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| **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** | |
| Public Meeting held March 17, 2016 | |
| Commissioners Present:  Gladys M. Brown, Chairman  Andrew G. Place, Vice Chairman  Pamela A. Witmer  John F. Coleman, Jr.  Robert F. Powelson | |
| Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan | M-2015-2515642 |

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**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition (Petition) of PPL Electric Utilities Corporation (PPL or the Company) for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan (Phase III Plan or Plan) filed on November 30, 2015. Also before the Commission is the Joint Petition for Approval of Partial Settlement (Partial Settlement) filed by PPL, the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), the PPL Industrial Customer Alliance (PPLICA), the Commission for Economic Opportunity (CEO), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the Sustainable Energy Fund (SEF), Nest Labs, Inc. (Nest), and EnerNOC, Inc. (EnerNOC) (collectively Joint Petitioners) on February 16, 2016. Administrative Law Judge Susan D. Colwell certified the record in this proceeding on February 19, 2016. For the reasons stated herein, we will approve the Partial Settlement, subject to the clarification discussed herein; grant, in part, and deny, in part, PPL’s Petition; and approve, in part, and reject, in part, the Phase III Plan as modified by the Partial Settlement; all subject to the condition that no Party to the Partial Settlement exercises the right to withdraw therefrom. In addition, as discussed in this Opinion and Order, we will deny PPL’s Motion to Strike those portions of PPLICA’s testimony relating to the TRC issue, and reject PPLICA’s proposals regarding the TRC issue.

# I. Background

## A. Act 129

On October 15, 2008, House Bill 2200 was signed into law as Act 129 with an effective date of November 14, 2008. Among other requirements, Act 129 directed the Commission to adopt an Energy Efficiency and Conservation (EE&C) Program, under which each of the Commonwealth’s largest electric distribution companies (EDCs) was required to implement a cost-effective EE&C plan to reduce energy consumption and demand. Specifically, Act 129 required each EDC with at least 100,000 customers to adopt an EE&C plan to reduce energy demand and consumption within its service territory. Initially, Act 129 required each affected EDC to adopt an EE&C plan to reduce electric consumption by at least one percent of its expected consumption for June 1, 2009 through May 31, 2010, by May 31, 2011. By May 31, 2013, the total annual weather-normalized consumption was to be reduced by a minimum of three percent. Also, by May 31, 2013, peak demand was to be reduced by a minimum of four-and-a-half percent of each EDC’s annual system peak demand in the 100 hours of highest demand, measured against the EDC’s peak demand during the period of June 1, 2007 through May 31, 2008.

On January 15, 2009, the Commission adopted an Implementation Order at Docket No. M-2008-2069887 (*Phase I Implementation Order*), which established the standards each plan must meet, and which provided guidance on the procedures to be followed for submittal, review and approval of all aspects of the EE&C plans. The Commission subsequently approved an EE&C plan (and, in some cases, modifications to the plan) for each affected EDC.

Another requirement of Act 129 directed the Commission to evaluate the costs and benefits of the Commission’s EE&C Program and of the EDCs’ approved EE&C plans by November 30, 2013, and every five years thereafter. The Act provided that the Commission must adopt additional incremental reductions in consumption and peak demand if it determines that the benefits of the EE&C Program exceed its costs.

The Commission subsequently issued an Implementation Order at Docket Nos. M-2012-2289411 and M-2008-2069887 (*Phase II Implementation Order)*, which established required standards for Phase II EDC EE&C plans (including the additional incremental reductions in consumption that each EDC must meet), and provided guidance on the procedures to be followed for submittal, review and approval of all aspects of the EDCs’ Phase II EE&C plans. Within the *Phase II Implementation Order*, the Commission tentatively adopted EDC-specific consumption reduction targets. The Commission subsequently approved a Phase II EE&C Plan (and, in some cases, modifications to the plan) for each affected EDC.

On March 11, 2015, the Commission issued a Tentative Implementation Order (*Phase III Tentative Implementation Order*) at Docket No. M-2014-2424864 for Phase III of the EE&C Program. Following the submittal and review of comments, on June 19, 2015, the Commission issued an Implementation Order at that same docket number (*Phase III Implementation Order*). Among other things, that Order established standards each plan must meet and provided guidance on the procedures to be followed for submittal, review and approval of all aspects of EDC EE&C plans for the period from June 1, 2016 through May 31, 2021.

On July 6, 2015, the Energy Association of Pennsylvania filed a Petition for Clarification of Final Act 129 Phase III Implementation Order seeking clarification of certain aspects of the peak demand reduction program. Also on July 6, 2015, the Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, FirstEnergy) filed a Petition for Clarification of the Commission’s Act 129, Phase III, EE&C Implementation Order, or, in the alternative, Petition for Waiver of a Bidding Requirement as set forth in the Act 129, Phase III, EE&C Implementation Order. By Order entered on August 20, 20l5, the Commission granted both Petitions for clarification and denied FirstEnergy’s Petition for Waiver (*Phase III Clarification Order*).

## B. The Company

PPL is a “public utility” and an EDC as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code (Code), 66 Pa. C.S. §§ 102,

2803. PPL Electric furnishes electric service to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania. Petition at 2.

# II. Procedural History

In the *Phase II Implementation Order,* we adopted an EE&C plan approval process which included the publishing of a notice of each proposed plan in the *Pennsylvania Bulletin* within twenty days of the filing of the plan, as well as posting of each proposed plan on the Commission’s website. Answers, along with comments and recommendations, were to be filed within twenty days of the publication of the notice in the *Pennsylvania Bulletin*. Each plan filed was to be assigned to an ALJ for an evidentiary hearing within sixty-five days after the plan was filed, after which, the parties had ten days to file briefs. The EDC then had ten days to submit a revised plan or reply comments or both. The ALJ was directed to then certify the record to the Commission. The Commission was then to approve or reject all or part of a plan at public meeting within 120 days of the plan filing. *Phase II Implementation Order* at 61 and 62. In the *Phase III Implementation Order* we adopted this same process for Phase III. *Phase III Implementation Order* at 91.

In the *Phase III Implementation Order*, the Commission directed the EDCs to file their Phase III plans by November 30, 2015. *Phase III Implementation Order* at 92. Accordingly, on November 30, 2015, PPL filed its Petition seeking approval of its Phase III Plan. Notice of the filing was published in the *Pennsylvania Bulletin* on December 12, 2015, at 45 *Pa. B.* 7078, which provided that comments on the Phase III Plan were due by January 4, 2016.

On December 4, 2015, PPL filed the written direct testimony of Peter

Cleff (PPL St. 1), M. Hossein Haeri (PPL St. 2), and Bethany L. Johnson (PPL St. 3), in support of its Phase III Plan. On December 11, 2015, PPL filed corrections to two of the tables presented in the Phase III Plan.

Notices of Intervention and Public Statements were filed by the OCA and OSBA on December 10, 2015, and December 17, 2015, respectively. Petitions to Intervene were filed by CAUSE-PA, on December 17, 2015; SEF, on December 21, 2015; CEO, on December 22, 2015; Wal-Mart Stores East LP and Sam's East Inc., (Walmart), on December 31, 2015; and PPLICA, the Retail Energy Supply Association (RESA), and Nest, on January 4, 2016. Answers to PPL’s Petition were also filed by the OSBA and PPLICA on January 4, 2016.

Comments on PPL’s Phase III Plan were filed on January 4, 2016, by the OCA; Energy Efficiency for All; PPLICA; SEF; Comverge, Inc.; RESA; EnergyHub; Nest; and 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). CAUSE-PA filed a Letter in Lieu of Comments on December 31, 2015.

Prehearing memos were filed by each Party, and a prehearing conference was held on January 5, 2015. By Scheduling Order dated January 7, 2016, ALJ Colwell addressed procedural issues and established the litigation schedule for the proceeding. In addition, the ALJ granted the Petitions to Intervene of CEO, CAUSE-PA, Nest, PPLICA, RESA, SEF, and Walmart.

Following the prehearing conference, an additional Petition to Intervene was filed by EnerNOC on January 8, 2016. PPL filed an Answer in Objection to EnerNOC’s Petition to Intervene on January 11, 2016, and EnerNOC filed a Reply to PPL’s Answer in Objection to EnerNOC’s Petition on January 12, 2016.

On January 12, 2016, the OCA served the direct testimonies of Stacy L. Sherwood (OCA St. 1) and Roger D. Colton (OCA St. 2); CAUSE-PA served the direct testimony of Mitchell Miller (CAUSE-PA St. 1); PPLICA served the direct testimony of Michael K. Messer (PPLICA St. 1); CEO served the direct testimony of Eugene M. Brady (CEO St. 1); SEF served the direct testimony of John Costlow (SEF St. 1); Nest served the direct testimony of Richard H. Counihan (Nest St. 1); and EnerNOC served the direct testimony of Peter J. Cavan (EnerNOC St. 1). On January 22, 2016, the OCA filed a letter containing an errata to its St. 1, the direct testimony of Stacey L. Sherwood.

On January 25, 2016, PPL filed the rebuttal testimony of Peter Cleff (PPL St. 1-R) and M. Hossein Haeri (PPL St. 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 certain portions of the direct testimony of PPLICA. Also on January 26, 2016, CAUSE-PA filed a letter advising that its previously announced witness, Mitchell Miller, would be unable to appear at the January 29, 2016 evidentiary hearing, and that it was substituting Harry S. Geller as a witness, who would adopt and sponsor CAUSE-PA St. 1 at the hearing.

On January 28, 2016, the Parties informed the ALJ that a settlement in principle had been reached, which provided a reasonable resolution of the issues and concerns raised by the Parties, except for an issue relating to the Total Resource Cost (TRC) Test issues raised by PPLICA, which were the subject of PPL’s Motion to Strike filed on January 26, 2016. As a result of the Parties reaching a settlement in principle, the Parties agreed to waive cross-examination of all witnesses.

On January 29, 2016, an evidentiary hearing was held, at which the Parties moved their respective testimonies and exhibits into the record. PPL also withdrew its opposition to EnerNOC’s intervention. In addition, 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.

On February 16, 2016, the Joint Petitioners filed the Partial Settlement, which addressed all contested issues except the TRC issues raised by PPLICA. Statements in Support of the Partial Settlement were filed by PPL, the OCA, the OSBA, PPLICA, CEO, CAUSE-PA, SEF, Nest, and EnerNOC. In addition, Walmart filed a letter stating that it did not object to the Partial Settlement, and RESA filed a letter indicating that it took no position on the Partial Settlement. Also on February 16, 2016, PPL and PPLICA each filed a Main Brief to address the contested TRC Test issues.

On February 18, 2016, PPL submitted a letter explaining that it was not filing a revised Phase III Plan because several aspects of the Plan will need to be changed after the Commission rules upon the Partial Settlement and the TRC Test issues. PPL averred that any necessary changes will appear in the Company’s compliance filing. Also on February 18, 2016, PPL filed Reply Comments in response to the Comments filed by the various Parties on January 4, 2016.

By Order Certifying Record to the Commission dated February 19, 2016, ALJ Colwell certified the record to the Commission for its consideration and disposition. In addition, the ALJ granted EnerNOC’s Petition to intervene.

# III. Description of the Plan and Settlement

In its Petition, PPL states that its Phase III Plan[[1]](#footnote-1) consists of a broad portfolio of energy efficiency, energy education, and demand response initiatives designed to meet the Company's Phase III energy consumption and peak demand reduction targets and to comply with the other requirements set forth in the *Phase III Implementation Order,* as further clarified by the *Phase III* *Clarification Order.* Petition at 6-7. Specifically, the Phase III Plan consists of ten programs, which are differentiated according to the following five customer sectors: (1) Residential; (2) Low-Income; (3) Small Commercial and Industrial (Small C&I); (4) Large Commercial and Industrial (Large C&I); and (5) Government/Non-Profit/Educational (GNE). Of these ten programs, nine are existing programs continued from Phase II (though with changes), and one is a newly added program for Phase III. *Id*. at 11.

The following is a summary of PPL’s ten proposed Phase III EE&C programs, as set forth in its Phase III Plan:

**Appliance Recycling Program.** This program providescustomers with rebates for recycling refrigerators, freezers, room air conditioners, consumer electronics, and dehumidifiers. The program offers free pick-up and recycling of the appliances, which must be plugged in and functioning when picked up. All units will be decommissioned on site and disposed of in an environmentally responsible manner. This program will target residential customers but will be available to customers in all sectors with eligible appliances.[[2]](#footnote-2)

**Efficient Lighting Program** (previously Residential Retail Program in Phase II). This program encourages customers to purchase and install light emitting diode (LED) bulbs. Participating customers will be able to purchase a variety of discounted LED bulbs at local retail stores. The program will target residential customers but will be available to customers in all sectors.[[3]](#footnote-3)

**Energy Efficient Home Program** (previously Residential Energy-Efficiency Behavior & Education Program in Phase II).This program provides comprehensive energy efficiency options for new and existing homes through a range of energy efficient measures, rebates, education, and services. The program includes three components: (1) a new homes component; (2) an online audit and weatherization component; and (3) an energy efficiency equipment component. The program will target residential homebuilders and customers residing in single-family and individually-metered multifamily homes.[[4]](#footnote-4)

**Student Energy Efficient Education Program** (previously Student and Parent Energy Efficiency Education Program in Phase II).Through this program PPL will offer energy efficiency kits and education to students and teachers. The program will consist of three separate components: (1) Primary Grade Energy Efficiency Education for students in grades 2-3; (2) Intermediate Grade Energy Efficiency Education for students in grades 5-7; and (3) Secondary Grade Energy Efficiency Education for students in grades 9-12. All three components will include interactive classroom presentations that will educate students about energy and conservation topics using hands-on activities. Participating students will also receive a take-home energy efficiency kit, and participating teachers will be provided with energy efficiency measures to use as instructional aides. PPL will also aim to drive students and their families to the Customer Engagement Hub for follow-up educational activities.[[5]](#footnote-5)

**Home Energy Education Program** (previously Behavior Program in Phase II).This program will focus on educating customers about behaviors and measures they can adopt to reduce energy consumption in their homes. Through the program, residential, high energy-use customers will be provided a series of home energy reports (HERs) containing various types of information, such as: (1) a comparison of recipients’ usage to that of other, comparable customers in the same geographical area; (2) energy efficiency education and recommendations; and (3) messaging to encourage recipients to visit the Customer Engagement Hub and complete an online energy profile/survey. Customers can opt-out of the program if they no longer wish to receive the HERs.[[6]](#footnote-6)

**Low-Income Winter Relief Assistance Program (WRAP)**. Through this program PPL will offer a broad selection of energy-saving improvements and education to low-income customers. These will include direct installation of a range of energy efficiency measures for customers residing in single family homes or master-metered multifamily units, and energy efficiency kits containing a range of self-installed, low-cost energy efficiency measures, for customers residing in manufactured homes. The program will be offered at no cost to the participant.[[7]](#footnote-7)

**Energy Efficiency Kits and Education Program** (previously E-Power Wise Program in Phase II). Through this program, PPL will deliver energy efficiency kits and education to low-income customers through two delivery mechanisms: (1) direct mail, and (2) workshops held at community based organizations (CBOs).[[8]](#footnote-8)

**Efficient Equipment Program** (previously Prescriptive Equipment Program in Phase II). Through this program, offered to non-residential customers, PPL will promote the purchase and installation of a wide range of high-efficiency equipment, including lighting, HVAC, and other measures. PPL will provide customers with financial incentives based on the measure installed and savings provided, which offset the higher purchase costs of energy efficient equipment. Additionally, PPL will offer program information on the features and benefits of energy efficient equipment. The Phase III Plan contains a separate Efficient Equipment Program for Small C&I,[[9]](#footnote-9) Large C&I,[[10]](#footnote-10) and GNE[[11]](#footnote-11) customers, respectively.

**Custom Program.** Through this program, PPL will provide financial incentives to non-residential customers who install measures that are not offered in the Company’s other programs, including measures that are not addressed in the Technical Reference Manual. These measures may include new or replacement energy efficient equipment, retro-commissioning, repairs, equipment optimization, new construction projects, operational and process improvements, combined heat and power (CHP) projects, and behavioral changes that result in cost-effective energy efficiency savings. The Phase III Plan contains a separate Custom Program for Small C&I,[[12]](#footnote-12) Large C&I,[[13]](#footnote-13) and GNE[[14]](#footnote-14) customers, respectively.

**Demand Response Program.** This new program is a load curtailment type program for nonresidential customers. Through the program, PPL will offer incentives to customers who reduce their demand during specific curtailment events. Participating customers must commit to providing a minimum of 100 kW of load reduction when called upon by the Demand Response Conservation Service Provider (CSP). Participants in the program may also be enrolled in PJM's Emergency Load Response Program (ELRP). PPL indicates that its Demand Response Program is designed to meet the requirements set forth in the *Phase III Implementation Order*.

PPL’s Plan contains a separate Demand Response Program for Small C&I,[[15]](#footnote-15) Large C&I,[[16]](#footnote-16) and GNE[[17]](#footnote-17) customers, respectively.

As noted above, a Partial Settlement was filed on February 16, 2016, which resolves all but one of the issues raised by the various Parties in this proceeding.[[18]](#footnote-18) In the Partial Settlement, the Joint Petitioners request that PPL’s Phase III Plan be approved, subject to the terms and conditions set forth therein. The substantive provisions of the Partial Settlement are set forth in Paragraphs 29 through 59 of the Partial Settlement, as follows:

**A. GENERAL**

29. The following terms of this Settlement reflect a carefully balanced compromise of the interests of all of the active parties in this proceeding. The Joint Petitioners unanimously agree that the Settlement is in the public interest.

30. The Joint Petitioners agree that PPL Electric’s Phase III EE&C Plan should be approved, subject to the terms and conditions of this Settlement specified below:

**B. RESIDENTIAL PROGRAMS**

31. PPL Electric shall add approximately 1,500 comprehensive in-home diagnostic audits to its Energy Efficient Home Program. PPL Electric will design an appropriate rebate structure for the audits and will describe this structure to stakeholders before implementing the rebate. The rebate structure is likely to be based on a portion of the audit cost, but the Company will explore other structures, such as those tied to the estimated savings achieved by implementing recommendations from the audit. The Company will revise the EE&C Plan to list the incentive range for audit rebates. The Company will review alternate rebate structures with stakeholders before implementation.

32. PPL Electric confirms that it will provide more targeted messaging to customers as part of the Home Energy Education Program. If the savings for the Home Energy Education Program do not meet expectations, the Company may adjust the program, including the messaging sent to customers. At least once per program year, PPL Electric will review the general contents of the home energy reports with stakeholders. The Company agrees that it will listen to and consider comments from the stakeholders regarding the general content of these reports.

**C. MULTIFAMILY BUILDINGS**

33. PPL Electric shall establish a single point of contact for intake and routing coordination of multifamily building owners/operators.

34. PPL Electric shall encourage its program implementation Conservation Service Providers (“CSPs”) to provide outreach that encourages multifamily buildings to implement energy efficiency measures.

35. PPL Electric shall clarify that multifamily buildings’ eligibility requirements are not affected by the number of living units in the buildings. The Company shall further clarify that non-low-income residents in master-metered multifamily buildings are eligible to participate in PPL Electric's residential programs, provided that they have landlord/owner approval. This is equivalent to the landlord of a master-metered multifamily building implementing eligible measures in a residential program, such as appliance recycling, heat pumps, heat pump water heater, LEDs, or appliances. PPL Electric will assign the costs to the customer sector corresponding to the rate schedule of the building.

36. To the extent practical, the Company agrees to coordinate with the Pennsylvania Housing Finance Agency (“PHFA”) to align the eligibility of measures in Act 129 low-income multifamily buildings with PHFA’s Qualified Allocation Plan and Energy Rebate Analysis. The Company will work with interested stakeholders in an effort to ensure that the funds provided through the Company's EE&C Plan are not substituted for funds otherwise provided through other assistance programs.

37. No later than December 1, 2016, PPL Electric will conduct a stakeholder meeting with interested multifamily housing owners, developers, and other interested stakeholders. PPL Electric will work with the Housing Alliance of Pennsylvania, other interested groups (to be identified in collaboration with CAUSE-PA), and the Company’s CSPs to identify multifamily housing owners and developers to invite to the meeting. The purpose of the stakeholder meeting is to solicit feedback about the Company’s multifamily offerings and to identify potential changes to the Company’s programs related to multifamily housing.

**D. LOW-INCOME PROGRAMS**

38. PPL Electric shall leverage funding from its Low-Income Usage Reduction Program (“LIURP”) Winter Relief Assistance Program (“WRAP”) and Low-Income WRAP as the Company did in Phase II.

39. PPL Electric does not expect that it will jointly fund measures through LIURP WRAP and Low-Income WRAP.4 However, if measures are jointly funded by LIURP WRAP and Low-Income WRAP, PPL Electric shall allocate the actual costs and savings for these measures based upon the percentage of total costs paid by each funding source.

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4 The Company must modify its tracking systems to accommodate joint funding of WRAP measures. This modification is not likely before 2017.

40. PPL Electric shall ensure that the process and level of coordination between LIURP and Low-Income WRAP in Phase III will be substantially the same as in Phases I and II, with the exception that the entity responsible for delivering the Phase III Low-Income WRAP may be different than in the prior Phases.

41. In addition to its current targeted outreach to OnTrack customers for participation in its Low-Income WRAP, the Company will work with its Low-Income CSP to create and target marketing and outreach for its Low-Income WRAP to confirmed low-income customers that are not enrolled in OnTrack. The Company will describe its Low-Income WRAP marketing efforts at its Act 129 stakeholder meetings and will allow stakeholders the opportunity to provide feedback and recommendations.

42. PPL Electric shall ensure that its Low-Income CSP meets with natural gas distribution companies (“NGDCs”) to identify and evaluate opportunities for coordination of low-income energy efficiency programs in Phase III. PPL Electric will present its coordination efforts to stakeholders at its Act 129 stakeholder meetings, and will allow stakeholders the opportunity to provide feedback and recommendations.

43. PPL Electric confirms that if a low-income home is eligible for “full cost measures,”5 the Company will install eligible “full cost measures” through its LIURP WRAP or Low-Income WRAP budget, provided that: (1) it receives landlord approval; (2) the customer has installed electric heat in at least 50% of the home; (3) the home did not previously receive “full cost” services from Low-Income WRAP in Phase II; (4) there are no health or safety concerns in the home that prevent the installation of “full cost” measures; and (5) the cost of the “full cost” measures can be accommodated within the LIURP WRAP or Low-Income WRAP budget.

44. PPL Electric shall clarify that individually metered low-income multifamily residences are eligible for the same measures as individually metered single family low-income residences under Low-Income WRAP.

45. PPL Electric shall clarify that individually metered manufactured homes are eligible for the same measures as any other type of individually metered home receiving services from Low-Income WRAP.

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5 In the context of this Settlement, “full cost” means energy efficiency measures related to homes with central electric heating and electric water heating. The Company may not use the terms “full cost job”, “low cost job” or “Baseload job” for Phase III Low-Income WRAP, though the Company nonetheless commits to continue tracking the number of completed full cost, low cost, and baseload jobs, consistent with its LIURP reporting requirements, for the purpose of comparing program results for its Low-Income WRAP with its LIURP WRAP.

46. PPL Electric shall revise the program description for Low-Income WRAP in its EE&C Plan to provide the following: “In addition to the LEDs in tenant units of low-income residents in master-metered multifamily buildings, Low-Income WRAP will provide other eligible measures to these units under Low-Income WRAP (i.e., the same eligible measures as individually metered low income homes, as set forth in Table 38) subject to landlord approval, available program funds, within the overall program acquisition cost of Low-Income WRAP, and subject to a limit on cumulative spending of $2.5 million in direct costs during Phase III for

Low-Income WRAP measures in the tenant units of low-income residents in master-metered multifamily buildings. If PPL Electric determines that it will need to spend more than $2.5 million for such measures, it will meet with stakeholders and revise its EE&C Plan to update the estimated funding for these measures, subject to Commission approval.”

47. PPL Electric confirms that the Commission on Economic Opportunity will receive any requests for proposal from the Low-Income CSP for Phase III Low-Income WRAP services. The request for proposal will allow bidders to specify the geographic region(s) or county(s) they prefer to serve and will provide bidders the option of choosing the territory they have historically served as the only territory addressed in their bid. PPL Electric believes that a bidder’s experience in: (1) providing LIURP WRAP and Low-Income WRAP; (2) providing measures under the Department of Energy's Weatherization Assistance Program; and (3) working with the Company’s low-income customers in their respective regions should be considered in the bid process.

48. As part of its Low-Income WRAP, PPL Electric shall offer smart thermostats to low-income customers at no cost to those customers. The smart thermostats will be an eligible measure for homes with central electric heat and subject to landlord approval, available program funds, and the overall program acquisition cost of Low-Income WRAP.

**E. CUSTOM PROGRAM**

49. PPL Electric shall remove the “average” modifier from the incentive ranges in the Custom Program.

50. PPL Electric shall strive to keep the Custom Program’s rebates and per-site caps as consistent as possible while recognizing the need to adjust incentives and caps to control the pace of the Company’s programs within their savings and cost budgets.

**F. DEMAND RESPONSE PROGRAM**

51. PPL Electric shall require its Demand Response CSP to comply with all applicable PJM Interconnection LLC (“PJM”) tariff rules, to the extent the CSP interacts with PJM as part of its Act 129 demand response responsibilities. Additionally, PPL Electric acknowledges that dual enrolled customers (Act 129 Demand Response participants who are also enrolled in PJM's Demand Response program) may require coordination between the Act 129 Demand Response CSP and their PJM Curtailment Service Providers, if they are different entities.

52. PPL Electric confirms it will comply with the Commission’s rule to ensure the cost to acquire dual enrolled customers in the Demand Response Program is no more than 50% of the cost to acquire single enrolled customers. PPL Electric will track actual costs and provide documentation to the Commission (or Statewide Evaluator (“SWE”), if directed by the Commission) to confirm compliance. To the extent possible and if in the Company's reasonable judgment the following information would not identify individual customers, PPL Electric will include in its Final Phase III Annual Report: (1) the aggregate number of customers dual enrolled in PPL Electric’s Act 129 Demand Response and PJM’s Demand Response Programs; (2) the aggregate number of customers only enrolled in PPL Electric’s Act 129 Demand Response Program; (3) the total amount of incentives paid to customers dual enrolled in PPL Electric’s Act 129 Demand Response and PJM’s Demand Response Programs; and (4) the total amount of incentives paid to customers only enrolled in PPL Electric’s Act 129 Demand Response Program.

**G. TOTAL RESOURCE COST TEST**

53. As agreed upon by the parties at the January 29, 2016 evidentiary hearing, PPLICA’s TRC Test issues and proposals and the Company’s Motion to Strike PPLICA’s direct testimony on these issues are deferred for briefing.

54. As part of its compliance filing, PPL Electric shall correct any tables, numbers, or statements in the Phase III EE&C Plan affected by correcting the assumptions in the TRC calculations for the GNE Efficient Equipment, GNE Custom, Large C&I Custom, and Small C&I Custom Programs, as noted in the answer to OCA-I-1.

**H. SMART AND PROGRAMMABLE THERMOSTATS**

55. PPL Electric confirms that it will offer a rebate for smart thermostats in the range of $50 to $250 under the Energy Efficient Home Program.

56. PPL Electric confirms that smart thermostats are an eligible measure under the New Homes Component of the Energy Efficient Home Program. Smart thermostats are an eligible measure to achieve the HERs rating home, and smart thermostats with adaptive recovery technology are an eligible measure for an EnergyStar rated home.

57. During Program Year 8, PPL Electric will work with its Residential CSP or other contractors to evaluate a pilot for residential demand response using smart thermostats. The Company will review the recommendations of the evaluation with stakeholders in early Program Year 9. If the evaluation recommends implementing a pilot program for residential demand response using smart thermostats, the Company will submit, within a reasonable time, a description of the pilot program to the Commission and stakeholders prior to implementation in accordance with Section 9.1.5 of the Phase III EE&C Plan. If the pilot requires a change to the EE&C Plan, the Company will review the change with stakeholders and submit the change to the Commission with the next petition to modify the EE&C Plan. If the evaluation recommends not implementing a pilot program for residential demand response using smart thermostats, the evaluation will provide the reasons for this recommendation to stakeholders.

58. PPL Electric will revise its EE&C Plan to add a pilot designed to provide programmable thermostats designed to control baseboard electric heaters of residential or low-income customers. PPL Electric will use commercially reasonable efforts to obtain 20 participants for the pilot, but the parties acknowledge that the program is voluntary and that PPL Electric cannot guarantee the actual number of participants. The Company will strive to start the pilot by June 2017, but the completion date is contingent on the design of the program, delivery channels for the thermostats, and participation by customers. The Company will publish the results of the pilot to stakeholders. This programmable thermostat pilot is not the same as the residential demand response pilot described in Paragraph 57 above.

**I. ENERGY INTELLIGENCE SOFTWARE**

59. The Company agrees to meet with EnerNOC in Program Year 8 to review its Energy Intelligence Software (“EIS”) product. The Company will decide in early Program Year 9 whether to pursue implementing EIS or similar products from other vendors. During Program Year 9, PPL Electric will work with its Nonresidential CSP or other contractors to evaluate an Energy Intelligence Software pilot for Small Commercial and Industrial (“Small C&I”) sector customers that includes a reasonable number of customers, and review the recommendations of the evaluation with stakeholders. If the evaluation recommends implementing a pilot program for Small C&I customers, the Company will include the pilot in a petition to modify the EE&C Plan, with the pilot program commencing no later than Program Year 10.

Partial Settlement at 5-13.

The Partial Settlement is conditioned upon the Commission’s approval of the terms and conditions contained therein without modification. The Joint Petitioners agree that if the Commission modifies the Partial Settlement, then any Joint Petitioner may elect to withdraw from the Partial Settlement and may proceed with litigation and, in such event, the Partial Settlement shall be void and of no effect. The Joint Petitioners further agree that such election to withdraw must be made in writing, filed with the Secretary of the Commission, and served upon all Joint Petitioners within five business days after the entry of an Order modifying the Partial Settlement. Partial Settlement at 14-15.

The Joint Petitioners agree that if the Commission does not approve the Partial Settlement and the proceedings continue, the Joint Petitioners reserve their respective procedural rights to evidentiary hearings, submission of additional testimony and exhibits, cross-examination of witnesses, briefing, and argument of their respective positions. The Joint Petitioners further agree that the Partial Settlement is made without any admission against, or prejudice to, any position that any Joint Petitioner may adopt in the event of any subsequent litigation of these proceedings, or in any other proceeding. Partial Settlement at 15.

The Joint Petitioners acknowledge that the Partial Settlement reflects a compromise of competing positions and does not necessarily reflect any Joint Petitioner’s position with respect to any issues raised in this proceeding. The Joint Petitioners agree that the terms and conditions of the Partial Settlement are limited to the facts of this specific case and are the product of compromise for the sole purpose of settling this case. The Partial Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Parties may advance on the merits of the issues in future proceedings. The Joint Petitioners further agree that the Partial Settlement does not preclude them from taking other positions in other EDCs’ EE&C proceedings or any other proceeding. Joint Petition at 15.

If the Commission adopts the Partial Settlement without modification, the Joint Petitioners agree that they: (1) will not initiate or join in any challenge to the Settlement; (2) will not assert any positions in derogation to the Settlement; and (3) waive their right to appeal or to seek reconsideration, rehearing, reargument, or clarification of the Commission's Order approving the Partial Settlement, except that PPLICA and PPL reserve the right to appeal or to seek reconsideration, rehearing, reargument, or clarification of any Commission finding regarding PPLICA’s TRC Test issues and proposals, and the Company’s Motion to Strike PPLICA's direct testimony on these issues that have been deferred for briefing. *Id*. at 15-16.

# IV. Discussion

We note that any issue we do not specifically address herein has been duly considered and will be denied without further discussion. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the parties. [Consolidated Rail Corporation v. Pa. PUC, 625 A.2d 741 (Pa. Cmwlth. 1993);](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=5&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b625%20A.2d%20741%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=ad2b02d95c2a9216e83b92a3570d4785) see also, generally, [University of Pennsyl­vania v. Pa. PUC, 485 A.2d 1217 (Pa. Cmwlth. 1984).](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=6&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b485%20A.2d%201217%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=9b1cc8319afd12440738bb82d74455ef)

## A. Legal Standards

As the proponent of a rule or order, the Company has the burden of proof in this proceeding in accordance with Section 332(a) of the Code, 66 Pa. C.S. § 332(a). Courts have held that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied,* 529 Pa. 654, 602 A.2d 863 (1992). That is, the Company’s evidence must be more convincing, by even the smallest amount, than that presented by the other Parties. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, this Commission’s decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC,* 489 Pa. 109, 413 A.2d 1037 (1980).

Because the Joint Petitioners have reached a Partial Settlement, the Joint Petitioners have the burden to prove that the Partial Settlement is in the public interest. Pursuant to our Regulations at 52 Pa. Code § 5.231, it is the Commission’s policy to promote settlements. Settlement terms often are preferable to those achieved at the conclusion of a fully litigated proceeding. In addition, a full settlement of all the issues in a proceeding eliminates the time, effort and expense that otherwise would have been used in litigating the proceeding, while a partial settlement may significantly reduce the time, effort and expense of litigating a case. Act 129 cases often are expensive to litigate, and the reasonable cost of such litigation is an operating expense recoverable in the rates approved by the Commission. Partial or full settlements allow the parties to avoid the substantial costs of preparing and serving testimony, cross-examining witnesses in lengthy hearings, and preparing and serving briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission’s decision, yielding significant expense savings for the company’s customers. For this and other sound reasons, settlements are encouraged by long-standing Commission policy.

The Commission must, however, review proposed settlements to determine whether the terms are in the public interest. *Pa. PUC v. Philadelphia Gas Works*, Docket No. M-00031768 (Order entered January 7, 2004); *Pa. PUC v. C.S. Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991); *Pa. PUC v. Philadelphia Electric Co.*, 60 Pa. P.U.C. 1 (1985). In order to accept a settlement such as that proposed here, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. PUC v. York Water Co.*, Docket No. R-00049165 (Order entered October 4, 2004); *Pa. PUC v. C.S. Water and Sewer Assoc.*, *supra*.

**B. Phase III Conservation and Demand Reduction Requirements**

**1. Overall Conservation Requirements**

The *Phase III Implementation Order* established a Phase III energy consumption reduction target of 1,443,035 MWh for PPL, which was based on a 3.8% reduction in the Company’s expected load as forecasted by the Commission for the period June 1, 2009 through May 31, 2010. *Phase III Implementation Order* at 57. Consumption reductions are measured using a savings approach. *Id.* at 108. Each EDC was directed to develop a plan that was designed to achieve at least 15% of the target amount in each program year. *Id.* at 59.

In the *Phase III Implementation Order*, the Commission expressed concern that the carryover of all excess savings from phase to phase of the EE&C Program will lead to a scenario in whichEDCs meet most, if not all, of its reduction target simply with carryover savings. As a result, the Commission concluded that EDCs are allowed to carry over only excess savings obtained in Phase II for application toward Phase III targets. *Phase III Implementation Order* at 84-85.

PPL’s Phase III Plan is designed to achieve a total energy savings of 1,582,984 MWh. PPL proposes to obtain 22%, 22%, 23%, 22%, and 20% of its Phase III total consumption reduction target in Program Years 8 (2016), 9 (2017), 10 (2018), 11 (2019), and 12 (2020), respectively. Phase III Plan at 15. PPL’s total energy savings for Phase III will exceed its consumption reduction target by approximately nine percent. *Id*. at 3, 15, 188.

Upon review of PPL’s Phase III Plan, as modified by the Partial Settlement, we find that its projected total energy savings will exceed the prescribed Phase III energy consumption reduction targets set forth in our *Phase III Implementation Order.* Additionally, we find that the Plan complies with our directive that any carryover savings be limited only to savings actually obtained in Phase II.[[19]](#footnote-19) Moreover, we find that the Plan is designed to achieve at least 15% of the total energy savings amount in each Phase III program year.

**2. Overall Demand Reduction Requirements**

Phase I of the EE&C Program included demand reduction (DR) requirements. 66 Pa. C.S. § 2806.1(d). The Commission did not believe it had the information necessary at the time to definitively determine that a DR program would be cost-effective as part of Phase II. Consequently, Phase II did not include DR requirements. *Phase II Implementation Order* at 32-33. For Phase III, the Commission concluded that it had sufficient information to determine that DR requirements would be cost-effective in the service territories of six of the seven EDCs (all EDCs except Penelec). *Phase III Tentative Implementation Order* at 36; *Phase III Implementation Order* at 34-35.

The DR target for PPL is 92 MW, which is a 1.4% reduction relative to 2007-2008 peak demand. *Phase III Implementation Order* at 35. Peak demand reductions are measured using the demonstrated savings approach. *Id*. at 111-112. EDCs are not required to obtain peak demand reductions during the first year of Phase III; the required reductions apply to the remaining four program years of Phase III. *Id.* at 35. The Commission will determine compliance with the peak demand reduction requirements outlined above based on an average of the MW reductions obtained from each event called over the last four years of the Phase. However, EDCs are to obtain no less than 85% of the target in any one event. *Id.* at 36. Finally, each EDC plan must demonstrate that the cost to acquire MWs from customers that participate in the PJM Interconnection, LLC (PJM) Emergency Load Response Program (ELRP) is no more than half the cost to acquire MWs from customers in the same rate class that are not participating in PJM’s ELRP. *Id.* at 44.

PPL’s Phase III Plan is designed to achieve annual peak demand reductions of 115 MW in each Program Year, which exceeds PPL’s compliance target by 25%. Phase III Plan at 2, 7, 15. Upon our review of the Plan, as modified by the Partial Settlement, we find that the projected annual peak demand reduction will exceed the prescribed Phase III target set forth in our *Phase III Implementation Order*. Additionally, we find that the Plan is in compliance with our requirement that the acquisition costs for DR customers who participate in PJM’s ELRP are no more than one-half of the acquisition costs for those DR customers that do not participate in PJM’s ELRP. Phase III Plan at 12; Partial Settlement at 11.

**3. Requirements for a Variety of Programs Equitably Distributed**

The *Phase III Implementation Order* did not require a proportionate distribution of measures among customer classes. However, it did require that each customer class be offered at least one program. *Phase III Implementation Order* at 113. In addition, the Commission required that EE&C Plans include at least one comprehensive program for residential customers and at least one comprehensive program for non-residential customers. *Id.* at 61.

PPL’s Phase III Plan includes five programs designed specifically for Residential customers, two programs designed specifically for Low-Income customers, and three programs each designed specifically for Small C&I, Large C&I, and GNE customers. In addition, PPL will offer one comprehensive program to its Low-Income customers in the form of its Low-Income WRAP; one comprehensive program to non-low-income Residential customers in the form of its Energy Efficient Home Program; and one comprehensive program to its non-residential customers in the form of its Custom Program. In addition, we find that PPL’s intention to add approximately 1,500 comprehensive in-home diagnostic audits to its Energy Efficient Home Program, as agreed to in the Partial Settlement, will further enhance the Company’s ability to provide a comprehensive set of measures through this program. Accordingly, we find that PPL’s Phase III Plan, as modified by the Partial Settlement, is designed to meet the requirement that each customer class be offered at least one program, and the requirement that at least one comprehensive program be offered to residential customers and at least one comprehensive program be offered to non-residential customers.

**4. Government/Educational/Non-Profit Requirement**

Act 129 required that Phase I EE&C Plans obtain a minimum of 10% of all consumption and peak demand reduction requirements from units of the Federal, State and local governments, including municipalities, school districts, institutions of higher education and non-profit entities (GNE sector). 66 Pa. C.S. § 2806.1(b)(1)(i)(B). The Commission believes that it has the discretion to modify and/or remove the specific sector carve-out for the GNE sector if no cost-effective savings can be obtained from that sector. *Phase III Implementation Order* at 71 and 74-75. We directed all EDCs to obtain at least 3.5% of their consumption reduction targets from the GNE sector. *Id.* at 76. EDCs are permitted to carry over excess savings for the GNE sector from Phase II for application to their Phase III GNE sector target.

PPL’s Phase III Plan includes three programs targeted specifically to GNE customers. Phase III Plan at 121-143. The Plan is designed to achieve a total of 81,000 MWh/year in energy savings from the GNE sector, which will exceed the requirement that PPL obtain a minimum of 3.5% of its consumption reduction target, or 50,507 MWh/year of gross verified savings, from the GNE sector. *Id*. at 2, 15. Accordingly, we find that PPL’s Phase III Plan, as modified by the Partial Settlement, is in compliance with the required consumption reduction requirement for the GNE sector set forth in our *Phase III Implementation Order.*

**5. Low-income Program Requirements**

In Phases I and II, Act 129 required each EE&C Plan to include specific measures for households at or below 150% of the Federal Poverty Income Guidelines (FPIG), in proportion to that sector’s share of the total energy usage in the EDC’s service territory. 66 Pa. C.S. § 2806.1(b)(1)(i)(G). In Phase III, the Commission proposed to continue this measure prescription and further required that each EDC obtain a minimum of 5.5% of its total consumption target from the low-income sector. *Phase III Implementation Order* at 62-63, 69. Savings counted toward this target could only come from specific low-income programs or low-income verified participants in multifamily housing programs. Savings from non-low-income programs cannot be counted for compliance. *Id.* at 69. EDCs are only allowed to carry over excess low-income savings into Phase III, based on an allocation factor determined by the ratio of low income specific program savings to savings from non-low-income specific programs at the end of Phase II. *Id*. at 85.

PPL’s Phase III Plan includes two programs designed specifically for its Low-Income sector customers. Phase III Plan at 63-74. Twenty-three EE&C measures are offered exclusively to Low-Income customers, which represents 35% of the total sixty-five measures offered to all of the Company’s customer sectors. This exceeds the proportionate number of measures required by Act 129 based on the Low-Income sector’s 9.95% share of the total energy usage in PPL’s service territory. *Id*. at 189; *Phase III Implementation Order* at 63. In addition, PPL’s Phase III Plan is designed to achieve 88,147 MWh year of total energy savings from the Low-Income sector, which exceeds the minimum savings of 79,367 MWh/year necessary to meet the 5.5% low-income carve-out requirement set forth in the *Phase III Implementation Order*. Phase III Plan at 2, 15, 188.

PPL states that its Low-Income sector portfolio was designed to exceed the Commission's low-income set-aside target through Phase III programs alone. Any low-income carryover savings from Phase II will provide an additional margin. PPL will offer targeted programs to income-qualified customers residing in multiple housing types (*i.e*., single family, multifamily individual metered units, master-metered multifamily buildings, and manufactured homes). PPL will achieve this objective primarily by delivering direct installation measures coupled with distributing energy efficiency education and kits throughout its territory. Phase III Plan at 189.

In accordance with the Partial Settlement, PPL agrees to leverage Act 129 WRAP funding with LIURP WRAP funding, allocate actual costs and savings to the appropriate program on jobs that have jointly funded measures, and ensure that the level of coordination between the two programs will be equivalent to that which existed in Phase II. Partial Settlement at 7-8. PPL will target marketing efforts to reach low-income customers not currently enrolled in OnTrack,[[20]](#footnote-20) will identify and evaluate opportunities to coordinate weatherization with NGDCs, and will provide “full cost measures” to all low-income homes that meet eligibility. *Id.* at 8-9. The Partial Settlement clarifies that individually metered low-income multifamily and manufactured homes will be eligible for the same measures as single family low-income homes under WRAP, and that WRAP will provide LEDs and other eligible measures to master-metered multifamily tenant units, subject to landlord approval and program funding, not to exceed $2.5 million in direct costs. *Id.* at 9-10. PPL also agrees to provide smart thermostats to homes with central electric heat under WRAP, subject to landlord approval and program funds. *Id.* at 10.

Lastly, the Partial Settlement states that “PPL confirms that the Commission on Economic Opportunity will receive any requests for proposal from the Low-Income CSP for Phase III WRAP services.” Partial Settlement at 10. However, the language in the Partial Settlement is unclear as to whether a request for proposal would be sent *only* to CEO. In order to ensure that PPL’s Low-Income CSP is complying with the approved competitive bid process, we will require that any requests for proposal be sent to *all* qualified CSPs, including, but not limited to, CEO.[[21]](#footnote-21)

Based on our review of PPL’s Phase III Plan, as modified by the Partial Settlement, we find that it meets the requirements relating to low-income customers set forth in Act 129 and the *Phase III Implementation Order*.

**6. Proposals for Improvement of Plan**

The Commission’s EE&C Program must include procedures to make recommendations as to additional measures that will enable an EDC to improve its plan and exceed the required reductions in consumption. 66 Pa. C.S. § 2806.1(a)(6). In accordance with the Partial Settlement, PPL agrees to adopt or investigate and study a number of improvements to its Phase III Plan, including the following:

* The addition of approximately 1,500 comprehensive in-home diagnostic audits to its Energy Efficient Home Program. Partial Settlement at 6.
* More targeted messaging to customers as part of the Home Energy Education Program. *Id*.
* Clarifications and Improvements to further ensure the availability of EE&C measures to customers residing in master-metered multifamily buildings. *Id*. at 6-7.
* Clarifications and Improvements to extend and enhance the availability of PPL’s Low-Income WRAP. *Id*. at 7-10.
* Clarifications to the Custom Program. *Id*. at 10.
* Clarifications to ensure proper coordination of its DR Program with PJM’s DR Program. *Id*. at 11.
* Clarifications to confirm that PPL will adequately demonstrate that the cost to acquire MWs from customers that participate in the PJM ELRP is no more than one half of the cost to acquire MWs from customers in the same rate class that are enrolled in PPL’s DR Program only, as required in the *Phase III Implementation Order*. Partial Settlement at 11; *see* *Phase III Implementation Order* at 44.
* Clarifications to confirm the availability of smart thermostats as an eligible measure under PPL’s Energy Efficient Home Program, including the New Homes Component of that program. Partial Settlement at 12.
* A commitment to evaluate the addition of a pilot program for residential DR using smart thermostats. *Id*. at 12-13.
* A commitment to add a pilot program to provide programmable thermostats designed to control baseboard electric heaters of residential or low-income customers. *Id*. at 13.
* A commitment to review and consider utilizing an Energy Intelligence Software (EIS) product in its Phase III Plan, and to evaluate implementing an EIS pilot program for Small C&I customers. *Id*.

We note that all Parties to this proceeding either agreed to the Partial Settlement, did not oppose the Partial Settlement, or indicated that they did not take a position regarding the Partial Settlement.

**C. Cost Issues**

In the *Phase III Implementation Order*, we stated:

The Act 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). All EDC plans must include cost estimates for implementation of all measures. 66 Pa. C.S. § 2806.1(b)(1)(i)(F). Each plan must also include a proposed cost‑recovery tariff mechanism, in accordance with Section 1307 (relating to sliding scale [of] rates; adjustments), to fund all measures and to ensure full and current recovery of prudent and reasonable costs, including administrative costs, as approved by the Commission. 66 Pa. C.S.   
§ 2806.1(b)(1)(i)(H). In addition, each plan must include an analysis of administrative costs. 66 Pa. C.S.   
§ 2806.1(b)(1)(i)(K). The Act dictates that the total cost of any plan must not exceed two percent of the EDC’s total annual revenue as of December 31, 2006, excluding LIURP, established under 52 Pa. Code § 58 (relating to residential Low Income Usage Reduction Programs). 66 Pa. C.S. § 2806.1(g). Finally, all EDCs, including those subject to generation or other rate caps, must recover on a full and current basis from customers, through a reconcilable adjustment clause under Section 1307, all reasonable and prudent costs incurred in the provision or management of its plan. 66 Pa. C.S. § 2806.1(k).

*Phase III Implementation Order* at 130-131.

**1. Plan Cost Issues**

**a. Phase III Allowable Costs**

The Act allows an EDC to recover all prudent and reasonable costs relating to the provision or management of its EE&C Plan, but limits such costs to an amount not to exceed two percent of the EDC’s total annual revenue as of December 31, 2006, excluding Low‑Income Usage Reduction Programs established under 52 Pa. Code § 58. 66 Pa. C.S. § 2806.1(g). This is an annual budgetary limitation, rather than a budget for all of Phase III. *Phase III Implementation Order* at 135. We note, also, that the two-percent cost cap does not apply to expenses relating to the Statewide Evaluator (SWE). *Id.* at 134. The level of costs that an EDC will be permitted to recover in implementing its EE&C program was established in the Phase I proceedings. EDCs will be permitted to recover both the ongoing costs of their plans, as well as incremental costs incurred to design, create and obtain Commission approval of the plans. However, all costs submitted for recovery in an EDC’s plan are subject to review by the Commission to determine whether the costs are prudent and reasonable, and are directly related to the development and implementation of the plan. *Id*. at 132.

PPL’s budget cap is $61,501,376. *Phase III Implementation Order* at 11 n.23. PPL notes that this annual budget cap amount equates to approximately $307.5 million over the five-year Phase III period, and to an average program acquisition cost of approximately $0.20/annual kWh saved. Phase III Plan at 2. PPL states that in addition to this cost, it expects to incur approximately $5 million for its share of the SWE’s costs, which are not subject to the costs cap, as noted above. *Id*. at 163 n.33. Thus, PPL’s total Phase III budget, including SWE-related costs, is $312.5 million. PPL asserts that it will spend most of its $312.5 million budget to implement its Phase III Plan, including administrative costs. This budget also includes costs PPL incurs to develop and modify its Plan. PPL indicates that any Phase III costs incurred during Phase II will be deferred until Phase III, and proposes to amortize and recover those deferred costs ratably over the 60-month life of its Phase III EE&C Plan.  *Id*. at 163.

We find that the PPL’s proposed Phase III budget will not exceed the two-percent cap over the life of the Plan. In addition, the Company’s projected Phase III costs appear to be prudent and reasonable, and directly related to the development and implementation of the Plan.

We note, however, that the Plan incorrectly states that the *Phase III Implementation Order* “directed that recovery of Phase III costs that were incurred in Phase II may be deferred until Phase III recovery of rates becomes effective.” Phase III Plan at 163 (citing *Phase III Implementation Order* at 114). While we do not object to PPL’s proposal to defer Phase III costs incurred during Phase II and recover them over the course of Phase III, we wish to point out that our directive in this regard was made in the *Phase II Implementation Order*, and applied to Phase II costs incurred during Phase I. *Phase II Implementation Order* at 114. The *Phase III Implementation Order* did not explicitly include such a directive. Accordingly, we will direct PPL to delete this inaccurate language from its Phase III Plan.

**b. Application of Excess Phase II Budget**

EDCs cannot use excess Phase II funds to implement Phase III programs. After June 1, 2016, EDCs can only use Phase II budgets to finalize measures installed and commercially operable on or before May 31, 2016, and to finalize any contracts and other Phase II administrative obligations. *Phase III Implementation Order* at 140*.* Similarly, EDCs may continue to spend their Phase III budgets even if their consumption and/or peak demand reduction goals are met before the end Phase III. EDCs can spend their Phase III budgets past May 31, 2021 only to account for those program measures installed and commercially operable on or before May 31, 2021, and to finalize the CSP and administrative fees related to Phase III. The Commission’s Bureau of Audits will subsequently reconcile Phase III funds collected compared to expenditures, and direct the EDCs to refund any over-collections to the appropriate rate classes. *Id.*

PPL states that it will account for Phase III costs separately from those incurred in prior phases using separate and distinct account numbers that break out charges by program, sector, and cost category (*e.g*., incentives, CSP costs, and payroll). Any costs associated with energy efficiency measures installed and operable on or before May 31, 2016, will be accounted for as Phase II costs. Any costs associated with energy efficiency measures installed and operable after May 31, 2016, will be accounted for as Phase III costs. Phase III Plan at 168. Thus, we find that PPL’s Phase III Plan will not utilize excess Phase II funds to implement Phase III programs.

**c. Rebate Application Deadlines**

The *Phase III Implementation Order* required EDCs to include rebate deadlines in their Phase III EE&C Plans. Although the Commission believes that EDCs and their stakeholders are in the best position to determine the appropriate deadlines, the Commission suggested that 180 days be the maximum deadline. *Phase III Implementation Order* at 142. Our review of PPL’s Phase III Plan indicates that all of the EE&C programs that offer rebates for measures specify deadlines for the submission of rebates that do not exceed 180 days from the date the measure was installed. Phase III Plan at 50, 82, 88, 105, 111, 128, 134.

**2. Cost Effectiveness/Cost-Benefit Issues**

**a. Total Resource Cost Test**

The Act requires an EDC to demonstrate that its plan is cost-effective, using the TRC Test approved by the Commission. 66 Pa. C.S. § 2806.1(b)(1)(i)(I). The Act defines the 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). The TRC Test to be used for evaluating Phase III EE&C Plans was approved in *2016 Total Resource Cost (TRC) Test*, Docket No. M-2015-2468992 (Tentative Order entered March 11, 2015) (*2016 TRC Test Tentative Order*); (Order entered June 11, 2015) (*2016 TRC Test Order*).

The Commission will maintain the practice, used in Phases I and II, of using a Net-to-Gross (NTG) ratio for making modifications to programs during the phase, and for planning purposes for future phases. The Commission, however, will determine compliance with targets using gross verified savings. *Phase III Implementation Order* at 105 and 107. We required EDCs to include net TRC ratios, as well as gross TRC ratios, and encouraged EDCs to incorporate language in their EE&C Plans to clarify the speculative nature of these estimates, in order to provide clarity to stakeholders regarding these values. *Id*. at 107.

PPL provides a detailed explanation of how it determined the cost-effectiveness of its EE&C programs in Section 8 of its Phase III Plan. PPL Phase III Plan at 169-173. PPL explains that it began assessing the cost-effectiveness of each program in the Plan by creating a valuation of the net total resource benefits over the life of each conservation measure for a maximum of fifteen years, as directed in the *2016 TRC Test Order*, and also determined each measure’s total incremental installed costs. PPL deemed a measure or program as cost-effective if its total resource benefits value minus its total incremental installed costs value was positive, or the benefit-cost ratio was at least 1.0. PPL states that the total benefits data are estimates based on the planning assumptions in the Phase III Plan. PPL avers that it will complete a cost-effectiveness evaluation using actual program results as part of its yearlyevaluations. Phase III Plan at 169.

PPL’s Phase III Plan shows an estimated benefit-cost ratio of 1.61 for the Company’s energy efficiency portfolio, and an estimated benefit-cost ratio of 1.90 for its demand response portfolio. Phase III Plan at 7, 30. The Plan also provides the estimated cost-effectiveness for each of the Company’s separate EE&C programs, determined in accordance with the Commission's *2016 TRC Test Order*. Phase III Plan at 30, 169. PPL’s Phase III Plan is estimated to produce five-year energy savings of 1,582,984 MWh/year, and demand reductions of 115 MW, which will exceed PPL’s compliance targets by 139,949 MWh/year (~9%) and 23 MW (25%), respectively, at or below the Company's budget cap. *Id*. at 7, 15, 30. Accordingly, we find that overall, PPL’s Phase III Plan is cost-effective as filed. However, we remind the Company that it must demonstrate that any revised Phase III plan filed to incorporate the terms agreed to in the Partial Settlement, or any modifications to the Plan directed in this Opinion and Order, will continue to be cost-effective.

**b. Updating of TRC Values**

As noted above, the single contested matter in this case involves an issue raised by PPLICA regarding the calculation of the TRC benefit-cost values relating to PPL’s Phase III Plan. Specifically, PPLICA expresses concern about “the Company’s practice of reviewing and assessing the cost-effectiveness of its EE&C programs without truing-up the TRC values to update the avoided energy cost component.” PPLICA M.B. at 8. Accordingly, PPLICA offered testimony recommending that PPL be required to annually true up its TRC calculations to reflect actual avoided energy costs rather than the forecasted costs utilized in PPL’s calculation. PPLICA St. 1 at 5-8. In addition, PPLICA recommended that the Commission utilize the annual reconciliation process to review cost-effectiveness on a program basis and terminate any programs with a TRC value below 1.00 over a twelve-month period, based on actual market prices of energy. *Id*. at 11.

On January 26, 2016, PPL filed a Motion to Strike those portions of PPLICA’s testimony relating to this issue. In its Motion, PPL argued that the TRC issues raised by PPLICA were outside the scope of the instant proceeding, and that adopting its proposals would result in a violation of other EDCs’ due process rights. PPLICA filed an Answer to PPL’s Motion to Strike on February 16, 2016. At the January 29, 2016 evidentiary hearing, ALJ Colwell declined to rule on PPL’s Motion, and the matter was reserved for briefing. Tr. at 25-28. Accordingly, we will address the issue in detail.

**i. PPLICA’s Position**

PPLICA observes that the avoided energy costs used by PPL to calculate the TRC values in its Phase III Plan are based on market conditions observed at the time of filing, from which energy prices are then projected over a fifteen-year planning horizon. While PPLICA does not take issue with the TRC values so calculated and reported in the Phase III Plan, it contends that these values must be updated annually to reflect actual market energy prices. PPLICA M.B. at 7-8. According to PPLICA, the Final Annual Report for Phase I issued by the Commission’s SWE on March 4, 2014 (Phase I Final SWE Report), indicated that the avoided costs used to calculate the TRC ratios for Phase I were overstated. *Id*. at 8 (citing PPLICA St. 1 at 6; Phase I Final SWE Report at 6). Moreover, PPLICA asserts that its witness, Michael K. Messer, performed his own analyses comparing the projected market price data used by PPL to calculate its TRC values for Phases I, II, and III, with actual avoided energy costs, and determined that the actual costs experienced through Phases I and II diverged considerably from the projected costs used to calculate the TRCs. PPLICA M.B. at 8-9 (citing PPLICA St. 1 at 7). PPLICA concludes that this divergence “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.” PPLICA M.B. at 9.

PPLICA argues that because the TRC values calculated by PPL for Phase I and Phase II were based on projected avoided energy costs that exceeded actual avoided energy costs, those TRC values overstated the benefits of PPL’s EE&C measures. PPLICA asserts that the Phase I and Phase II Large C&I programs actually failed to meet the 1.00 threshold for cost-effectiveness. Thus, PPLICA is concerned that PPL’s Phase III TRC values will also fail to meet the cost-effectiveness threshold once actual market impacts on avoided energy pricing are considered. Accordingly, PPLICA recommends that the Commission direct PPL to annually update its TRC values to reflect actual avoided energy costs. *Id*. at 10. PPLICA contends that requiring PPL to provide trued-up TRC values is particularly important during Phase III because, at five years, it represents the longest EE&C Phase. According to PPLICA, the cost burden imposed on customers over that time period, especially on the Large C&I customers, supports its proposal to require PPL to more accurately monitor the cost-effectiveness of the Phase III Plan. *Id*. at 11.

In addition, PPLICA asserts that the Commission’s decision to evaluate cost-effectiveness on a total plan basis rather than a program basis further disadvantages larger customers. PPLICA argues that Large C&I customers will pay more into the Plan than other customers, but will receive less benefit, because larger customers adopted energy efficiency measures long before Act 129 was established, and now have much less to gain from the additional measures implemented in the EE&C plans. Thus, PPLICA contends that the Large C&I customers’ contributions toward the EE&C plans are subsidizing the EE&C programs of smaller customers. Accordingly, PPLICA recommends that the Commission utilize the Phase III annual reconciliation process to investigate cost effectiveness on a program basis, and invoke its authority under 66 Pa. C.S. § 2806.1(b)(2) to terminate any programs or individual measures with a TRC value below 1.00, calculated using available avoided energy prices rather than projected prices. PPLICA M.B. at 11-13; PPLICA St. 1 at 10-11.

PPLICA maintains that it is not challenging the methodology established in the *2016 TRC Test Order* regarding the use of forecasted avoided energy costs to calculate the TRC values. Rather, PPLICA asserts that its proposal that PPL true up its TRC values to reflect actual avoided energy costs more accurately complies with the requirement of the *2016 TRC Test Order* that EDCs’ Act 129 final annual reports use the latest available savings to evaluate cost-effectiveness of an EE&C plan. PPLICA Answer to PPL’s Motion to Strike at 4 (citing *2016 TRC Test Order* at 18); PPLICA M.B. at 14-15. Moreover, PPLICA argues that its proposal is consistent with the Commission’s recognition of the evolving nature of TRC issues, and its determination that “future updates may be proposed by stakeholders or the Commission as needed.” PPLICA Answer to PPL’s Motion to Strike at 4 (quoting *2016 TRC Test Order* at 7); PPLICA M.B. at 15.

**ii. PPL’s Position**

PPL opposes PPLICA’s proposal that the Company be directed to annually true up its TRC calculations to reflect actual avoided energy costs rather than forecasted costs,[[22]](#footnote-22) contending that this issue is outside the scope of this proceeding. PPL argues that PPLICA should have raised this issue and its proposals in the *2016 TRC Test* proceeding at Docket No. M-2015-2468992, in which the Commission determined what avoided costs should be used in the TRC calculations. PPL notes that PPLICA, along with other industrial customer groups, submitted reply comments to the *2016 TRC Test Tentative Order* in that proceeding, and had a full opportunity to raise its concerns regarding the TRC calculations, and its proposal that the Commission eliminate programs that are not cost-effective based on actual avoided costs. PPL observes that nothing in the reply comments submitted by the industrial groups addressed these concerns. PPL M.B. at 9-10. PPL submits that although PPLICA recognized that the Commission instructed the use of forecasted avoided energy costs in the TRC calculation, it now seeks to collaterally attack the *2016 TRC Test Order* by proposing the use of actual avoided energy costs. PPL M.B. at 10 (citing PPLICA St. 1 at 5; *2016 TRC Test Order* at 26-27). PPL asserts that PPLICA’s attempt to raise these issues in the instant proceeding should be rejected. PPL M.B. at 11.

PPL also contends that PPLICA’s proposal to use actual avoided energy costs in the TRC calculation violates principles of due process and fundamental fairness, because it would affect all other Pennsylvania EDCs who are not parties to this proceeding. According to PPL, PPLICA’s proposal is one of statewide application and importance, and therefore, all EDCs and stakeholders should have the opportunity to respond to these proposals. PPL argues that it would be unfair, poor public policy, and an abuse of discretion for the Commission to require the Company to use a TRC methodology that is different from that required for all other EDCs, or to exercise its authority under 66 Pa. C.S. § 2806.1(b)(2) to modify or terminate any part of an EE&C plan based on two different cost-effectiveness standards. Moreover, PPL contends that limiting PPLICA’s proposal to the Company would produce a lack of uniformity in EDCs’ reporting, and thus, create confusion for the Commission, the SWE, and stakeholders evaluating EDCs’ progress in Phase III. *Id*. at 11-12.

In addition, PPL asserts that PPLICA’s proposals conflict with the Commission’s intent to keep the TRC Test constant through Phase III. *Id*. at 13-14 (citing *2016 TRC Test Order* at 63). PPL argues that PPLICA’s proposals potentially would require extensive revisions to the Company’s Phase III Plan after every program year if any programs for which Large C&I customers are eligible are found not to be cost-effective.[[23]](#footnote-23) PPL M.B. at 14. PPL also contends that PPLICA’s proposal to eliminate non-cost-effective programs may cause the Company’s DR program to be terminated if it is found not to be cost-effective based on PPLICA’s criteria. According to PPL, this would conflict with the *Phase III Implementation Order*, wherein the Commission declined to allow the removal of a DR program if it was found to be non-cost-effective. *Id*. at 14-15 (citing *Phase III Implementation Order* at 36). PPL also notes that the Commission previously rejected a proposal proffered by PPLICA that individual Large C&I programs be cost effective, finding that the cost-effectiveness requirement of Act 129 applies to the EE&C portfolio as a whole, not to individual programs or measures. PPL M.B. at 15-16 (citing *Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan*, Docket No. M-2012-2334388 (Order entered May 19, 2015) at 27, 37).

PPL also states that PPLICA’s belief that using forecasted avoided energy costs results in overstated TRC values is flawed. According to PPL, the forecasts of avoided costs used in Phase I and Phase II were developed prior to the expansion of natural gas production and the subsequent reduction in forecasted market prices, which was a major reason for the differences in actual and forecasted avoided costs cited by PPLICA. PPL contends that its Phase III avoided cost forecasts incorporate lower forecasted natural gas prices. PPL M.B. at 16-17. Moreover, PPL argues that PPLICA’s trued-up TRC calculation would still produce an estimate. As PPL explains:

Since the Commission has established a maximum of 15 years for the useful life of measures, evaluating the cost-effectiveness of programs based on current year market prices would require forecasting a 15-year stream of avoided costs. (PPL Electric St. No. 2-R, p. 4) Therefore, PPLICA’s proposed calculation in the first year true-up would include a single year of actual market prices (the program year) and up to 14 years of forecasted prices. (PPL Electric St. No. 2-R, p. 4) Even calculations in the later program years of Phase III still would be based primarily on projections, not actual data. At maximum, PPLICA's trued-up calculation could incorporate five years’ worth of actual market price data, but the calculation would still include up to 10 years’ worth of forecasted data. Consequently, any test prior to the end of the useful life of the measure, even if it incorporates some actual market price data, is subject to some uncertainty. (PPL Electric St. No. 2-R, p. 4)

PPL M.B. at 17.

PPL also contends that PPLICA’s proposal to annually eliminate programs that are not cost-effective is impractical, because it would affect Small C&I and GNE customers as well as Large C&I customers, and “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.” *Id*. at 18 (quoting PPL St. 1-R at 48). PPL also argues that PPLICA’s proposal would inappropriately terminate a program if it is not cost-effective in a single year, even if it is found to be cost-effective using data from all program years. PPL M.B. at 18-19. In addition, PPL asserts that PPLICA’s proposal would cause serious timing issues with regard to the implementation of its Phase III Plan if the Company were required to petition the Commission to modify the Plan due to the elimination of programs that were not found to be cost-effective under PPLICA’s criteria. Such timing issues would inhibit the Company’s ability to achieve its energy savings and peak demand reduction targets, according to PPL. *Id*. at 19-20.

Finally, PPL contends that PPLICA’s proposal that the Company monitor and report the cost-effectiveness of measures using actual avoided costs is unnecessary. PPL avers that it will already be monitoring and reporting all data and information required by the Commission and the SWE, including TRC benefit-cost ratios, in the Company’s final annual reports, due November 15 of each year. *Id*. at 21 (citing *2016 TRC Test Order* at 19; *Phase III Implementation Order* at 101). In addition, PPL states that its independent evaluator will conduct ongoing evaluations of each program using the TRC test outlined in the *2016 TRC Test Order*. PPL M.B. at 21. Thus, PPL concludes that “sufficient processes for monitoring and reporting data and information are already in place.” *Id*.

**iii. Disposition**

We will first address PPL’s Motion to Strike that portion of PPLICA’s testimony that relates to this issue. Based on our review of PPL’s Motion and the positions of the Parties, we decline to grant the Motion to Strike. While we find PPLICA’s proposals to be problematic on a number of levels, as discussed below, we do not believe it is necessary to strike the testimony relating to PPLICA’s position. Rather, we believe it is more appropriate to allow the testimony into the record and to address PPLICA’s arguments in full, based on the merits of PPLICA’s proposals. Accordingly, we will deny PPL’s Motion to Strike.

Nevertheless, as we stated, we find PPLICA’s proposals to be problematic, and we will not adopt them. First, we agree with PPL that PPLICA’s contention that PPL must be required to annually update its Phase III Plan to include trued-up TRC benefit-cost values based on actual avoided energy cost information has statewide implications. In our *2016 TRC Test Order*, we specified that EDCs determine the avoided cost of electricity for its TRC calculations using the methodology outlined in the *2012 TRC Test Order.* *2016 TRC Test Order* at 34-35. As PPL points out, that methodology involves the use of prices for NYMEX futures contracts. *2012 TRC Test Order* at 27-32. That methodology did not include a provision for annually updating the TRC calculation in the EDCs’ plans to account for actual market prices of energy. PPLICA is now proposing that we modify our prescribed methodology for PPL within the context of the instant proceeding. However, as the Company argues, it would be entirely inappropriate for us to evaluate the cost-effectiveness of PPL’s Phase III Plan and associated EE&C programs based on this separate, modified methodology, while evaluating the cost-effectiveness of all other EDCs’ Phase III plans based upon the methodology prescribed in the *2016 TRC Test Order.*

PPLICA argues that its proposal is consistent with the Commission’s recognition of the evolving nature of TRC issues, and its determination that stakeholders may propose future updates as needed. PPLICA Answer to PPL’s Motion to Strike at 4 (citing *2016 TRC Test Order* at 18); PPLICA M.B. at 14-15. However, an individual EDC’s EE&C plan proceeding is not the proper forum in which to recommend updates to a methodology that applies to all EDCs’ EE&C plans. Therefore, we agree with PPL that PPLICA should have raised its issues and proposals in the *2016 TRC Test* proceeding, which would have provided an opportunity for all EDCs and stakeholders to respond. We do not find it appropriate to adopt PPLICA’s proposals as part of our review and analysis of a single EDC’s EE&C plan.

We also find PPLICA’s proposals to be flawed in other respects. We view PPLICA’s recommendation to require PPL to annually true-up its TRC calculations based on actual market prices of energy as a proposal to change the TRC Test during each program year of Phase III. However, we previously expressed concern regarding the consequences of changing the TRC Test in the midst of Phase III. As we stated in the *2016 TRC Test Order*:

The Commission has . . . decided that the 2016 TRC Test shall apply for the entirety of Phase III.… Amending the TRC Test mid-phase could be detrimental to the determination of cost-effectiveness of the programs and could result in extensive EE&C Plan changes. Such changes could also interfere with comparisons between years within a phase. It is necessary to keep the parameters constant, so we can compare the actual Phase III benefits and costs to the planned Phase III benefits and costs, using a definition of TRC costs and benefits that remains constant over Phase III.

*2016 TRC Test Order* at 63. For these reasons, we do not believe it is advisable to direct PPL to annually true up its TRC calculations.

We are also concerned with PPLICA’s recommendation that we reject any measures or programs in PPL’s Phase III Plan that we do not find to be cost-effective in any given year based on trued-up TRC values for that year. We find this recommendation to be contrary to Section 2806.1(b)(2) of the Act, which states:

The commission shall direct an electric distribution company to modify or terminate any part of a plan approved under this section if, *after an adequate period for implementation*, the commission determines that an energy efficiency or conservation measure included in the plan will not achieve the required reductions in consumption in a cost-effective manner under subsections (c) and (d).

66 Pa. C.S. § 2806.1(b)(2) (emphasis added). According to the Act, our determination of the cost-effectiveness of any part of an EDC’s EE&C plan must be based on an evaluation of the plan over “an adequate period for implementation.” *Id*. We do not believe that a one-year time period would necessarily constitute an adequate period over which to evaluate the overall cost-effectiveness of a measure or program that is designed to be implemented throughout the duration of the phase, and to determine whether or not that measure or program should be eliminated. Moreover, as we stated in the *Phase III Implementation Order*, “while cost-effectiveness is always a priority, an individual program does not have to be cost-effective in order to be implemented.” *Phase III Implementation Order* at 59-60; *see also Phase III Tentative Implementation Order* at 49.

In addition, we believe that requiring the Company to annually update its TRC values based on an additional year of information regarding actual market prices would be of limited value over the five-year Phase III period. As PPL points out, these annual TRC calculations over that time period would still be based primarily on projections rather than actual data, since the TRC test for EE&C measures includes up to fifteen years of benefits and costs. *2016 TRC Test Orde*r at 19-20. Thus, any additional accuracy in calculated TRC values gained through PPLICA’s proposed true-up would be marginal, and would not justify requiring the Company to eliminate measures or programs, or make significant changes to its Plan based solely on a limited amount of actual market data.

Finally, as PPL notes, the Company will provide TRC benefit-cost ratios in its final annual reports due November 15 of each year, in accordance with the requirements set forth in the *Phase III Implementation Order* and *2016 TRC Test Order*. *See* *Phase III Implementation Order* at 102; *2016 TRC Test Order* at 19. Thus, we agree with PPL that “sufficient processes for monitoring and reporting data and information are already in place.” PPL M.B. at 21.

For all the above-stated reasons, we will reject PPLICA’s proposals to require PPL to annually true up its TRC Test values based on actual avoided energy prices, and to eliminate any measures of programs that we find to be non-cost-effective based on these trued-up TRC values.

**3. Cost Allocation Issues**

66 Pa. C.S. § 2806.1(a)(11) requires that EE&C measures be financed by the same customer class that receives the energy and conservation benefits of those measures. In the *Phase III Implementation Order*, we stated:

In order to ensure that all approved EE&C measures are financed by the customer classes that receive the benefit of such measures, it will be necessary to first assign the costs relating to each measure to those classes to whom it benefits. Therefore, once the EDC has developed an estimate of its total EE&C costs as directed above, the EDC is required to allocate those costs to each of its customer classes that will benefit from the measures to which the costs relate. Those costs that can be clearly demonstrated to relate exclusively to measures that have been dedicated to a specific customer class should be assigned solely to that class. Those costs that relate to measures that are applicable to more than one class, or that can be shown to provide system-wide benefits, should be allocated using reasonable and generally acceptable cost of service principles as are commonly utilized in base rate proceedings. Administrative costs should also be allocated using reasonable and generally acceptable cost-of-service principles.

*Phase III Implementation Order* at 144 (note omitted).

PPL states that it will directly assign costs to the customer class that receives the benefits of the EE&C measures whenever those costs can be directly assigned. For measures that are applicable to more than one customer class, or that provide system-wide benefits, such as common costs/portfolio level costs, PPL states that it will assign these costs using an allocation factor, as it did in Phases I and II. That allocation factor is a percentage equal to the actual EE&C costs directly assigned to each customer class divided by the actual EE&C costs assigned to all customer classes. Phase III Plan at 167.

PPL states that its Phase III Plan provides estimated costs and savings for its five customer sectors: Residential, Low-Income, Small C&I, Large C&I, and GNE. PPL notes that the GNE programs and measures are available to customers in more than one rate class (*i.e.,* Residential, Small C&I, or Large C&I) who meet GNE eligibility requirements. PPL’s Phase III Plan does not have separate savings and cost budgets for each rate class within GNE. For cost recovery, PPL will assume that 60% of the estimated GNE costs will come from Small C&I participants and 40% from Large C&I participants, based on the actual results from Phases I and II. PPL will assign actual GNE costs to the specific rate class of each GNE participant. PPL asserts that its reconciliation process will account for any differences between the estimated and actual GNE costs by customer class. Phase III Plan at 167-168.

We find that PPL’s proposed cost allocation methodology complies with the directives of the *Phase III Implementation Order*.

**4. Cost Recovery Issues**

The Act allows an EDC to recover from customers, on a full and current basis, through a reconcilable adjustment clause under 66 Pa. C.S. § 1307, all reasonable and prudent costs incurred in the provision or management of its EE&C plan. 66 Pa. C.S.   
§ 2806.1(k)(1). Each EDC’s plan must include a proposed cost-recovery tariff mechanism to fund all measures and to ensure a full and current recovery of prudent and reasonable costs, including administrative costs, as approved by the Commission. 66 Pa. C.S. § 2806.1(b)(1)i)(H).

In the *Phase III Implementation Order*, the Commission adopted a standardized cost recovery and reconciliation process, and directed EDCs to transition from the cost recovery methodology used during Phase II to a new cost recovery methodology to be used during Phase III. *Phase III Implementation Order* at 145-147 and 149. Among other things, the Commission directed each EDC to include in its Phase III EE&C Plan an annual cost recovery methodology based on the projected program costs that the EDC anticipates will be incurred over the surcharge application year. Each EDC was directed to file a supplement to its tariff to become effective June 1, 2016, accompanied by an explanation of its application to each customer class. The Commission also directed each EDC to annually reconcile actual expenses incurred with actual revenues received for the reconciliation period. *Id.* at 147 and 149.

PPL’s Phase III Plan includes a *pro forma* tariff supplement setting forth the Company’s proposed Act 129 Compliance Rider – Phase 3 (ACR-III), which is the reconcilable adjustment clause under Section 1307 of the Code that PPL will use to recover its Phase III Plan costs. Phase III Plan at Appendix E. Because all of PPL’s proposed EE&C Plan programs will benefit both shopping and non-shopping customers, the Company designed its ACR-III to be non-bypassable. The ACR-III will be separately calculated for each of PPL’s three major customer classes – Residential, Small C&I, and Large C&I. For Residential customers, PPL will apply the ACR-III as a cents-per-kWh component of the distribution charge. For Small C&I customers, the Company will apply the ACR-III as a cents-per-kWh charge that will appear as a separate line item on the customer’s bill. For Large C&I customers, PPL will apply the ACR-III as a dollars-per-kW charge, which will appear as a separate line item on the customer’s bill, where the demand (*i.e*., kW) is the customer’s PJM peak load contribution, which may change yearly. Phase III Plan at 167.

PPL proposes to calculate the ACR-III on an annual basis based on the projected program costs that the Company anticipates it will incur during the applicable Phase III program year. PPL proposes an annual reconciliation of the ACR-III for each of its three major customer classes. Specifically, each year PPL will compare actual ACR-III revenues to actual expenses and will recover or refund any over- or under-collections in the next ACR-III application year. In addition to the annual reconciliation, upon determination that a customer class’s Act 129 rate, if left unchanged, would result in a material over- or under-collection of Phase III costs incurred or expected to be incurred during the current 12-month period, the Company, in its discretion, may file with the Commission for an interim revision of the ACR-III rate. Phase III Plan at 167.

Based on our review of PPL’s cost recovery mechanism as contained in its proposed ACR-III, we are concerned that this mechanism may not fully comply with our directives set forth in the *Phase III Implementation Order,* specifically regarding the recovery of Phase II costs*.* Therefore, we will reject PPL’s proposed tariff supplement and proposed cost recovery mechanism, and will direct the Company to consult with the Commission’s Bureau of Audits within thirty days of the entry of this Opinion and Order in order to develop a revised cost recovery mechanism that complies with the provisions set forth in the *Phase III Implementation Order*. We will further direct that the Company file a tariff supplement, within sixty days of the entry of this Opinion and Order, containing the revised cost recovery mechanism based on its consultation with the Commission’s Bureau of Audits.

To the extent that the Partial Settlement adopts the ACR-III cost recovery mechanism as filed, we reject that portion of the Partial Settlement. We note that Paragraph 64 of the Partial Settlement permits any of the Joint Petitioners to withdraw from the Partial Settlement in the event that the Commission does not approve the Partial Settlement as filed. We will therefore require all of the Joint Petitioners to notify the Commission, within five business days of the entry date of this Opinion and Order, whether they are exercising their right to withdraw from the Partial Settlement. If any of the Joint Petitioners exercises the right to withdraw, the Partial Settlement and the Petition shall be rejected. If none of the Joint Petitioners exercises the right to withdraw, the Partial Settlement, and the Petition, shall be granted in part and denied in part, consistent with this Opinion and Order.

**D. Conservation Service Provider Issues**

In the *Phase III Implementation Order*, the Commission required that all Phase III CSP contracts be competitively bid. As a result, the Commission required EDCs to file their Phase III request for proposal (RFP) procedures for Commission review and approval. *Phase III Implementation Order* at 121 and 124. EDCs were encouraged to file their proposed RFP process by August 30, 2015. If Commission staff did not comment on the proposed process within fifteen days of its filing, the EDC was permitted to use that process. *Id.* at 121-122. PPL filed its RFP process on June 19, 2015, and the Commission approved this process by Secretarial Letter dated July 14, 2015.

PPL states that, shortly after the Commission issued the *Phase III Implementation Order*, the Company developed separate budgets, savings targets, and performance objectives for a Demand Response CSP, as well as three separate customer sector-level CSPs: Residential, Low-Income, and Non-residential. PPL reviewed these budgets and savings objectives with stakeholders. PPL issued four RFPs for the design and delivery of the Residential, Non-residential, Low-Income, and Demand Response programs. PPL asserts that these RFPs were necessary to confirm that its savings targets and budgets were achievable for each sector, and to determine an appropriate mix of programs and measures to include in the EE&C Plan. PPL also engaged the services of The Cadmus Group, Inc., a consulting firm, to conduct cost-effectiveness analyses of the Phase III Plan and estimate NTG ratios for each program. PPL will use an additional CSP to provide evaluation, measurement, and verification (EM&V) services. Phase III Plan at 6, 146.

At the time PPL’s Phase III Plan was filed with the Commission, the Company had not yet submitted any CSP contracts for Commission approval. However, PPL subsequently submitted, for Commission approval, (1) a CSP contract with Ecova, Inc., on January 14, 2016, for provision of Phase III Residential programs; and (2) a CSP contract with CLEAResult Consulting, Inc., on January 19, 2016, for provision of Phase III Non-residential programs. Both of these CSP contracts were approved by the Commission via separate Secretarial Letters issued February 18, 2016.

Upon our review of PPL’s Phase III Plan, we find it to be consistent with the requirements of Act 129 and the *Phase III Implementation Order* with regard to the selection and utilization of CSPs for the Phase III Plan.

**E. Implementation and Evaluation Issues**

**1. Implementation Issues**

The Act requires the Commission to establish procedures to ensure compliance with the consumption and peak demand reduction requirements of the Act. 66 Pa. C.S. § 2806.1(a)(9). For its implementation strategy, PPL states that it will rely on a broad range of CSPs, employees, trade allies, community agencies, stakeholders, and other entities engaged in energy efficiency to promote, deliver, and support the effective deployment of programs. The CSPs have the primary responsibility to design and deliver the EE&C programs, including marketing, customer care, application and rebate processing, and development and maintenance of effective trade ally networks, although CSPs and PPL will jointly develop marketing plans. In addition, PPL will provide some overarching marketing and customer care for EE&C programs. Phase III Plan at 18. PPL asserts that, in addition to the CSPs’ and the Company’s marketing efforts, the success of Phase III programs will depend on trade allies and other market partners to engage customers, promote programs, furnish and install energy efficient equipment, and provide ancillary energy efficiency services. *Id*. at 19, 144.

Upon our review of PPL’s Phase III Plan, we find its implementation strategies to be reasonable and consistent with Act 129 and the *Phase III Implementation Order*.

**2. Monitoring, Reporting and Evaluation Issues**

The Commission’s EE&C Program is to include an evaluation process including a process to monitor and verify data collection, quality assurance and the results of each plan and the program. 66 Pa. C.S. § 2806.1(a)(2). Consistent with this requirement, each EDC’s Plan is to “explain how quality assurance and performance will be measured, verified and evaluated.” 66 Pa. C.S. § 2806.1(b)(1)(i)(C). Each EDC is required to submit an annual report to the Commission relating to the results of its EE&C Plan. 66 Pa. C.S. § 2806.1(i)(1).

For Phase III, the Commission directed the EDCs to file semiannual reports on January 15 of each year, to provide information regarding the first two quarters of the program year. Additionally, on July 15 of each year, EDCs are to file a preliminary annual report for the program year that outlines the second half of the program year, as well as reported savings for that program year. Lastly, EDCs are to submit a final annual report by November 15 of each year, with reported savings for the program year, a cost‑effectiveness evaluation (TRC Test), a process evaluation, as well as items required by Act 129 and Commission orders. The reports are to be submitted to the Commission’s Secretary’s Bureau at each EDC’s respective Phase III Docket Number. The EDCs are also required to post these reports on their respective websites. *Phase III Implementation Order* at 101-102.

PPL states that its EM&V CSP will conduct ongoing and annual evaluations of each program in compliance with all of the Commission’s requirements and the SWE’s Evaluation Framework. As part of this process, the EM&V CSP will develop Evaluation Plans that describe the EM&V scope of work, objectives, methods, and activities for evaluating program impacts, processes, cost-effectiveness, NTG adjustment, and quality assurance/quality control protocols. PPL and the EM&V CSP will review the Evaluation Plans at least annually, and may update them if changes are made to programs, participation levels, savings levels, or Act 129 evaluation requirements. Phase III Plan at 20.

The EM&V CSP will conduct annual impact and process evaluations, and will conduct annual cost-effectiveness evaluations to determine the cost-effectiveness of the programs and portfolio (separately for energy efficiency and DR) using the TRC test method specified by the Commission in its *2016 TRC Test Order.* The CSP will also conduct net savings evaluations annually or every other year (depending on the program, program changes, and rebated measures) to determine the net verified savings of each program. Net savings include the effects of free-ridership and spillover. The EM&V CSP may also propose to conduct market effects studies to understand changes in the market and further inform net savings. Phase III Plan at 20.

Over the life of the Phase III Plan, PPL expects to revisit and revise a number of assumptions to confirm that they reflect updated market conditions. PPL will submit required revisions to the Commission for review and approval in accordance with the Commission's requirements for revising EE&C Plans. Phase III Plan at 21. PPL will provide semi-annual, annual, and *ad hoc* reports to the Commission and the SWE in accordance with the schedule, format, and content prescribed by the Commission and SWE. *Id*. at 156.

Customers may submit suggestions, comments, and complaints by telephone, e-mail, and in writing. PPL and CSPs are responsible for following up, in a timely manner, on all comments and complaints. PPL, in conjunction with the EM&V CSP, will implement an evaluation plan for each program. The EM&V CSP typically conducts ongoing customer and periodic trade ally surveys as part of the impact and process evaluations. The EM&V CSP will provide survey results and findings to PPL on a regular basis. PPL and program implementation CSPs may also conduct customer satisfaction surveys, in addition to those conducted by the EM&V CSP. Phase III Plan at 160.

Upon our review of PPL’s Phase III Plan, we find its monitoring, reporting and evaluation strategies to be reasonable and consistent with Act 129 and the *Phase III Implementation Order*.

# V. Conclusion

Based on our review of the record and the applicable law, we find that the Partial Settlement is in the public interest to the extent it is consistent with Act 129 and in compliance with the *Phase III Implementation Order*. Consequently, consistent with this Opinion and Order, we will approve the Partial Settlement, subject to the clarification discussed herein; grant, in part, and deny, in part, PPL’s Petition; and approve, in part, and reject, in part, the Phase III Plan as modified by the Partial Settlement; all subject to the condition that no Party to the Partial Settlement exercises the right to withdraw therefrom. In addition, we will deny PPL’s Motion to Strike those portions of PPLICA’s testimony relating to the TRC issue, as discussed in this Opinion and Order, and reject PPLICA’s proposals regarding the TRC issue, as discussed in this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Joint Petition for Approval of Partial Settlement, filed on February 16, 2016, is approved, subject to the clarification set forth in Ordering Paragraph No. 5b, and subject to the condition that no Party to the Joint Petition for Approval of Partial Settlement exercises its right to withdraw therefrom.
2. That each of the Parties to the Joint Petition for Approval of Partial Settlement shall file with the Commission, and serve on all Parties to this proceeding, within five (5) business days of the date this Opinion and Order is entered, a notice of whether it wishes to withdraw from the Joint Petition for Approval of Partial Settlement.
3. That if any Party elects to withdraw from the Joint Petition for Approval of Partial Settlement, the Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan, together with the Joint Petition for Approval of Partial Settlement, shall be denied, without further action by this Commission, and:
   1. PPL Electric Utilities Corporation shall file with this Commission, and serve on all Parties of record in this proceeding, a revised Phase III Energy Efficiency and Conservation Plan consistent with this Opinion and Order, within sixty (60) days of the entry of this Opinion and Order. Interested parties will have ten (10) days to file comments on the revised Phase III Energy Efficiency and Conservation Plan, with reply comments due ten (10) days thereafter. The Commission will approve or reject the revised Phase III Energy Efficiency and Conservation Plan at a public meeting within sixty (60) days of the date of the filing of the revised plan.
   2. PPL Electric Utilities Corporation shall consult with the Commission’s Bureau of Audits within thirty (30) days of the entry of this Opinion and Order, in order to develop a revised cost recovery mechanism that complies with the provisions set forth in the Commission’s *Phase III Implementation Order*. PPL Electric Utilities Corporation shall submit a tariff supplement containing the revised cost recovery mechanism with its revised Phase III Energy Efficiency and Conservation Plan.
4. That if no Party elects to withdraw from the Joint Petition for Approval of Partial Settlement, the Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan, filed on November 30, 2015, is granted, in part, and denied, in part, consistent with this Opinion and Order.
5. That if no Party elects to withdraw from the Joint Petition for Approval of Partial Settlement, PPL Electric Utilities Corporation’s Act 129 Phase III Energy Efficiency and Conservation Plan, as modified by the Joint Petition for Approval of Partial Settlement, is approved, in part, and rejected, in part, consistent with this Opinion and Order:
   1. That the proposed pro forma tariff pages and cost recovery mechanism contained in the Act 129 Compliance Rider – Phase 3, as set forth in Appendix E of PPL Electric Utilities Corporation’s Act 129 Phase III Energy Efficiency and Conservation Plan, are hereby rejected, and that PPL Electric Utilities Corporation shall consult with the Commission’s Bureau of Audits within thirty (30) days of the entry of this Opinion and Order, in order to develop a revised cost recovery mechanism that complies with the provisions set forth in the Commission’s *Phase III Implementation Order*. PPL Electric Utilities Corporation shall submit a tariff supplement containing the revised cost recovery mechanism within sixty (60) days of the entry date of this Opinion and Order.
   2. That any requests for proposal from PPL Electric Utilities Corporation’s Low-Income Conservation Service Provider relating to the provision of Low-Income Winter Relief Assistance Program services, as discussed in Paragraph 47 of the Joint Petition for Approval of Partial Settlement, shall be sent to all qualified Conservation Service Providers, including, but not limited to, the Commission on Economic Opportunity.
   3. That PPL Electric Utilities Corporation shall delete from its Act 129 Phase III Energy Efficiency and Conservation Plan, language indicating that “the Commission directed that recovery of Phase III costs that were incurred in Phase II may be deferred until Phase III recovery of rates becomes effective,” as discussed in this Opinion and Order.
   4. That within sixty (60) days of the entry of this Opinion and Order, PPL Electric Utilities Corporation shall file with this Commission, and serve on all Parties of record in this proceeding, a revised Act 129 Phase III Energy Efficiency and Conservation Plan, consistent with the terms agreed to in the Joint Petition for Approval of Partial Settlement, and the modifications directed in this Opinion and Order.
   5. That PPL Electric Utilities Corporation must demonstrate that the revised Act 129 Phase III Energy Efficiency and Conservation Plan filed in compliance with Ordering Paragraph 5d is cost-effective, pursuant to 66 Pa. C.S. § 2806.1(b)(1)(i)(I).
   6. That PPL Electric Utilities Corporation is permitted to implement any portion of its Act 129 Phase III Energy Efficiency and Conservation Plan that was approved without modification by this Opinion and Order.
6. That PPL Electric Utilities Corporation’s Motion to Strike Certain Portions of the Direct Testimony of the PP&L Industrial Customer Alliance, filed on January 26, 2016, is hereby denied.
7. That the proposals of the PP&L Industrial Customer Alliance regarding the determination of the Total Resource Cost Test benefit-cost values set forth in PPL Electric Corporation’s Act 129 Phase III Energy Efficiency and Conservation Plan, as discussed in this Opinion and Order, are hereby rejected.
8. That any directive, requirement, disposition or the like contained in the body of this Opinion and Order, which is not the subject of an individual Ordering Paragraph, shall have the full force and effect as if fully contained in this part.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: March 17, 2016

ORDER ENTERED: March 17, 2016

1. PPL’s Phase III Plan is attached to its Petition as Exhibit 1. [↑](#footnote-ref-1)
2. Phase III Plan at 36-40. [↑](#footnote-ref-2)
3. *Id.* at 41-45. [↑](#footnote-ref-3)
4. *Id*. at 46-52. [↑](#footnote-ref-4)
5. *Id.* at 53-57. [↑](#footnote-ref-5)
6. *Id.* at 58-62. [↑](#footnote-ref-6)
7. *Id.* at 63-69. [↑](#footnote-ref-7)
8. *Id.* at 70-74. [↑](#footnote-ref-8)
9. *Id*. at 76-84. [↑](#footnote-ref-9)
10. *Id*. at 99-107. [↑](#footnote-ref-10)
11. *Id*. at 122-130. [↑](#footnote-ref-11)
12. *Id*. at 85-90. [↑](#footnote-ref-12)
13. *Id*. at 108-113. [↑](#footnote-ref-13)
14. *Id*. at 131-136. [↑](#footnote-ref-14)
15. *Id*. at 91-97. [↑](#footnote-ref-15)
16. *Id*. at 114-120. [↑](#footnote-ref-16)
17. *Id*. at 137-143. [↑](#footnote-ref-17)
18. As noted, the single issue reserved for litigation involves the determination of the TRC Test values relating to PPL’s EE&C programs. This issue will be discussed in detail below. [↑](#footnote-ref-18)
19. PPL states that it designed its Phase III programs to achieve the required reductions in energy consumption without the need to utilize carryover savings from Phase II. However, PPL asserts that it reserves the right to utilize any such carryover to meet its Phase III reduction targets if necessary. Petition at 16 n.15. [↑](#footnote-ref-19)
20. Through its OnTrack Program, PPL offers reduced monthly payments to low-income customers that fall behind on their utility bill payments. Phase III Plan at 64. [↑](#footnote-ref-20)
21. We deem this requirement to be a clarification of the Partial Settlement, and not a material change to any of the terms or conditions of the Partial Settlement. [↑](#footnote-ref-21)
22. PPL states that while PPLICA refers to the avoided energy costs used in the TRC Test as forecasted costs, the avoided energy costs used during the first ten years are based on prices of New York Mercantile Exchange (NYMEX) PJM futures contracts, which are actual prices for the futures contracts at a point in time. PPL M.B. at 10 n.4 (citing *2016 TRC Test Order* at 34-35; *2012 PA Total Resource Cost (TRC) Test,* Docket No. M-2012-2300653 (Order Entered Aug. 30, 2012) (*2012 TRC Test Order*) at 27-32). PPL asserts that PPLICA’s proposed methodology would use actual PJM spot market prices instead of NYMEX futures contracts prices. PPL M.B. at 10 n.4 [↑](#footnote-ref-22)
23. PPL states that in discovery, PPLICA clarified that its proposal on this issue relates to programs for which Large C&I customers are eligible, with the exception of pilot programs. PPL M.B. at 9 n.3. [↑](#footnote-ref-23)