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February 16, 2016

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

VIA ELECTRONIC FILING

**RE: Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase III
Energy Efficiency and Conservation Plan; Docket No. M-2015-2515642**

Dear Secretary Chiavetta:

Enclosed please find for filing with the Pennsylvania Public Utility Commission the PP&L Industrial Customer Alliance's ("PPLICIA") Main Brief in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'A. Bakare', is written over a horizontal line.

Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

c: Administrative Law Judge Susan D. Colwell (via E-mail and First Class Mail)
Certificate of Service

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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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Dated this 16th day of February, 2016, at Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :
for Approval of its Act 129 Phase III Energy : Docket No. M-2015-2515642
Efficiency and Conservation Plan :

**MAIN BRIEF OF THE
PP&L INDUSTRIAL CUSTOMER ALLIANCE**

Air Products and Chemicals, Inc.
Armstrong World Industries, Inc.
General Dynamics-OTS Scranton
Harristown Enterprises, Inc.
Hercules Cement Company

Linde LLC
SAPA Extrusions, Inc.
The Hershey Company
TIMET North America
Wegmans Food Markets, Inc.

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Dated: February 16, 2016

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I. INTRODUCTION

Through Act 129 of 2008 ("Act 129"), the Pennsylvania General Assembly tasked the Pennsylvania Public Utility Commission ("PUC" or "Commission") with establishing an Energy Efficiency and Conservation ("EE&C") Program. Pursuant to Act 129, the Commission ordered each Electric Distribution Company ("EDC") with at least 100,000 customers to develop and implement a tailored EE&C Plan to reduce energy demand and consumption within its service territory. Thus far, the Commission has worked with EDCs across the Commonwealth to administer two Phases of EE&C Program implementation.

On June 19, 2015, the Commission decided that a third Phase of EE&C programming was necessary and issued an Implementation Order directing EDCs to develop a third EE&C Plan.¹ Pursuant to the Commission's Order, PPL Electric Utilities Corporation ("PPL" or "Company") filed its Phase III EE&C Plan ("Phase III Plan" or "Plan") for the period June 1, 2016 through May 31, 2021 on November 30, 2015. PPL's Plan proposes various EE&C Programs designed to meet its Commission-mandated energy consumption reduction target of 1,443,035 MWh/yr and demand reduction target of 92 MW/yr.

The PP&L Industrial Customer Alliance ("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 and LP-5, as well as available riders.² PPLICA members collectively consume approximately 1.35 billion kWh of electricity each year in manufacturing and other operational processes. Because the cost of electricity (including government-imposed costs such as EE&C surcharges)

¹ *Energy Efficiency and Conservation Program*, Docket No. M-2014-2424864 (Implementation Order Entered June 19, 2015) ("Phase III Implementation Order").

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

is a substantial component of PPLICA members' operating budgets, PPLICA is concerned about certain elements of the Company's Phase III Plan. Accordingly, PPLICA hereby submits this Main Brief in response to PPL's Phase III Plan.

II. PROCEDURAL HISTORY

As noted above, PPL filed the above-captioned Petition with the Commission on November 30, 2015.

On December 4, 2015, PPL filed the written direct testimony of Peter Cleff (PPL Statement No. 1), M. Hossein Haeri (PPL Statement No. 2), and Bethany L. Johnson (PPL Statement No. 3) in support of its Phase III EE&C Plan.

On December 10, 2015, the Office of Consumer Advocate ("OCA") filed a Notice of Intervention and Public Statement.

On December 17, 2015, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") filed a Petition to Intervene.

Also on December 17, 2015, the Office of Small Business Advocate ("OSBA") filed a Notice of Intervention, Public Statement, and Notice of Appearance.

On December 18, 2015, a Prehearing Conference Order was issued, which directed the parties to file prehearing conference memoranda on January 4, 2016.

On December 21, 2015, the Sustainable Energy Fund ("SEF") filed a Petition to Intervene and a Notice of Appearance.

On December 22, 2015, Commission for Economic Opportunity ("CEO") filed a Petition to Intervene.

On December 31, 2015, Wal-Mart Stores East and Sam's East, Inc. ("Walmart") filed a Petition to Intervene.

On January 4, 2016, PPLICA filed a Petition to Intervene and Answer, Nest Labs, Inc. ("Nest") filed a Petition to Intervene, RESA filed a Petition to Intervene, and OSBA filed an Answer.

Also on January 4, 2016, the following entities submitted Comments on PPL's Phase III EE&C Plan: (1) OCA; (2) Energy Efficiency for All; (3) PPLICA; (4) SEF; (5) Comverge, Inc.; (6) the Retail Energy Supply Association ("RESA"); (7) EnergyHub; (8) Citizens for Pennsylvania's Future, the Natural Resources Defense Council, the Keystone Energy Efficiency Alliance, the Sierra Club, the Environmental Defense Fund, and Clean Air Council (collectively, "Joint Commentators"); and (9) Nest.

A prehearing conference was held as scheduled on January 5, 2016, before Administrative Law Judge Susan D. Colwell (the "ALJ"). A litigation schedule and modified discovery rules were agreed to by the parties and adopted in the Scheduling Order issued by the ALJ on January 7, 2016.

On January 8, 2016, EnerNOC, Inc. ("EnerNOC") filed a Petition to Intervene.

On January 11, 2016, PPL filed an Answer in Opposition to EnerNOC's Petition to Intervene.

On January 12, 2016, EnerNOC filed a Reply to PPL's Answer in Opposition to EnerNOC's Petition to Intervene.

Pursuant to the litigation schedule adopted in the Scheduling Order, the parties other than the Company served the following direct testimony on January 12, 2016: (1) the direct testimony of Stacy L. Sherwood (OCA Statement No. 1) and Roger D. Colton (OCA Statement No. 2); (2) the direct testimony of Mitchell Miller (CAUSE-PA Statement No. 1); (3) the direct testimony of Michael K. Messer (PPLICA Statement No. 1); (4) the direct testimony of Eugene

M. Brady (CEO Statement No. 1); (5) the direct testimony of John Costlow (SEF Statement No. 1); (6) the direct testimony of Richard H. Counihan (Nest Statement No. 1); and (7) the direct testimony of Peter J. Cavan (EnerNOC Statement No. 1).

On January 25, 2016, PPL served the rebuttal testimony of Peter Cleff (PPL Statement No. 1-R) and M. Hossein Haeri (PPL Statement No. 2-R). PPLICA also filed an updated Appendix A to its Petition to Intervene and Answer.

On January 26, 2016, PPL filed a Motion to Strike Portions of PPLICA's Direct Testimony.

Following extensive settlement discussions, the active parties reached a settlement in principle on January 28, 2016. The settlement in principle provides a reasonable resolution of the issues and concerns raised by the active parties, except for the Total Resource Cost ("TRC") Test issues raised by PPLICA that remain subject to PPL's Motion to Strike. The active parties also agreed to waive cross-examination of all witnesses.

An evidentiary hearing was held on January 29, 2016. At the evidentiary hearing, the active parties moved their respective testimonies and exhibits into the record. Further, PPL withdrew its opposition to EnerNOC's intervention. Finally, PPLICA's TRC Test issues and proposals and the Company's Motion to Strike PPLICA's direct testimony on these issues were deferred for briefing.

As a result of the efforts described above, the PPL, PPLICA, OCA, OSBA, CAUSE-PA, SEF, CEO, EnerNOC, and Nest ("Joint Petitioners") have executed a Joint Petition for Settlement resolving all issues regarding PPL's Phase III Plan, except the TRC Test issues raised by PPLICA that remain subject to the Company's Motion to Strike.³

³ RESA has advised that it is not taking a position on the Partial Settlement and Walmart has advised that it does not oppose the Partial Settlement.

III. DESCRIPTION OF EDC PLAN

See Section I, *infra*.

IV. LEGAL STANDARDS

Section 332(a) of the Public Utility Code, 66 Pa. C.S. § 332(a), provides that the proponent of a rule or order has the burden of proof. As the proponent of a rule or order, in this instance an order seeking approval of the Company's Phase III Plan, PPL bears the burden of proof in this proceeding and, therefore, the duty to establish facts by a "preponderance of the evidence." *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950); *Samuel J. Lansberry, Inc. v. Pa. P. U. C.*, 578 A.2d 600 (Pa. Cmwlth. 1990). Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. 2 Pa. C.S. §704; *Mill v. Pa. P. U. C.*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transportation Corp. v. Pa. P.U.C.*, 623 A.2d 6 (Pa. Cmwlth. 1993). More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. Pa. P. U. C.*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Commonwealth, Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

V. SUMMARY OF ARGUMENT

Testimony sponsored by PPLICA Witness Michael Messer established that TRC values reported in PPL's Phase III Plan are calculated based on projected avoided energy costs, but would not be trued-up to incorporate actual avoided energy costs realized throughout the duration of the Plan. As a result, the TRC values reported at the conclusion of PPL's Phase III Plan will include avoided energy costs calculated 5 years beforehand and provide little indication of whether the programs actually met the Commission's cost-effectiveness threshold. PPLICA submits that such a result would unjustly force PPL's customers, particularly Large C&I

customers, to expend tremendous resources to fund EE&C programs that may not meet the Commission's cost-effectiveness standards when current avoided energy costs are considered. As a remedy, PPLICA hereby requests that the Commission: (1) direct PPL to review and monitor actual avoided energy costs in order to annually update or "true-up" its Phase III TRC calculations to reflect the most current energy market prices; (2) invoke its authority under Section 2806.1(b)(2) of the Public Utility Code to terminate a program and/or measure which fails to demonstrate cost-effectiveness following review of the annual TRC update; and (3) deny PPL's Motion to Strike PPLICA's testimony on TRC issues.

VI. ARGUMENT

A. Act 129 Conservation and Demand Reduction Requirements

As a Joint Petitioner, PPLICA has waived briefing rights on this issue.

B. Cost Issues

Per the Joint Petition for Settlement, PPLICA will address the above-referenced concerns regarding the cost-effectiveness of PPL's Phase III EE&C Plan as measured by the TRC Test.

1. Plan Cost Issues

As a Joint Petitioner, PPLICA has waived briefing rights on this issue.

2. Cost Effectiveness/Cost-Benefit Issues

a. Avoided Energy Price Data Obtained Through Discovery in This Proceeding Supports Further Review and Refinement of PPL's TRC Calculations

At conclusion of Phase I of Act 129, the Commission reviewed the cost-effectiveness of PPL's EE&C Plan based on the Final Annual Report filed by PPL.⁴ The PPL Phase I Final Report reviewed the energy savings realized under PPL's Plan, but did not update the avoided

⁴ See generally *Final Annual Report for the Period June 2012 through May 2013 – Program Year 4 of PPL Electric Utilities Corporation's Act 129 Plan*, Docket No. M-2009-2093216 (January 15, 2014) ("PPL Phase I Final Report").

energy costs incorporated into the TRC calculations. *See* PPL Phase I Final Report, p. 32; *see also* PPL Statement No. 2-R pp. 6-7 (confirming that PPL does not update the avoided costs used in its original TRC calculations). PPLICA's investigation of the TRC values set forth in PPL's Phase I and Phase II Plans indicates that the values calculated at the outset of each Plan include outdated and overstated avoided energy cost projections that are never updated under current practices. While PPL attempts to minimize the impact of PPLICA's observation, the unaccounted changes to avoided energy prices transpiring throughout each EE&C Phase are significant and must be addressed by the Commission.

By way of background, the Commission has previously defined the TRC Test as the standard cost-effectiveness measure for Act 129 EE&C Plans, stating that:

Act 129 defines a TRC Test as "a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures." 66 Pa. C.S. § 2806.1(m). Thus, the TRC Test is a critical measuring tool in determining the cost effectiveness of an EDC's EE&C plan.

2016 Total Resource Cost (TRC) Test, Docket No. M-2015-2468992 (Order Entered June 22, 2015) ("TRC Test Order"), p. 5. Regarding PPL's TRC calculation, PPLICA Witness Michael K. Messer provided the following brief summary of PPL's TRC inputs in his Direct Testimony:

As discussed by Dr. Haeri, PPL measures the full value of time and seasonally differentiated generation, transmission, distribution and capacity costs, grossed-up for avoided line losses, over the life of a program measure up to 15 years. For purposes of this testimony, I will refer to the benefit inputs interchangeably as "avoided energy costs" or "market prices." On the cost side, PPL includes the incremental measure costs, participant costs, and direct electric distribution company ("EDC") costs.

PPLICA Statement No. 1, p. 3. Mr. Messer further clarifies that the generation, transmission, distribution, and capacity costs used to calculate the TRC values reported in PPL's Phase III Plan are based on market conditions observed at the time of filing, from which energy prices are then

projected over a 15-year planning horizon to reflect the assumed useful life of the applicable energy efficiency measures. *See id* at 5.

Notably, PPLICA's concern with PPL's TRC calculation lies not with the values reported in the Phase III Plan, but the Company's practice of reviewing and assessing the cost-effectiveness of its program without truing-up the TRC values to update the avoided energy cost component. Per PPL's testimony, "the Phase III EE&C Plan outlines a process for conducting an annual cost-effectiveness evaluation of the Plan in accordance with the Commission's *2016 TRC Test Order*." PPL Statement No. 2, p. 6. Under the 2016 TRC Test Order, PPL is required to annually report its TRC ratios "based upon the latest available program costs and savings," consistent with the methodology for Phases I and II. TRC Test Order, p. 18. However, the Commission's Act 129 Statewide Evaluator ("SWE") Final Annual Report for Phase I, as published on March 4, 2014 ("Phase I Final SWE Report"), stated that "[o]ne caveat that should be noted regarding Phase I TRC ratios is that hindsight has shown that the avoided costs used for PY1-PY4 were largely overstated based on market developments over the past five years." *See* PPLICA Statement No. 1, p. 6 *citing* Phase I Final SWE Report, p. 6. As the Commission embarks on Phase III, which will end 12 years after Phase I started, it is time to present accurate TRC claims for all Phases based on actual market conditions rather than outdated projections.

To corroborate and quantify the Phase I Final SWE Report's observation that changes in the energy market significantly impacted the avoided energy prices used to calculate PPL's TRC values, Mr. Messer performed the following analysis:

In response to discovery, PPL provided a document consolidating the projected market price data used to calculate the TRC for Phases I, II, and III. *See* PPLICA Exhibit__(MM-1). Using the data, I ran comparisons to actual wholesale electric market prices in the PJM PPL Zone, for the period 2009 through 2015, and NYMEX futures pricing, for the period 2016 through 2020. First, PPLICA Exhibit__(MM-2) provides an overview of PPL's projected avoided energy costs

for Phases I, II and III, which correspond to the extraordinarily high TRC value reported for Phase I Large C&I Programs and the dramatically lower projected TRC values reported for the corresponding Phase II and III Programs. Second, PPLICA Exhibit__ (MM-3) corroborates the Phase I SWE Report and shows that projected avoided energy costs for Phase I far exceeded the actual avoided energy costs (and the current future price projections). Third, PPLICA Exhibit__ (MM-4) compares projected Phase II avoided energy costs to actual market prices and shows that projected avoided costs outpaced the actual avoided energy costs (and the current future price projections), by 45%.

PPLICA Statement No. 1, p. 7. Mr. Messer's analysis shows that the actual avoided energy costs experienced through PPL's Phase I and II plans diverged considerably from the levels used to calculate TRC values in the Phase I and II filings and raises questions as to whether PPL and/or the Commission can reasonably assess the cost-effectiveness of PPL's Phase III Plan without incorporating a review of the actual avoided energy costs and their impact upon the Company's Phase III TRC values.

PPL attempts to dismiss the import of PPLICA's observation, but fails to offer any persuasive reason to overlook or put aside Mr. Messer's analysis. PPL claims that: (1) it updated the TRC values for Phase III to reflect the impact of natural gas production on energy markets observed throughout Phases I and II; and (2) because the Commission measures the benefits of Act 129 measures over a 15-year useful life, any attempt to assess cost-effectiveness prior to the end of the 15-year useful life will necessarily incorporate projections and present uncertainties. *See* PPL Statement No. 2-R, pp. 4-5. PPL's first point is a *non-sequitur* as Mr. Messer's analysis shows a need to account for energy market events occurring throughout Phase III, not those preceding it. As to PPL's secondary counter, the TRCs developed by Mr. Messer do rely partially on projected avoided costs, but the Commission should endeavor to review PPL's administration of its EE&C Plan using the most current available data rather using fully projected avoided energy costs. *See* TRC Test Order, p. 18. To that end, Mr. Messer's

observations should incite the Commission to adopt changes designed to improve the accuracy of the TRC values reported throughout PPL's Phase III Plan.

b. In Light of the Cost Burden Imposed on Large C&I Customers, the Commission Should Require PPL to Review Cost-Effectiveness Using TRC Values Updated to Reflect the Most Current Market Pricing Data.

As established above, the avoided energy prices initially used to calculate the TRC values reported for PPL's Phase I and II Plans exceeded the actual avoided energy prices experienced throughout each Phase. Accordingly, the TRC values reported in PPL's Phase I and Phase II Plans, which were based entirely on projected avoided energy costs, overstated the benefits of PPL's EE&C measures to the point where PPL's Phase I and Phase II Large C&I programs failed to meet the 1.00 threshold for cost-effectiveness. Particularly as PPL's projected Phase III Plan TRC for Large C&I programs just barely meets the TRC threshold using entirely projected TRC values, PPLICA is concerned that PPL's Phase III TRC values will fail to meet the cost-effectiveness threshold once actual market impacts on avoided energy pricing are considered. To ensure that both PPL and the Commission are able to make informed decisions based on the most accurate and current data available, PPLICA recommends that the Commission direct PPL to annually update its TRC values to reflect avoided energy costs.

Accounting for the divergence between PPL's projected avoided energy costs and the actual avoided energy costs experienced throughout PPL's EE&C Plans significantly impacts the TRC values reported in each EE&C Plan. Mr. Messer describes the effects as follows:

As demonstrated by my comparison of PPL's projected avoided energy costs to actual avoided energy costs for Phases I and II, PPL's reported avoided energy costs consistently and significantly exceed actual avoided energy costs, which suggests that the reported TRCs are overstated.

For example, if the PUC evaluated PPL's Phase II Plan based on actual avoided energy costs, which are 45% below the avoided energy costs reported in the Phase II filing, the reported 1.08 Phase II Large C&I Program TRC would be adjusted to

an actual TRC value below 1.00. With a reported TRC value of 1.36 for Phase III Large C&I Programs, overstated avoided energy costs could also very likely drive Large C&I Phase III TRC below the 1.00 threshold. However, despite the significant impact that a trued-up TRCs would have on cost-effectiveness of PPL's Large C&I Programs, this issue is hidden from customers and the Commission does not require PPL or other EDCs to monitor and report the actual benefits of the measures. Requiring this new monitoring is especially important because Phase III is a 5-year phase.

PPLICA Statement No. 1, p. 8. Essentially, by not reviewing trued-up TRC values, the Commission would resign itself to repeat the same experience recounted in the Phase I Final SWE Report, where EE&C Plans initially deemed cost-effective failed to realize the projected benefits due to lower than anticipated avoided energy costs. *See* PPLICA Statement No. 1, p. 6 *citing* Phase I Final SWE Report, p. 6. Particularly as Phase III represents the longest EE&C Phase at 5 years, the Commission should be especially mindful of the tremendous customer resources paid into PPL's EE&C Plans; which, based on the Company's Plan budgets for Phase I-III, will total approximately \$742 million by the time Phase III ends on May 31, 2021. *See id.* at 9.

The cost burden imposed by PPL's Phase III Plan, especially the impact on Large C&I customers, supports PPLICA's proposal to more accurately monitor the cost-effectiveness of PPL's Phase III Plan. While PPL's EE&C Plans significantly impact all customers' rates, the effect on PPL's largest customers is unique. As described by Mr. Messer:

... the largest of PPL's customers pay more into the Plan than other customers due to their higher PLC rates. Paradoxically, these same customers prioritized energy efficiency implementation long before the onset of PPL's Act 129 Program, and therefore have less to gain from the Plan. As they reap little benefit from the Plan compared to the revenues paid into the Plan, the excess payments are reallocated towards other customers to subsidize their efficiency measures and free-up their internal budgets for other uses, such as reinvestment in their core business. These inequities exist in part due to the discrepancy between the PLC-based charges and the uniform benefit structure, but the Commission's decision to evaluate cost-effectiveness on a total-Plan basis also contributes to inequities between customers by lowering the standard for subsidized projects.

PPLICA Statement No. 1, p. 10. As noted by Mr. Messer, the rate burden on PPL's Large C&I customers differs from that borne by Residential or Small C&I customers because PPL's largest customers had adopted energy efficiency as a business model long before the onset of Act 129. *See id.* Additionally, among the Large C&I customers, the very largest pay significantly more into PPL's EE&C Plan, but are subject to the same incentive caps as other Large C&I customers. *See id.* While a strong argument can be made that these characteristics justify a general exemption from Act 129 for Large C&I customers or the ability to opt-out as proposed in the pending Senate Bill 805, that matter is not before the Commission at this time. What the Commission can and should consider is that "[i]n a market where Large C&I customers are already incentivized by market forces to implement energy efficiency measures, it makes no sense to forcibly reallocate resources towards inefficient (*i.e.* not cost-effective) projects." *See id.* at 11.

In order to truly ensure that PPL's Phase III EE&C Plan is cost-effective, PPLICA recommends that the Commission invoke its authority under Section 2806.1(b)(2) to "utilize the annual reconciliation process introduced as part of PPL's Phase III Plan to investigate cost effectiveness on a program basis and terminate any programs with a TRC value below 1.00 over a 12-month period." 66 Pa. C.S. § 2806.1(b)(2); *see also id.* at 11. Alternatively, as Section 2806.1(b)(2) authorizes the Commission to terminate "any part" of an EE&C program, the Commission could terminate individual measures within an EE&C Program. Most importantly, whether evaluating cost-effectiveness by program or individual measure, the Commission should update the TRCs to incorporate the available avoided energy prices rather than relying on the projected avoided energy prices used to prepare the originally filed Plan. *See id.* Implementing this additional protection on a program and/or measure basis is consistent with the Commission's

authority under Act 129 and would allow PPL and the Commission to more accurately assess the true cost impact of PPL's Phase III Plan.

Further, the purported implementational difficulties raised by PPL are unfounded. PPL claims that termination of an EE&C Program would "strand millions of dollars without any direction on where to redeploy those funds or how to achieve the necessary savings and peak demand reductions." *See* PPL Statement No. 1-R, p. 48. PPL also alleges that Mr. Messer failed to "state how the EE&C Plan's budget and programs should be adjusted if a program is eliminated." *See id.* at 48. PPLICA addressed both of these claims through discovery responses, where Mr. Messer clarified that the Commission's procedures for amendment of EE&C Plans would allow PPL to reintroduce a terminated program "with changes intended to ensure cost-effectiveness." *See id.* at Attachment K. Consistent with Mr. Messer's representation, the Commission previously emphasized the flexibility of the plan change process as a primary justification for extending the Phase III Plan to a 5-year period:

We also reiterated that the Commission can always reconsider its direction at a later date should the uncertainties surrounding the previous issues be resolved. Additionally, any party has the ability to petition the Commission for a reconsideration of its directives. [footnote omitted] Lastly, we noted that EDCs can submit EE&C Plan changes, as needed, to reflect changing factors in the market.

Phase III Implementation Order, p. 13. Accordingly, the plan change process is the appropriate place to address both of PPL's objections, as the parties would have actual information regarding other alternatives for use of the plan resources.

Moreover, and as stated above, the PUC could apply its authority under Section 2806.1(b)(2) to eliminate individual program measures that fail to produce cost-effective rather than eliminating all of the measures constituting a particular program. This alternative would

minimize the overall budget and savings impact of a termination because PPL could still apply the displaced budget towards other cost-effective measures within the same program.

Therefore, for the reasons stated above, the Commission should dismiss PPL's implementational arguments and adopt PPLICA's recommendation to utilize the existing EE&C plan change process to address any necessity to modify EE&C programs or measures terminated pursuant to the Commission's authority under Section 2806.1(b)(2) of the Public Utility Code.

c. PPLICA's Arguments Addressing PPL's TRC values are Within the Scope of this Proceeding

PPL filed a Motion to Strike Certain Portions of the Direct Testimony of the PP&L Industrial Customer Alliance ("PPL Motion") on January 26, 2016. PPL's Motion argued primarily that the TRC matters addressed by PPLICA should be dismissed as outside the scope of this proceeding because PPLICA did not raise such issues in the Commission's TRC Test Order proceeding and that addressing TRC issues in the context of PPL's Phase III Plan will result confuse the record. *See* PPL Motion, pp. 3-5.

As noted above, the presiding ALJ declined to rule on the Motion and admitted PPLICA's Direct Testimony subject to resolution of PPL's Motion to Strike by the Commission. Pursuant to Section 5.61 of the Commission's Regulations, PPLICA filed an Answer to PPL's Motion to Strike on February 16, 2016 ("PPLICA Answer"), commensurate with the filing of this brief. 52 Pa. Code § 5.61. For purposes of this brief, the arguments in PPLICA's Answer are hereby incorporated by reference as if set forth in full. *See* PPLICA Answer, pp. 2-7. Additionally, the principal arguments are also summarized below for ease of reference.

In response to PPL's arguments concerning the TRC Test Order, PPLICA's Answer established that PPLICA does not challenge the methodology set forth in the TRC Test Order regarding PPL's use of projected avoided energy costs to calculate the TRC values set forth in

PPL's filed Phase III Plan. *See* PPLICA Answer, p. 3. PPLICA's Answer also confirmed that the proposal to true-up the projected avoided energy costs used in PPL's TRC calculations does not conflict with the TRC Test Order. *See id.* Additionally, PPLICA clarified that the proposal to terminate EE&C programs and/or measures for failure to achieve a TRC value of 1.0 over 12 months, simply proposes a methodology for exercising the Commission's authority under Section 2806.1(b)(2) of the Public Utility Code, which was not addressed in the TRC Test Order. *See id.* at 5.

Alternatively, even if the Commission should determine that PPLICA's TRC proposals conflict with the TRC Test Order, arguments regarding PPL's TRC calculations should still be deemed admissible because the TRC Test Order cautioned that "many issues involved in *the EE&C plans, program implementation, and operation of the TRC Test* are ongoing in nature, and future updates may be proposed by stakeholders or the Commission as needed." *See* PPLICA Answer p. 4 *citing* TRC Test Order, p. 7. Consistent with the Commission's recognition of the evolving nature of TRC issues, PPLICA's Answer observed that the TRC matters raised by PPLICA could not be investigated without reviewing information only available through discovery from PPL, making this proceeding the first opportunity through which PPLICA could present evidence supporting its TRC proposals. *See* PPLICA Answer, p. 5.

As for PPL's remaining argument that admission of PPLICA's testimony on TRC matters would confuse the record, PPLICA's Answer pointed to the Commission's sophistication and capability of weighing the merits of PPLICA's proposal without confusing the record. *See id.* at 6. PPLICA's Answer also emphasized the lack of evidentiary hearings in the TRC Test Order proceeding and reiterated that the instant proceeding constitutes the earliest opportunity to

conduct discovery to support any argument to modify PPL's proposals to monitor and review the TRC values set forth in the Phase III Plan. *See id.* at 7.

For the reasons summarized above and fully set forth in PPLICA's Answer, the Commission should deny PPL's Motion and admit PPLICA Statement No. 1 to the record without modification.

3. Cost Allocation Issues

As a Joint Petitioner, PPLICA has waived briefing rights on this issue.

4. Cost Recovery Issues

As a Joint Petitioner, PPLICA has waived briefing rights on this issue.

C. CSP Issues

As a Joint Petitioner, PPLICA has waived briefing rights on this issue.

D. Implementation and Evaluation Issues

Issues regarding monitoring, evaluation, and reporting of PPL's TRC values are addressed in Section B.(3), *infra*. As a Joint Petitioner, PPLICA has waived briefing rights on other implementation and evaluation issues.

E. Other Issues

As a Joint Petitioner, PPLICA has waived briefing rights on other issues.

VII. CONCLUSION

Under Act 129, PPL's customers, including Large C&I customers, have financially supported PPL's EE&C Program since initial inception in 2009, including grants provided to members of the Large C&I class, administrative expenses, research and development ("R&D"), marketing and advertising, CSP compensation, SWE compensation, and other miscellaneous expenditures. In light of the significant expenses to be collected from PPL's customer base throughout the Phase III Plan, the Commission should determine whether PPL's programs and/or

measures are truly cost-effective by conducting annual reviews of TRC values updated to include the most current avoided energy prices. In the event that certain programs and/or measures fail to produce a positive TRC, such measures should be terminated in favor of more cost-effective EE&C programs.

VIII. PROPOSED ORDERING PARAGRAPHS

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

- (1) Order PPL Electric Utilities Corporation to annually update the TRC values set forth in the Phase III EE&C Plan to reflect the most currently available actual avoided energy prices;
- (2) Order PPL Electric Utilities Corporation to terminate programs and/or measures failing to produce a positive TRC based on the annually updated TRC values;
- (3) Deny PPL Electric Utilities Corporation's Motion to Strike Certain Portions of the Direct Testimony of the PP&L Industrial Customer Alliance; and
- (4) Grant any additional relief consistent with the above arguments.

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By 

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