plans. However, if the term of Phase Two is four or five years, then the June 1, 2016 – September 30, 2016 demand

reductions would occur during Phase Two, requiring the EDCs to significantly modify their Phase Two EE&C Plans to add demand response.

To facilitate the potential development of Phase Three DR programs, PPL Electric recommends that the Commission include the following preliminary Phase Three planning timeline in the Commission's Final Implementation Order to permit the Commission and all parties to work toward these dates:

- Phase Two SWE issues DR Market Potential Report by December 31, 2013.
- If the Commission determines that demand response will be included in Phase Three, the Commission issues final Phase Three DR targets, energy efficiency targets, and rules by March 31, 2014.⁵
- EDCs submit Phase Three EE&C Plans, including DR programs by August 30, 2014.
- Commission approval of the Phase Three EE&C Plans by December 31, 2014.
- EDCs issue RFPs for Phase Three DR programs, award DR programs, and enroll participants in DR programs from March 2015 through May 2016.⁶
- EDCs launch Phase Three programs including DR events on June 1, 2016.
- DR compliance period is June 1, 2016 through September 30, 2016.

b. Baseline for Targets

The Tentative Implementation Order proposes to adopt the 2009/2010 energy year forecasts as the baseline from which to measure savings in Phase Two. Tentative Implementation Order at 12. PPL Electric agrees with the Commission's proposal in Section A.2.b of the Tentative Implementation Order.

⁵ This is approximately 8 months from the start of Phase Two and the results of the Phase Two energy efficiency programs will not be known at that time.

⁶ Since this is during Phase Two, the Commission should permit EDCs to incur Phase Three expenditures during Phase Two.

c. Reduction Targets

As noted above, the Commission proposes to adopt a three-year consumption reduction requirement for Phase Two that is based on the 2009/2010 energy forecasts. Tentative Implementation Order at 12. These consumption reduction requirements vary by EDC based on the specific mix of program potential, acquisition costs and available funding. Specifically, for PPL Electric, the Commission proposes the following targets:

Table 1: Act 129 Phase Two Proposed three-year Energy Efficiency Reduction Targets⁷

EDC	3 Year % of 2009/10 Forecast Reductions	3 Year MWh Value of 2009/10 Forecast Reductions
PPL	2.1	821,072

PPL Electric supports the Commission’s decision to set individual EDC consumption reduction targets that are based upon each EDCs’ annual spending ceiling which limits the program spending to 2% of 2006 annual revenue. However, PPL Electric is concerned that the 2.1% compliance target proposed by the Commission will be challenging to achieve given external and variable factors including: (1) the impact of potential downward adjustments to savings in future versions of the TRM; (2) the Commission’s proposed requirement that EDCs rebid all Phase One CSP contracts; (3) the changes set forth in the Energy Independence and Security Act of 2007 (“EISA”) which reduce savings available from efficient lighting by 25% to 40%; (4) the continued slow economic recovery and inflationary erosion of the purchasing power available within the 2% funding cap; and (5) the lengthy process associated with obtaining

⁷ The Commission proposes to adopt the three-year consumption reduction requirements as contained in the SWE’s market potential report and reproduced in Table 1 of the Tentative Implementation Order. See Tentative Implementation Order at 10.

Commission approval of modifications to EE&C Plans. These factors are addressed in more detail below.

First, the cost per kWh of anticipated savings can be adversely affected by changing values in the TRM. An EDC's Commission-approved plan and budgets are based on values reflected in the then current TRM and not based upon on a prediction of what may be reflected in future TRMs. To date, each time the TRM has been updated, a significant number of the changes reduced savings and, therefore, increased EDC program acquisition costs.⁸ For example, the savings for a recycled refrigerator/freezer decreased from 1728 kWh/yr in Program Years 1 and 2 to 1659 kWh/yr for a refrigerator that is not replaced, to 1205 kWh/yr for a refrigerator that is replaced with a non-Energy Star unit, and 1091 kWh/yr for a refrigerator that is replaced with a non-Energy Star unit. This change in the TRM decreases the savings in the Program Year 3 appliance recycling program by approximately 25% compared to Program Year 1, which was also the basis of the Company's original approved EE&C Plan.

Currently, the SWE and the Commission are discussing possible changes to the 2013 TRM, including updated savings, hours of use for lighting and HVAC, a different method to estimate savings from residential HVAC and weatherization, and changes to the savings for other measures to reflect Pennsylvania-specific conditions. They also are evaluating how to incorporate future changes in codes and standards into the TRM. If the Commission decides to significantly modify the 2013 TRM and subsequent Phase Two TRMs, these changes will occur after PPL Electric's Phase Two EE&C Plan has been developed and will affect the savings that can be achieved. Based on the TRM changes implemented in Program Years 2, 3, and 4 for Phase One, PPL Electric reasonably anticipates that the 2013-2016 TRMs could further decrease

⁸ Program acquisition costs are program expenditures divided by annualized savings.

savings. This puts PPL Electric in the position of trying to hit a moving target within a fixed budget, and could impair the Company's ability to plan and implement its Phase Two EE&C Program. Further, midstream changes to the TRM to reduce savings may jeopardize PPL Electric's ability to meet its Phase Two reduction target and subject the Company to a significant civil penalty under Act 129.

Requiring EDCs to apply the TRM modifications during the term of Phase Two (or during the term of any phase) would alter the rules that guided the EDCs to design and the Commission's approval of the EE&C Plans. TRM modifications would amount to the Commission changing the rules of the game at half-time. Consistent with the Commission's applicable implementation order, PPL Electric and other EDCs will rely upon the currently effective TRM as a guide to develop the Phase Two EE&C plans. Critical to the development of PPL Electric's EE&C Plan, as well as the Commission's approval of the plan, will be the deemed savings calculations and implementation aspects approved by the Commission in its TRM. Once the Commission approves the Phase Two EE&C Plan, PPL Electric will adhere to its Commission-approved Plan and in so doing will employ extensive efforts and spend considerable money to implement the Plan in order to meet its Act 129 obligations.

If the Commission adopts modifications to the TRM during Phase Two which hinder an EDC's ability to achieve its Act 129 obligations and the Commission decides to apply these modifications as updates to the EDCs' EE&C Plans, PPL Electric recommends that the Commission revise the consumption reduction requirements and any other related targets accordingly. Therefore, in the event that the Commission revises the TRM any time during the development and/or course of Phase Two (or subsequent EE&C Program phases), the consumption reduction requirements established in this proceeding and any other targets

established by the Commission should be reduced to reflect the revisions to the TRM. Furthermore, the Commission should apply a greater reduction to the previously established targets the later the TRM changes occur during the course EE&C Program period to account for the late application of the TRM revisions.

Second, in the Tentative Implementation Order the Commission proposes to require EDCs to competitively bid all CSP contracts for Phase Two programs. Tentative Implementation Order at 53. If ultimately adopted by the Commission, such a requirement would reduce funds available to EDC to serve customers and acquire kWh savings.⁹ In some cases, customers will be paying twice for the same CSP products or services. For example, a CSP that created a tracking system in Phase One could be replaced in Phase Two by a new CSP with a new tracking system. Recreating a tracking system will reduce funds available to generate kWh savings by several million dollars and would take over a year to implement. Also, additional funds would be required to maintain the Phase One system for record keeping and analysis purposes, as the existing CSP will continue to host and license the system.

Third, changes to the TRM to reflect EISA (phased-in starting in 2012) have reduced lighting savings by 25% to 40% compared to the TRM that was in effect when the Phase One EE&C Plans were approved. Lighting accounts for approximately 70% of the total savings in PPL Electric's Phase One EE&C Plan and is expected to account for a significant portion of the Phase Two EE&C Plan. The Market Potential Study confirms that there is still significant potential for lighting savings in both the residential and non-residential sectors. Approximately 36% of the total achievable savings are attributed to lighting in the residential sector.¹⁰ The

⁹ The negative impacts associated with requiring EDCs to rebid all CSP contracts in Phase Two are addressed in detail in Section H of these comments.

¹⁰ Table 6.4, page 63 of Market Potential Study Report.

comparable percentage for the non-residential sector at the state-wide level is 40.7%.¹¹ For PPL Electric, this achievable lighting potential¹² is 250,810 MWh/yr for residential and 181,637 MWh/yr for non-residential. Since the Phase Two costs (primarily incentives to customers) for each lighting measure will likely be similar to Phase One, but the savings will be 25% to 40% less, the program acquisition cost for lighting will be much higher in Phase Two.

Fourth, the state of the economy and customer's ability to make investments in energy-efficiency remain challenging. Unfortunately, poor economic conditions have continued longer than PPL Electric expected at the time the Company filed its original EE&C Plan. Further, since PPL Electric's EE&C Plan was initially approved the economy has experienced more than four years of inflation. The Consumer Price Index compiled by the U.S. Department of Labor, Bureau of Labor Statistics, indicates that the Company would have to spend \$1.07 in 2012 dollars to have the same purchasing power of \$1.00 in 2009.¹³ This shift has resulted in a decline in the purchasing power of the funds used for the EE&C Plan, thereby increasing the costs required to achieve the required savings.

Fifth, the retail market space requires EDCs to be flexible and nimble in order to deliver programs in a cost effective manner. During Phase One it was obvious that customer and trade ally "take" rates¹⁴ differed from what was anticipated in the original plan. As detailed in Section G below, the current Commission review and approval process is long and causes delays in an EDC's ability to make changes to programs, measures and rebates that would result in greater

¹¹ Table 7.4, page 74 of Market Potential Study Report.

¹² Achievable potential is the portion of energy efficiency potential that is technically feasible, cost effective, and reasonably achievable by 2016 given market constraints and barriers, without any program funding constraints.

¹³ See <http://www.bls.gov/cpi/home.htm>.

¹⁴ Take rates refers to the percentage of customers and trade allies that elected to participate in EDC offered programs and measures.

efficiency. This lag time causes increased costs to EDCs and delays in taking advantage of legitimate opportunities.

Despite these concerns, PPL Electric believes that its Phase Two 2.1% compliance target may be reasonably achievable. However, the Company's ability to achieve its Phase Two compliance target is contingent upon the following items being approved by the Commission in its final Phase Two Implementation Order:

- EDCs are permitted to carry over savings in excess of 3% from Phase One to meet the Company's Phase Two requirements;
- 2013 – 2016 TRM changes do not reduce EDC's Phase Two savings relative to the 2012 TRM which is the basis for EDC's Phase Two EE&C Plans;
- To avoid undue administrative overhead, EDCs are permitted to maintain the contracts of CSPs that are performing well and EDCs are permitted to maintain the contracts of CSPs if the scope of work has not changed;
- EDCs are not required or expected to expend Phase Two budget toward achievement of Phase Three plan development and implementation; and
- If there is a low-income savings compliance target, EDCs are permitted to include low-income participation in general residential programs. In addition, PPL Electric may determine low-income savings in non low-income programs using its Phase One method approved by the Commission or an alternative method determined by the Company and approved by the Commission. In addition, EDCs are not required to income-qualify participants in general residential programs. Further, participants at or below 250% of Federal Poverty Income Level Guidelines may count toward the low-income compliance target and PPL

Electric is not required to pay higher incentives to low-income participants in general residential programs than it pays to non low-income customers in those programs.

As noted previously, PPL Electric has identified a number of concerns related to the Commission's proposed Phase Two consumption reduction target. However, PPL Electric believes that it will be able to achieve its Phase Two target, if the Commission addresses the issues identified above. To the extent that the Commission does not grant PPL Electric's requested clarifications/revisions, the Company requests that its proposed Phase Two consumption reduction be determined in an on the record evidentiary proceeding with a full opportunity to investigate and rebut the proposed Phase Two consumption reduction.¹⁵

d. Aligning Targets and Funding

The Commission proposes to adopt individual EDC energy efficiency targets for the three-year Phase Two EE&C Plans. Tentative Implementation Order at 13. PPL Electric supports the Commission's proposal. However, as noted above, the Company believes that it will be extremely challenging to meet the Company's proposed Phase Two consumption reduction target.

¹⁵ In an administrative proceeding, any finding of fact necessary to support a determination by an administrative agency must be based upon substantial evidence. *Met-Ed Indus. Users Group v. Pa. P.U.C.*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704). In order to satisfy the substantial evidence test, fact finding must be based exclusively on the evidence admitted to the record in the proceeding. *Kyu Son Yi v. State Board of Veterinary Medicine*, 960 A.2d 864, 870-871 (Pa. Cmwlth. 2008) (holding that extra-record evidence cannot sustain an adjudication). 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). 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*, 960 A.2d at 874 (citation omitted).

3. Peak Demand Reductions

a. Exclusion of Peak Demand Reduction Obligations for Phase Two

According to the Commission, subsection (d)(2) of Act 129, 66 Pa. C.S. § 2806.1(d)(2), requires the prescription of specific peak demand reduction targets for subsequent phases of Act 129 only if the demand response programs are proven to be cost-effective. In the Tentative Implementation Order, the Commission explained that it does not have the information required to determine the cost effectiveness of the demand response programs and proposed to await the SWE's demand response study before proposing any possible demand response reduction program design for Act 129. PPL Electric agrees there should be no demand reduction compliance targets for Phase Two. The Commission should complete its evaluation to determine if demand response is appropriate for Phase Three.

b. Interim Demand Response Programs

As explained in the Tentative Implementation Order, certain parties requested that the Commission propose interim demand response programs. Tentative Implementation Order at 17. The Commission, as noted above, determined that it does not have the authority to propose any demand response program targets until a determination of cost-effectiveness has been completed. Furthermore, the Commission determined that it cannot mandate the inclusion of targets that may or may not be cost-effective to Pennsylvania ratepayers. However, in order to minimize customer confusion or adverse customer reaction, the Commission, in the Tentative Implementation Order, encourages EDCs, CSPs and all stakeholders to review the cost-effectiveness of particular measures and their potential applicability to Pennsylvania electric customers outside the realm of the Act 129 EE&C Program.

As noted above, PPL Electric agrees there should be no demand reduction compliance targets for Phase Two and that the Commission should complete its evaluation to determine if demand response is appropriate for Phase Three. PPL Electric will review the cost-effectiveness of its measures and their potential applicability to customers outside Act 129 EE&C Program.

c. Amending the Top 100 Hours Methodology for Future Phases

The Commission has contracted with the SWE to develop a demand response study which, *inter alia*, will address the potential for an improved peak demand reduction program design. Tentative Implementation Order at 18. Specifically, the SWE will determine whether the current DR program design utilizing the top 100 hours is the optimal methodology or if there is a more appropriate and cost-effective peak demand reduction model for the Act 129 EE&C Program. PPL Electric agrees with the Commission's determination to await the SWE demand response study to determine whether to continue to utilizing the top 100 hours for peak reduction program design.

4. Carve-Out for Government, Educational and Nonprofit Entities

a. Prescription of a Government/Educational/Nonprofit Carve-Out

Act 129 requires that the EE&C Plans obtain a minimum of 10% of all consumption and peak demand reduction requirements from of the federal, state and local governments, including municipalities, school districts, institutions of higher education and nonprofit entities. 66 Pa. C.S. § 2806.1(b)(1)(i)(B). The Commission proposes to continue this requirement for Phase Two. The Commission concludes that government/educational/nonprofit carve-out is not subject to the penalties prescribed in Act 129. 66 Pa. C.S. § 2806.1(f)(2); Tentative Implementation Order at 18. The Commission notes, however, that a failure by an EDC to meet the

government/educational/nonprofit sector requirement would subject an EDC to the penalties contained in Chapter 33 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 3301(a).

PPL Electric agrees with the Commission's determination to require the EE&C Plans to obtain a minimum of 10% of all consumption reduction requirements from the government/educational/nonprofit sector.

b. Inclusion of Multifamily Housing

The Commission explains that some commenters requested the inclusion of measures targeting multifamily housing. Tentative Implementation Order at 20. The Commission proposes that multifamily housing be given special emphasis and consideration within the government/educational/nonprofit sector. In addition, the Commission encourages EDCs to recognize the available potential for energy savings present in multifamily housing and develop strategies and programs to sufficiently address this opportunity within their Phase Two EE&C plans. PPL Electric requests that the Commission clarify that the inclusion of measures targeting multifamily housing are to be applicable for low-income customers only. While the Commission states that EDCs should consider measures targeting multifamily housing within the government/educational/nonprofit sector, the comments filed in this proceeding focus on measures targeting low-income multifamily housing. For example the comments filed by Regional Housing Legal Services and the Philadelphia Weatherization and Conservation collaborative in this proceeding suggest that the multifamily housing measures be put in place because multifamily-specific energy efficiency programs ensure that low-income utility customers receive benefits and remedy the effective exclusion of thousands of low-income Pennsylvanians from the benefits of Act 129. Therefore, PPL Electric seeks clarification that measures applicable to multifamily housing are indented for the low-income sector only.

c. Inclusion of On-Bill Financing

The Commission concludes that it does not have enough information to prescribe the implementation of on-bill financing of EE&C measures. Tentative Implementation Order at 22. PPL Electric agrees with the Commission's determination for the reasons expressed in PPL Electric's initial comments filed on April 17, 2012 in this docket.

5. Low-Income Measures

a. Prescription of a Low-Income Carve-Out

For Phase Two, the Commission proposes to continue the requirement that each EDC's EE&C Plan include specific energy efficiency measures for households at or below 150% of the Federal Poverty Income Guidelines, in proportion to that sector's share of the total energy usage in the EDC's service territory. Tentative Implementation Order at 23. However, the Commission also proposes that each EDC's Phase Two EE&C Plan obtain a minimum of 4.5% of the consumption reduction requirements from the low-income sector.

As discussed in PPL Electric's initial comments filed on April 17, 2012 in this proceeding, PPL Electric recommends that the low-income carve-out remain the same in the Phase Two EE&C Programs. PPL Electric recommends that the Commission maintain the existing low-income carve out and that it continue to be based, for Act 129 compliance purposes, upon a proportion of measures available.

Act 129, 66 Pa. C.S. § 2806.1(b)(1)(i)(G), states in full that:

The plan 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. The electric distribution company shall coordinate measures under this clause with other programs administered by the commission or another Federal or State agency. The expenditures of an electric distribution company under this clause shall be in addition to expenditures made under 52 Pa. Code Ch. 58 (relating to residential low income usage reduction programs).

Presently, the Phase One EE&C Programs include specific energy efficiency measures for households at or below 150% of Federal Poverty Income Guidelines in proportion to the sector's share of the total energy usage in the EDC's service territory. The existing carve-out for low-income customers is consistent with Act 129 and has worked well for PPL Electric and its customers. Indeed, consistent with the Commission's 2009 Act 129 Implementation Order,¹⁶ PPL Electric's current EE&C Plan provides eligible low-income consumers, with a reasonable mix of energy efficiency programs. There are a significant number of options available to these customers. Moreover, low-income customers can participate in all residential energy efficiency programs and PPL Electric offers two programs (Low Income WRAP and E Power Wise) solely for the benefit of low-income customers.

Therefore, the Company recommends that the low-income carve-out not be modified for the Phase Two EE&C Programs and that the Commission continue to follow the standard established in Act 129 that the number of measures for the low income sector be proportionate to those households' share of the total energy usage in the service territory. Furthermore, PPL Electric recommends that the Commission not require each EDC's Phase Two EE&C Plan obtain a minimum of 4.5% of the consumption reduction requirements from the low-income sector because this standard is not consistent with the proportional measure standard contained in Act 129.

b. 250% of the Federal Poverty Income Level Guidelines

In order to facilitate the EDCs' attainment of a 4.5% reduction in consumption for the low-income sector, the Commission proposes that the EDCs have the flexibility to voluntarily

¹⁶ *Energy Efficiency and Conservation Program Implementation Order*, Docket No. M-2008-2069887, entered on January 16, 2009, Reconsideration Order entered May 2, 2009, at 23.

expand the low-income programs to include households up to 250% of Federal Poverty Income Guidelines. In addition, the Commission proposes that EDCs be allowed to count savings attained from low-income customer participation in non-low-income programs towards this goal. Tentative Implementation Order at 26. The Commission proposes that the provision of energy efficiency measures to 250% of Federal Poverty Income Guidelines be voluntary and left to the discretion of each EDC. The Commission encourages the EDCs to review the applicability of low-income and residential measures to determine whether or not the inclusion of those customers who fall within the 151-250% range of the Federal Poverty Income Guidelines is appropriate. In addition, the Commission encourages EDCs to consider the development of pilot programs that could be easily-marketed and targeted to reach households at the 151-250% range, and to actively coordinate such programs with other similar efforts and weatherization programs.

As noted above, PPL Electric recommends that the low-income carve-out remain consistent with Act 129 and not be modified for the Phase Two EE&C Programs. However, if the Commission decides to implement its proposal for the Phase Two EE&C Programs, PPL Electric would support the Commission's proposal for a low-income savings carve-out that is 4.5% of the EDC's required total savings compliance target within the following parameters:

- Low-income participation in non low-income programs qualifies in meeting this carve-out, as noted in the Tentative Implementation Order.
- EDCs are not required to income-qualify participants in non low-income programs. EDCs can determine low-income participation in non low-income programs through customer self-reporting (such as check boxes on the rebate application), surveys, secondary research (such as census data), or other methods that are defined in the EDC's Evaluation Plan and approved by the SWE.
- Low-income households at or below 250% of the Federal Poverty Income Guidelines qualify toward this low-income carve-out, as proposed in the Tentative Implementation Order.

- EDCs are not required to offer higher rebates for low-income participants in non low-income programs than is offered for non low-income participants.

The Company further notes that SWE's Market Potential Report did not attempt to determine market potential for the low-income sector. Therefore, the Company requests that the Commission clarify that there is sufficient market potential (economic, achievable, and program potential categories) to potentially obtain the proposed 4.5% savings requirement.

6. Accumulated Savings in Excess of Reduction Requirements

The Commission recognizes that many EDCs anticipate achieving the 3% energy efficiency targets before the end of Phase One and sought direction how to allocate the excess savings. Tentative Implementation Order at 29. Further, the Commission proposes to allow the EDCs to accrue savings beyond their target during Phase One utilizing Phase One funds within the cap and to use those savings towards any Phase Two consumption reduction targets.

PPL Electric agrees with the Commission's proposal to allow an EDC to accrue savings, within the 2% revenue cap, beyond its 3% target during Phase One and to use those savings towards any Phase Two consumption reduction targets. PPL Electric notes that an EDC may not know the amount of the excess savings until its final annual reports are submitted in November 2013. PPL Electric requests that the Commission modify its EE&C Plan Template and add a line item to tables in the Phase Two quarterly and annual EE&C reports for "Over-compliance from Phase One" or wording of similar intent. The addition of this line item will assist an EDC to account for the savings from Phase One that it is allocating towards the Phase Two consumption reduction targets.¹⁷ Further, PPL Electric requests that the Commission confirm that EDCs are permitted to apply Phase One over-compliance savings to Phase Two at the

¹⁷ These excess savings would be accounted for as Phase One savings and costs, and would be included in the Phase One TRC.

customer sector level, including the low-income and government/educational/nonprofit carve-out carve-outs.

Currently, some of PPL Electric's funding for its Phase One programs and/or sectors is fully committed. For example, PPL Electric's Phase One funding for Large C&I customers was fully committed as of March 2012. Therefore, all Large C&I measures will "go dark" for well over a year until Phase Two begins in June 2013. That creates a significant loss of momentum in the market, creates uncertainty for customers, prevents or delays customers from implementing their energy efficiency projects (some for more than the "go dark" period if they miss internal budget cycles), and deprives customers of electricity savings for more than a year. To mitigate these impacts, PPL Electric requests the Commission allow EDCs the option to start incurring Phase Two costs (such as incentives and other program implementation costs) in Phase One so that programs/measures can continue seamlessly from Phase One to Phase Two. These expenditures and savings would be accounted for as "Phase Two" even though the customer's project may have been committed or installed during Phase One. Savings would be calculated using the TRM methodology in use of the installed date.

B. PLAN APPROVAL PROCESS

1. Phase Two EE&C Plan Approval Process

Act 129 requires that the Commission to establish procedures for approving EE&C Plans submitted by EDCs. 66 Pa. C.S. § 2806.1(a)(1). In Phase One, the Commission established an EE&C Plan approval process that balanced the desire to provide all interested parties with an opportunity to be heard, with the need to complete the process within the statutory time constraints. For Phase Two, the Commission proposes to use the Phase One EE&C Plan

approval process with one revision. Specifically, the Commission proposes to eliminate the need for a public input hearing, unless specifically requested. Tentative Implementation Order at 31.

PPL Electric agrees with the Commission's determination to use the Phase One approval process for Phase Two, as modified by Tentative Implementation Order.

2. Phase Two Planning Timeline

The Commission proposes a specific timeline for implementing Phase Two of the Act 129 EE&C Program. Tentative Implementation Order at 33. Specifically, the Commission set June 1, 2013 as the date that the Phase Two EE&C Programs begin. As discussed in Section A.6 above, PPL Electric requests that the Commission permit EDCs to start incurring Phase Two costs (such as incentives and other program implement costs) in Phase One so that programs/measures can continue seamlessly from Phase One to Phase Two without "going dark."

In the alternative, PPL Electric requests that the Commission permit EDCs to launch their Phase Two Plans as soon as the programs are approved by the Commission (currently scheduled for February 28, 2013). In many cases, portions of the Phase One EE&C Plans may stop earlier than May 31, 2013 because Phase One funds were depleted for a measure, program, customer sector, or the entire portfolio. Allowing approved Phase Two programs to start earlier than May 31, 2013 provides EDCs and customers with extra time to take advantage of Phase Two programs and provides customers and trade allies with a seamless transition from Phase One to Phase Two. In addition, PPL Electric requests that the Commission confirm that it will advance the EE&C Program approval timeline proposed in the Tentative Implementation Order if an EDC submits the Phase Two EE&C Plan earlier than November 1, 2012.

3. Additional Phase Two Orders

The Commission proposes timelines for issuing various directives, including: the 2013 TRC test; the template to be used for the EDCs' Phase Two EE&C plans; further details regarding the compliance targets; the 2013 TRM; and the CSP registry. Tentative Implementation Order at 34.

PPL Electric requests that the Commission advance the schedule for the Final EE&C Plan Template to August 2, 2012 (to coincide with the Final Implementation Order). The Tentative Implementation Order proposes to issue the EE&C Plan template on September 24, 2012¹⁸ which is only 5 weeks before EDCs must file their EE&C Plans (November 1, 2012). The EE&C Plans are extensive documents with interrelated data and tables throughout. In order to file Phase Two EE&C Plans by November 1, 2012, an EDC must essentially complete its Plan by early/mid-October to allow sufficient time for final internal review and approval. This schedule leaves only three weeks between the release of the template (which defines the format and content of the EE&C Plan) and when an EDC must complete its EE&C Plan for internal review. Therefore, to permit EDCs more time to finalize the Phase Two EE&C Plans, PPL Electric requests that the Commission issue the Final EE&C Plan Template on or before August 2, 2012.

C. PLAN EFFECTIVENESS EVALUATION PROCESS

1. Statewide Evaluator

Act 129 requires the Commission to establish an evaluation process that monitors and verifies data collection, quality assurance and the results of each EE&C Plan and the program as a whole. *See* 66 Pa. C.S. § 2806.1(a)(2). During Phase One, the Commission contracted with a

¹⁸ PPL Electric notes that there appears to be an error in the proposed schedule, the date included for the Final Template to be released via Secretarial Letter, September 24, 2013, should read September 24, 2012.

SWE to evaluate the EDCs' programs. The Commission proposes that to have credible impact and process evaluations available for Phase Two, a SWE must be selected and used in a fashion similar to Phase One. In preparation for Phase Two, the Commission proposes to again competitively solicit for similar services to evaluate the EDC programs and identify whether further cost-effective savings can be obtained in future EE&C programs. Tentative Implementation Order at 35-36.

PPL Electric agrees with the Commission's proposal regarding selecting a SWE. In addition, the Company would support continuing the existing contract with the SWE, with updated time and material pricing, and an updated scope of work. This approach would provide a quick, seamless, and least cost transition from Phase One to Phase Two since the current SWE understands all the Pennsylvania specific rules, and has systems and processes in place. It will also eliminate the situation where there is overlap between the Phase One SWE and a different Phase Two SWE. The Phase Two SWE would come on board March 2013, but the Phase One SWE will still have significant Phase One work through December 2013 or later. That overlap could lead to confusion, duplicate meetings, and other inefficiencies.

2. Technical Reference Manual

a. Updating Frequency

The Commission states that it will continue to utilize the TRM to help fulfill the evaluation process requirements of Act 129. Tentative Implementation Order at 37. The TRM was initially adopted in a proceeding under the Alternative Energy Portfolio Standards Act ("AEPS Act") and was updated and expanded to fulfill the requirements of the EE&C provisions of Act 129. The Commission also initiated a process to update and expand the TRM and provided updated 2009, 2010, 2011 and 2012 editions of the TRM. In the Tentative

Implementation Order, the Commission proposes that, in order to evaluate the EDCs' programs for real savings to the consumers, the TRM should be updated to contain the most up-to-date information regarding deemed savings values and assumptions. The Commission proposes to maintain the annual updating procedure for Phase Two.

PPL Electric appreciates the Commission's commitment to determine savings as accurately as possible. However, this commitment must be balanced against other Act 129 objectives including: (1) the cost of programs, (2) the complexity of data and information that must be provided by customers for the EDCs to determine savings, (3) the impact of changes to the TRM on savings assumptions in the EE&C Plans, (4) the need for revisions to the EE&C Plans as a result of changes to the TRM; (5) the significant time to receive approval of changes to EE&C Plans; and (6) the relatively short timeframe to implement programs. As discussed in Section A.2.c above, changes to the TRM can alter savings estimates and program design in the EDC's EE&C Plans. In addition, revisions to the TRM require changes to program/measure eligibility requirements (such as minimum efficiency levels for equipment), rebate forms, the data that must be collected from customers, savings calculations in tracking systems, incentive levels (such as better alignment to higher/lower savings), and other changes that can be disruptive, costly, and time consuming to implement. Currently, EDCs are required to file Petitions to implement all changes required by revisions to the TRM. Moreover, changes to the TRM that lower previously projected savings could require the deployment of additional measures to meet statutorily mandated targets. Such changes, depending upon when required could jeopardize an EDC's ability to meet its Act 129 targets.

PPL Electric strongly encourages the Commission to minimize changes to the TRM unless the effective date of a change coincides with the start of the next EE&C Program cycle.

PPL Electric suggests the following approach:

1. New TRM Measures. The current process of adding new measures to the TRM works very well and should continue. New measures become effective upon approval of the Interim Measure Protocol and provide more options to customers and EDCs. EDCs have the option to implement these new measures, *i.e.*, add them to an EE&C Plan, however, the new measures are not required to be implemented.
2. Baseline Changes to Existing TRM Measures. For measures where code or standards change and affect the assumed TRM baseline, the TRM should be updated to reflect this change. Because these changes were not in the EE&C Plan or current program design, the effective date of such changes should coincide with the beginning of the next phase of the EE&C Program. Therefore, such changes would not force an EDC to revise its EE&C Plan or program design. For example, any changes that are not part of the 2013 TRM should become effective June 1, 2016 (Phase Three).
3. Other Changes to Existing Measures. These other changes include revisions to fully deemed savings values, changes to savings algorithms, changes to hours of use, and other parameters that impact measure eligibility, savings, or the information and method required to determine savings. Because these revisions were not in the EE&C Plan or current program design, the effective date of the change should coincide with the beginning of the next phase of the EE&C Program. Therefore, such changes would not force an EDC to revise its EE&C Plan or program design. For example, any changes that are not part of the 2013 TRM should become effective June 1, 2016 (Phase Three).

For the reasons set forth above, PPL Electric requests that the Commission minimize changes to the TRM and implement the approach outlined above when approving changes to the TRM.

b. 2013 TRM Update Timeline

PPL Electric requests that the Commission advance the issuance dates for the 2013 TRM Tentative and Final Orders so EDCs know how savings will be determined in time to incorporate those savings assumptions in the EDC's Phase Two EE&C Plan (due November 1, 2012). It is

important for EDCs to know the 2013 TRM at the same time the Commission issues the Final Implementation Order. Tentative Implementation Order at 21.

c. Aligning the TRM Update with the Implementation Timeline

See the Company's comments relative to section b above related to the 2013 TRM Update Timeline.

3. EDC Annual and Quarterly Reporting

The Commission proposes to maintain the annual and quarterly reporting schedule established in its May 25, 2011 Secretarial Letter. Tentative Implementation Order 40. The Commission directed the EDCs to submit two Act 129 annual reports per program year. The first annual report, due July 15, is a preliminary report providing each EDC's reported savings for its EE&C portfolio for that program year. The second annual report, due November 15, is a final annual report that provides the verified savings for the EDC's EE&C portfolio for that program year, the cost-effectiveness evaluation TRC test, the process evaluation, as well as items required by Act 129 and Commission Orders. PPL Electric agrees with the Commission's proposed annual and quarterly reporting schedule.

D. COST – BENEFIT ANALYSIS APPROVAL PROCESS

1. 2013 TRC Test

The Commission also proposes a timeline for making updates to the TRC. The Company has no comments on the Commission's proposal in Section D.1 of the Tentative Implementation Order relative to updating the 2013 TRC. Tentative Implementation Order 42.

However, the Commission has issued a Tentative Order related to the 2013 TRC.¹⁹ PPL Electric has identified that some of the proposed 2013 TRC requirements will impact the

¹⁹ *Implementation of Act 129 of 2008 – Total Resource Cost (TRC) Test – 2012 Phase II of Act 129*, Docket Nos. M-2012-2300653 and M-2009-2108601 (order entered on May 25, 2012) ("2013 TRC Tentative Order").

Tentative Implementation Order. In particular, the proposed 2013 TRC will impact the compliance targets and low-income set-aside target. For example, the method proposed in the 2013 TRC Tentative Order for estimating low-income savings in non low-income programs will likely reduce PPL Electric's low-income savings in non low-income programs as compared to the existing method used by the Company in Phase One. Therefore, there is a "link" between the TRC Tentative Order and the Tentative Implementation Order. As described in PPL Electric's comments in Section 2.c "Reduction Targets" above, PPL Electric is requesting approval to determine low-income savings using its Phase One method approved by the SWE. If that request is approved by the Commission, the Commission will need to make corresponding changes in its Final 2013 TRC Order.

2. Net-to-Gross Adjustment

The Commission notes that an often raised issue in determining the cost-effectiveness of energy efficiency programs is whether adjustments to gross energy savings should be made through the use of a Net-to-Gross ("NTG") ratio. Tentative Implementation Order at 43. The Commission proposes that EDCs continue to use net verified savings in their TRC test for program planning purposes and proposes that compliance in Phase Two be determined using gross verified savings. Tentative Implementation Order at 45.

PPL Electric agrees with the Commission's proposal to treat NTG adjustments the same way for Phase Two as they have been treated during Phase One.

E. PROCESS TO ANALYZE HOW THE PROGRAM AND EACH PLAN WILL ENABLE EDCS TO MEET REDUCTION REQUIREMENTS

1. Measuring Annual Consumption Reductions

Act 129 requires that the Commission conduct an analysis of how the program, as a whole, and how the EDC's individual EE&C Plans, in particular, will enable an EDC to meet or

exceed the required consumption (66 Pa. C.S. § 2806.1(c)) and peak demand reductions (66 Pa. C.S. § 2806.1(d)). *See* 66 Pa. C.S. § 2806.1(a)(4). Consumption reduction for Phase Two is addressed at 66 Pa. C.S. § 2806.1(c)(3), which requires that by November 30, 2013, and every five years thereafter, the Commission must adopt additional required incremental reductions in consumption, if the Commission determines that the benefits of the EE&C Program exceed its costs. For Phase Two, the Commission proposes to adopt the three-year energy consumption reduction recommendations contained in the SWE's Market Potential Report.

PPL Electric provided comments on the measuring of the annual consumption reductions, in Section A.2.c, above, and incorporates the comments above into this section by reference.

2. Measuring Peak Demand Reductions

As addressed above, PPL Electric agrees with the Commission decision not to include a peak demand reduction program in Phase Two of the Act 129 EE&C Program. Similarly, PPL Electric agrees with the Commission that it need not address how to set EDC peak demand baseline, or a method for measuring peak demand reductions attributable to the Act 129 EE&C Program.

F. STANDARDS TO ENSURE THAT A VARIETY OF MEASURES ARE APPLIED EQUITABLY TO ALL CUSTOMER CLASSES

Act 129 requires the Commission to establish standards to ensure that each EDC's EE&C Plan includes a variety of measures and that each plan will provide the measures equitably to all customer classes. 66 Pa. C.S. § 2806.1(a)(5). The Commission states that EDCs must offer a well-reasoned and balanced set of measures that are tailored to usage and to the potential for savings and reductions for each customer class. Tentative Implementation Order at 49. Furthermore, the Commission explained that it is possible that the most cost-effective energy efficiency programs may not come proportionally from each customer class. The Commission,

therefore proposes not to require a proportionate distribution of measures among customer classes. However, the Commission does propose that each customer class be offered at least one energy efficiency program.

PPL Electric agrees, consistent with Act 129, that it is appropriate to have an equitable distribution of savings and costs to all customer classes, and to allow the EDC's to define how to equitably apply the measures to the customer classes. In addition, PPL Electric notes that EDCs must have discretion to determine the appropriate mix of programs/measures for each customer class, recognizing the funding constraints, to achieve their Act 129 reduction target. This is particularly important in light of the Company's stated concerns in Section A.2.c, above, regarding the Commission's proposed reduction targets consumption. Accordingly, PPL Electric recommends that the Commission recognize these constraints when reviewing an EDC's proposed allocation of savings and costs in a Phase Two EE&C Plan.

G. PROCESS TO MAKE RECOMMENDATIONS FOR ADDITIONAL MEASURES

Act 129 requires the Commission to establish procedures through which recommendations can be made as to additional measures that will enable an EDC to improve its plan. 66 Pa. C.S. § 2806.1(a)(6). Furthermore, Act 129 permits the Commission to direct an EDC to modify or terminate any part of an approved plan if, after an adequate period for implementation, the Commission determines that a measure included in the plan will not achieve the required consumption reductions in a cost effective manner. 66 Pa. C.S. § 2806.1(b)(2).

The Commission proposes to permit EDCs and other interested stakeholders, as well as the statutory advocates, to propose plan changes in conjunction with the EDC's annual report filing required by Act 129. Tentative Implementation Order at 50. The Commission and any interested party can make a recommendation for plan improvement or object to an EDC's

proposed plan revision within 30 days of the annual report filing. EDCs will have 20 days to file replies, after which the Commission will determine whether to rule on the recommended changes or refer the matter to an Administrative Law Judge (“ALJ”) for hearings and a recommended decision. The Commission, in an order adopted on June 9, 2011, at Docket No. M-2008-2069887 (“Minor Plan Change Order”), expedited the review process for approving minor EE&C Plan changes proposed by EDCs. The Commission proposes to continue the EE&C plan approval processes described in the Minor Plan Change Order in Phase Two, by again adopting that order under the Phase Two Docket.

PPL Electric continues to have significant concerns regarding the existing process to approve changes to the EE&C Plan and potential continuation of the process in Phase Two. PPL Electric supports any effort to approve and implement changes more efficiently and expeditiously than the current process, which for non-minor changes takes approximately four to six months from the date a proposed change is included in an EDC’s petition to modify its EE&C Plan to the date the change is approved, even if there are minimal or no objections from stakeholders. Since EDCs usually wait until there is a sufficient number of changes before filing a Petition to Modify their Commission-approved EE&C Plan, *i.e.*, EDCs do not usually submit a separate petition for each single change, it could be greater than six months between the date a change is identified and the date the petition is approved.

PPL Electric has maintained throughout its Phase One EE&C Plan proceeding (Docket No. M-2009-2093216) and in the proceeding establishing an expedited process for the approval of certain changes to an approved EE&C Plan (Docket No. M-2008-2069887) that some level of flexibility is appropriate. The EE&C Plan is a complex endeavor, with hundreds if not thousands of component parts. EDCs must have the flexibility to implement their EE&C Plans in a manner

that provides adequate process for interested parties, while enabling the EDC to make the necessary minor modifications required to achieve the targets mandated by Act 129.

PPL Electric requests that the Commission, in the context of this proceeding reevaluate its requirement that all proposed changes to an EDC's EE&C Plan must be presented to and approved by the Commission. Specifically, PPL Electric requests that the Commission permit EDC's Phase Two EE&C Plans to include a process wherein EDCs may implement minor modifications to its EE&C Plan without seeking prior Commission approval, especially if the changes do not shift savings or costs from one customer sector to another. The Commission has previously determined that it is appropriate to provide EDCs with the discretion and flexibility necessary to amend Commission-approved plans. *See Integrated Resource Planning for Electric Utilities*, 1995 Pa. PUC 132 at *6 (1995) (the Commission explained that utilities must retain some flexibility concerning the implementation of a capacity resource plan, because the utility has an obligation to serve, which warrants discretion and flexibility).

H. PROCEDURES TO REQUIRE COMPETITIVE BIDDING AND APPROVAL OF CONTRACTS WITH CSPS

Act 129 requires the Commission to establish procedures to require EDCs to competitively bid all contracts with CSPs, and requires the Commission to establish procedures to review all proposed CSP contracts. 66 Pa. C.S. §§ 2806.1(a)(7)–(8). In Phase One, the Commission directed all EDCs subject to Act 129 to file, by March 1, 2009, proposed Request for Proposal (“RFP”) procedures and standard form CSP contracts for Commission approval. The Commission is not proposing to revise the CSP RFP procedures or the CSP contract criteria for Phase Two, unless changes are proposed to the RFP procedures or the standard form contracts. Tentative Implementation Order at 52. However, the Commission proposes to require EDCs to again competitively bid all CSP contracts for Phase Two programs, regardless of

whether the EDCs have an existing contract with a CSP to provide services associated with existing measures that will continue in Phase Two. *Id.*

In its initial comments, PPL Electric requested that the Commission revise its proposal and grant EDCs discretion to use existing CSPs for Phase Two, as determined by the EDC based on performance and the potential to improve cost-effectiveness. However, the Commission rejected this proposal based upon the Commission's determination that "economic conditions have changed since the initial phase CSP solicitations." Tentative Implementation Order at 53. PPL Electric respectfully disagrees with the Commission's proposal. EDCs should be provided the discretion to use existing CSPs for Phase Two for several reasons.

First, EDCs competitively bid all of their existing CSP contracts. Requiring EDCs to competitively bid all CSP contracts for Phase Two, regardless of whether the EDC has an existing contract with a CSP to provide services that will continue in Phase Two, is impractical and expensive. For example, PPL Electric contracted with a CSP to develop, maintain, modify, and host its Energy Efficiency Information Management System (an EE&C Plan tracking system). That system is hosted by the CSP and is licensed and proprietary, and cannot be re-used or supported by a different CSP. If PPL Electric is required to rebid the tracking services and the existing CSP is not selected, then the Company will need to create a new tracking system while at the same time maintaining its existing system to retain the required data from Phase One.²⁰ In short, the Company would be required to maintain two tracking systems and develop the capability to link/compare data in those systems, or to abandon its Phase One existing

²⁰ Phase One data must be maintained for seven years to comply with data retention requirements. Also, the Company will need to frequently review and analyze Phase One data to compare performance with Phase Two, to analyze trends, and for other reasons.

tracking system and create a new system that includes Phase One and Phase Two data. Both options would be costly and would likely take more than a year to implement.²¹

Second, existing CSPs have systems, processes, and controls in place that would have to be replicated by a new CSP. This “rework” will be costly and time consuming. In addition, many of the existing CSPs have developed relationships with a network of trade allies (retailers, contractors, suppliers, Energy Service Companies, *etc.*) and customers that will be lost and must be re-developed if new CSPs are required. The requirement to competitively rebid all existing contacts will result in a loss of momentum in the market. Moreover, the financial benefits and functional improvements can be negotiated with exiting CSPs to achieve the same level of financial and operational benefits that may be attainable through competitive bidding, without the added costs of the bidding process, and without a loss of momentum in the market.

Furthermore, in order to have CSPs ready to provide services on June 1, 2013, EDCs would need to issue RFPs by January 2013, at the latest, to allow sufficient time for responses, proposal evaluation, contract negotiation, and start-up of the new CSP. This would be before the Commission approves the EDC’s Phase Two plan. This timing mismatch has inherent costs for the CSP and the EDC, which subsequently diverts funds away from services to customers.

In addition, incumbent CSPs, that are performing well, have an inherent advantage in any RFP for programs or services that are similar to what they are currently providing. Such CSPs do not have start-up, recruiting and hiring, personnel training, or process engineering costs to factor into their bid. If an RFP is issued with a similar scope of work for Phase Two, the incumbent CSPs may have a financial and operational advantage that does not provide a level

²¹ Another example is PPL Electric’s recycling program. The Company’s existing CSP has opened a facility and hired local workers, to recycle refrigerators, freezers and air conditioners in Pennsylvania. The cost of the facility was amortized in Phase One.

playing field for competitors. Some CSPs have made capital investments in order to provide Phase One services. Those investments were amortized over Phase One, which eliminates the need for that cost in order to complete for Phase Two contracts.

Third, PPL Electric does not have sufficient manpower to simultaneously bid 10 or more CSP contracts and still administer the Phase One programs, develop the Phase Two EE&C Plan, and prepare for implementation of Phase Two. Rebidding all CSP contracts will also result in overlapping contract administration of multiple CSPs for the same function during the transition from Phase One to Phase Two. This overlap would require additional manpower to manage, would increase costs, would increase the risk of confusion in the market (trade allies and customers), and would increase the likelihood of errors.

For the reasons set forth above, PPL Electric requests that the Commission permit EDCs with the discretion to use existing CSPs for the Phase Two EE&C Programs. However, to the extent that the Commission wants the opportunity to review an EDC's decision to maintain an existing CSP for its Phase Two EE&C Program, PPL Electric offers the following alternative. PPL Electric proposes that the Commission allow EDCs, on a case-by-case basis, to retain existing CSPs that are performing. In support of retaining certain CSPs, EDCs would be required to demonstrate that retaining the identified CSPs is prudent. For example, an EDC could document that: (1) the CSP had achieved or exceeded the goals or services stated in the Phase One contract; and (2) that the CSP performed the services at or under the contract budget and subsequent amendments. Further, the EDC, would submit the updated CSP contract to the Commission for review and approval. This option would permit the EDCs to avoid any unnecessary delay and from incurring unnecessary start-up costs associated with rebidding CSP contracts and implementing new CSPs.

I. PROCEDURES TO ENSURE COMPLIANCE WITH CONSUMPTION REDUCTION REQUIREMENTS

Act 129 requires the Commission to establish procedures to ensure compliance with the consumption reduction requirements. 66 Pa. C.S. § 2806.1(a)(9). One of the aspects of ensuring compliance is the SWE. As discussed above, the Commission intends to issue a request for proposal to retain the services of a SWE to perform the annual and end of phase independent evaluation of the cost effectiveness of each EDC plan, as well as to develop the measurement and evaluation protocols, standard data collection formats, and data bases for the evaluation of program benefits and results to be used across all EDC service territories. Tentative Implementation Order at 56. In Phase One, the costs of the SWE's studies were not subject to the cost cap implemented by Act 129. Similarly, the Commission determined that costs associated with the Net-to-Gross studies were not subject to the cost cap implemented by Act 129. PPL Electric requests that the Commission confirm that in Phase Two the SWE and Net-to-Gross costs will not be subject to the cost cap imposed on the EDCs.

J. PARTICIPATION OF CONSERVATION SERVICE PROVIDERS

Act 129 establishes a requirement for the participation of CSPs in implementing all or part of a plan and a registry of approved persons qualified to provide conservation services. 66 Pa. C.S. §§ 2806.1(a)(10), 2806.2(a). In the Tentative Implementation Order, the Commission states that it anticipates revising the CSP registry requirements under Docket No. M-2008-2074154. Tentative Implementation Order 57. The Company has no comments on the Commission's determination in Section J of the Tentative Implementation Order.

K. EDC COST RECOVERY

1. Determination of Allowable Costs

a. Phase Two Allowable Costs

Act 129 directs the Commission to establish a cost recovery mechanism that ensures that approved measures are financed by the customer class that receives the direct energy and conservation benefit of the measure. 66 Pa. C.S. § 2806.1(a)(11). The Commission proposes to continue to require each EDC to include a calculation of the total amount of EE&C costs it will be permitted to recover based on the 2% limitation as set forth in Act 129. Tentative Implementation Order at 59. This will represent the maximum level of spending on EE&C measures that will be recoverable under the EDC's plan.

The Commission also proposes to require each EDC to provide a careful estimate of the costs relating to all EE&C programs and measures as set forth in its plan. Such costs, according to the Commission, will include both capital and expense items relating to all program elements, equipment and facilities, as well as an analysis of all related administrative costs. More specifically, these costs would include, but not be limited to, capital expenditures for any equipment and facilities that may be required to implement the EE&C Programs, as well as depreciation, operating and maintenance expenses, a return component based on the EDC's weighted cost of capital, and taxes. PPL Electric has no comments on the Commission's proposal in Section K.1.a of the Tentative Implementation Order.

b. Application of Excess Phase I Budget

The Commission proposes that savings in excess of an EDC's 3% consumption reduction target be applied towards that EDC's Phase Two consumption reduction target. Tentative Implementation Order at 62. The Commission proposes to allow the EDCs the full Phase Two budget, regardless of Phase One spending and consumption reduction attainment. *Id.* In

addition, the Commission proposes that “the EDCs be allowed to continue Phase One spending through the course of Phase [One], ending May 31, 2013, even if they have already attained their three percent (3%) reduction targets. However, the Commission proposes that the use of Phase I budget spending expire on May 31, 2013.” *Id.* at 63.

PPL Electric agrees with the Commission’s proposal that EDCs should receive the full Phase Two budget, regardless of Phase One spending and consumption reduction attainment. PPL Electric requests that the Commission clarify its use of the date “May 31, 2013” in the text quoted above, from the Tentative Implementation Order. Specifically, PPL Electric suggests that “May 31, 2013” apply to the installation date of Phase Two energy efficiency measures, not to the date Phase One costs expire. Many Phase One costs will be incurred after May 31, 2013 (for measures installed on or before May 31, 2013). For example, a customer may install a measure in May and submit the rebate application in May (or later). Therefore, PPL Electric would pay the rebate after May. Further, there are Phase One CSP fees, program management and close-out, Evaluation, Measurement, and Verification (“EM&V”), SWE, and other costs that will continue past May 2013. In fact, the Phase One EM&V and SWE costs will likely continue until December 2013. PPL Electric requests the Commission to clarify that costs associated with Phase One work which are incurred after May 31, 2013, should be accounted for as Phase One costs.

2. Allocation of Costs to Customer Classes

a. Bidding Energy Efficiency Resources into the PJM Capacity Market

In the Tentative Implementation Order, the Commission states that, when prudent, EDCs should bid those energy efficiency resources meeting PJM criteria and requirements, into the appropriate PJM capacity market auctions, provided they have the right to bid those resources

under PJM rules. Tentative Implementation Order at 64. In addition, the Commission proposes that revenue received from the bidding of those resources and measures into the PJM capacity market should be allocated to the customer class that provided the savings for the energy efficiency resources.

PPL Electric does not interpret the Commission's Tentative Implementation Order to require that EDCs bid energy efficiency resources into the PJM capacity markets. Instead, it appears that the Commission seeks to permit EDCs to make such bids, to the extent that the EDC finds such bids to be prudent and where the EDC has the requisite right to make such bids. PPL Electric requests that the Commission confirm the Company's interpretation. To the extent that Commission is proposing that EDCs be required to bid such savings into the PJM capacity market, PPL Electric does not support the Commission's proposal for several reasons. First, the PJM capacity market is a three-year forward market and by the time the Commission approves the EDCs' Phase Two EE&C Plans, the applicable PJM forward capacity market will be June 1, 2016 through May 31, 2017 which is outside of the Phase Two period. In addition, although the potential exists to bid energy efficiency resources into base residual auctions at PJM, PPL Electric does not support the expenditure of the costs associated with assessing whether such bids are "prudent" or, to the extent a bid is deemed prudent, to manage the process of making such bids into the PJM capacity markets.

Second, bids that clear the PJM market are a firm obligation with penalties for failure to deliver. To require EDCs to make "prudent" bids of energy efficiency resources in future capacity market periods would impose an ongoing obligation on EDCs to perform. Although any benefits realized by a successful EDC bid would be passed to customers as an offset to the Act 129 cost rider and the EDC cannot use those funds for additional Act 129 measures, it is

unclear if the EDCs would shoulder the risk of any penalties assessed by PJM to an EDC for failure to deliver.

Based upon the level of complexity associated with bidding energy efficiency measures into the PJM capacity markets auctions, the costs of undertaking such bids and the potential risks for failing deliver, PPL Electric does not support EDCs being required to bid energy efficiency resources into the PJM capacity auctions.

b. Other Allocation of Costs Issues

Act 129 requires that all approved EE&C Plan measures be financed by the customer class that receives the direct energy and conservation benefit of such measures. In the Tentative Implementation Order, the Commission notes that it is necessary to assign the costs relating to each measure to those classes to whom it benefits. The Company has no comments on the Section K.2.b of the Tentative Implementation Order.

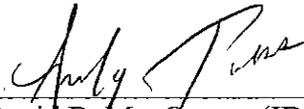
3. Cost Recovery Tariff Mechanism

In the Tentative Implementation Order, the Commission proposed to adjust the Phase I cost recovery and reconciliation requirements for the EE&C Plan Phase Two programs. Specifically, the Commission proposes to implement a standardize reconciliation process and the inclusion of interest on over- or under-recoveries. Tentative Implementation Order at 68-69. PPL Electric has no comments on the Commission's determination in Section K.3 of the Tentative Implementation Order.

IV. CONCLUSION

For the reasons set forth above, PPL Electric Utilities Corporation respectfully requests that the Commission take these Comments into consideration in preparing its Final Implementation Order.

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