COMMONWEALTH OF PENNSYLVANIA

October 6, 2016

E-FILED

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

Re: Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase III EE&C Plan - Docket No. M-2015-2515642

Dear Secretary Chiavetta:

I am delivering for filing the Comments, on behalf of the Office of Small Business Advocate, in the above-captioned proceeding.

Copies will be served today on all known parties in this proceeding, as indicated on the enclosed Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Elizabeth Rose Triscari

Elizabeth Rose Triscari
Deputy Small Business Advocate
Attorney ID No. 306921

Enclosures

cc: The Honorable Susan D. Colwell
Mr. Robert Knecht
Parties of Record

Office of Small Business Advocate
300 North Second Street, Suite 202 | Harrisburg, PA 17101 | 717.783.2525 | Fax 717.783.2831 | osba.pa.gov

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF THE OFFICE
OF SMALL BUSINESS ADVOCATE

I. INTRODUCTION

On September 21, 2016, PPL Electric Utilities Corporation ("PPL Electric" or "Company") filed a Petition for Approval of a Minor Change to Its Act 129 Phase III Energy Efficiency and Conservation Plan Under the Commission's Expedited Review Process ("Petition") with the Pennsylvania Public Utility Commission ("Commission"). The Petition seeks to remove the cost-effectiveness eligibility requirements for Custom Program projects. The Office of Small Business Advocate ("OSBA") submits the following comments in response to the Petition.

II. COMMENTS

Pursuant to PPL Electric's Commission-approved Phase III Energy Efficiency and Conservation Plan ("Phase III EE&C Plan"), Combined Heat and Power ("CHP") projects are required to have a Total Resource Cost ("TRC") benefit-cost ratio greater than 1.25 and all other "Custom Program" projects are required to have a TRC benefit-cost ratio greater than 1.10. In the Petition, PPL Electric proposes to modify its Phase III EE&C Plan to eliminate the minimum TRC requirements for Custom Program projects, unless, at the Company's discretion, the TRC requirements are necessary to ensure the program or portfolio TRC is greater than 1.0. For the reasons set forth below, the OSBA respectfully submits that the rationale offered by the Company for making the proposed changes is neither credible nor sufficiently detailed to justify the proposed changes. The OSBA respectfully requests that the Commission reject the proposed changes unless the OSBA's concerns are addressed.

By way of introduction, the Custom Program applies to the Small Commercial and Industrial ("Small C&I"), Large Commercial and Industrial ("Large C&I") and government/non-profit/educational ("GNE") customer segments. For each segment, the Company's description of the Custom Program is similar. For Small C&I, the Phase III EE&C Plan provides:

> Through the Small C&I Custom Program, PPL Electric provides financial incentives to customers who install measures that are not offered in PPL Electric's other programs, including measures that are not addressed in the TRM [technical resource manual]. These measures may include new or replacement energy efficient equipment, retro-commissioning, repairs, equipment optimization, new construction projects, operational and process improvements, CHP projects, and behavioral changes that result in cost-effective energy efficiency savings. To qualify for financial incentives, eligible customers are required to provide documentation that their proposed efficiency upgrades pass the program cost-effectiveness threshold and technical criteria. The program also includes a continuous energy improvement component, under which the Nonresidential CSP works closely with customers to identify ways to reduce their electricity usage through improved operations and maintenance and behavioral changes.

In short, the Custom Program is just what it sounds like – a program which provides subsidies for energy efficiency projects that are customized to the specific needs or desires of a customer. As it is currently written, the Company can provide support to almost any kind of energy efficiency program for any particular customer, as long as the overall project meets the economic criteria. While the Company has some overall economic incentive to focus its efforts on programs with relative high TRC benefit-cost ratios in order to avoid incurring penalties under subsection 2806.1(f) of Act 129 (66 Pa.

C.S. § 2806.1(f)), it has significant flexibility in determining what types of Custom Program projects will be eligible for the EE&C cross-subsidies. In light of this flexibility, it is not surprising that the Company proposed, and the Commission approved, the minimum TRC benefit-cost ratio requirements that are currently incorporated in the Phase III EE&C Plan.

Further, the Phase III EE&C Plan puts very little in the way of constraints on the magnitude of the subsidies for any particular project. For CHP projects, incentive costs may not exceed 50 percent of total project cost (excluding internal PPL Electric labor). However, for the rest of the Custom Projects, incentive cost may not exceed "50% to 100%" of the total project cost (excluding internal labor). In effect, the Company has the flexibility to subsidize any particular project at 100 percent, and require no contribution from the customer.

This flexibility is reflected in the relatively high forecast subsidy rates for the Custom Program. For the entire Small C&I rate class, the Company budgets that direct utility costs will amount to $23.2 million over the course of the five year Phase III EE&C Plan, while customer contributions net of incentives will amount to $21.1 million.[1] In effect, over half of every dollar spent on this program will be a cross-subsidy to participating customers from other ratepayers. Thus, PPL Electric not only has the full flexibility to pay for the entire project for any particular customer, it expects to provide a high level of subsidies across-the-board. Again, only the TRC benefit-cost ratio provides

[1] See, for example, Phase III EE&C Plan Table 55. For Large C&I, the comparable values are $19.0 million in utility costs and $28.0 million for customer contributions net of incentives (Table 71). For GNE, the comparable values are $6.2 million for utility costs and $5.4 million for customer contributions net of incentives. Given the large expected subsidies for Small C&I and GNE, the need for additional flexibility could only credibly apply to the Large C&I rate class group.

any restriction on the Company from providing significant subsidies to customers of its own choosing.

Finally, the TRC benefit-cost ratio minima in the approved Phase III EE&C Plan do not appear to indicate that the existing economic criteria for this program are particularly restrictive. As stated above, the minimum TRC benefit-cost ratios for the Custom Program are 1.25 for CHP projects and 1.10 for the rest of the Custom Projects. By way of contrast, the Phase III EE&C Plan shows average TRC benefit-cost ratios for the Custom Program of 1.93 for Small C&I, 1.58 for large C&I and 1.90 for GNE.[2] Thus, to the extent any additional flexibility is required, the OSBA respectfully submits that it need be limited only to the Large C&I sector.

While the OSBA certainly does believe that PPL Electric would not, as a matter of corporate policy, abuse the great flexibility that it has in granting ratepayer-financed cross-subsidies to favored customers, the OSBA submits that imposing reasonable economic conditions on the Custom Program, which is already very flexible represents good common sense.

Unfortunately, the Company provides little in the way of justification for the proposed change, generally:

- The Company needs "additional flexibility" in the program (Petition at para. III.4.);
- The change will have "... no impact on projected budgets, savings, or TRC figures. . ." (Petition at para. III.8.);
- No other EDCs subject their custom programs to TRC benefit-cost ratio minima (Petition at para. III.5.);

[2] Phase III EE&C Plan Table 8.

Regarding the first justification, PPL Electric offers no evidence that it has encountered any specific problems under the approved criteria for non-CHP Custom Projects in any of the three customer rate class groups, nor does it offers any estimates of the number of additional projects, MWh savings, program benefits and program costs that would result from the proposed change. For the reasons detailed above, the OSBA respectfully submits that the Company already has tremendous flexibility within the Custom Program as it is currently structured, and there is no evidence supporting the need for additional flexibility.

Regarding the second rationale, the OSBA respectfully submits that the Company's assertions are inherently improbable. If the change will have zero or even a *de minimis* impact on the functioning of the Phase III EE&C Plan, the change is obviously unnecessary. Presumably, the Company expects that the proposed change will allow it to undertake projects that it otherwise could not under the Phase III EE&C Plan as approved. Since these projects will necessarily have lower than originally expected TRC benefit-cost ratios, they must necessarily impact all of the quantitative aspects to the Phase III EE&C Plan. The only possible way that this proposed change could have, as the Company claims, zero impact on all of the budgeted values is if the Company has already determined that the budget as filed is incorrect, and that the impact of the proposed changes in project eligibility would serve to miraculously restore the forecast MWh savings, benefits values, total program costs, and total utility costs to their original values. The chances of all of this being accurate are vanishingly small, unless in fact the Company expects that the proposed changes will have zero or minimal impact. Moreover, if these changes would only affect a very small number of projects, the OSBA remains concerned about the potential for undue discrimination if these benefits are provided only to favored customers.

Regarding the third rationale, the OSBA does not have sufficient resources to evaluate the details of all of the other EDC plans to confirm the Company's assertion, although a spot check generally confirms the Company's observation. Nevertheless, in the review of the Phase III EE&C Plan as originally filed, the OSBA believed that the restrictions on the Custom Program were sensible, for the reasons detailed above. As such, the OSBA believes that these could serve as a model for other EDCs when the next round of EE&C plans. Thus, rather than being an outlier, the OSBA views these restrictions as a goal that other EDCs should strive to achieve.

Finally, the OSBA notes that the Company wishes to retain the flexibility to put the current minimum requirements back into place if necessary to keep the TRC benefit-cost ratios for the Custom Program and the overall plan above unity. This revised provision of the Phase III EE&C Plan is either irrelevant or problematic. As the Company indicates that the proposed change will have zero impact on its forecast values, it is hard to imagine how this change is going for cause TRC benefit-cost ratios or the entire program to potentially fall below 1.0, as they are forecast at 1.93, 1.58 and 1.90 for the Small C&I, Large C&I and GNE rate class groups respectively. Therefore, it would seem most unlikely that the Company has any serious belief that this provision is necessary. However, even if this provision were likely to be invoked, it would appear to add another layer of discrimination to the Phase III EE&C Plan. As written, one customer could submit a plan with a TRC benefit-cost of 0.75 and have it approved by the Company. However, if the Company then re-instates the minimum economic criteria, a competing customer would have the identical plan rejected. While it is obviously difficult for an EDC to develop a non-discriminatory plan, the Company's proposed changes simply increase the potential discrimination.

III. CONCLUSION

The OSBA respectfully requests that the Commission consider and adopt the foregoing comments.

Respectfully submitted,

Elizabeth Rose Triscari
Deputy Small Business Advocate
Attorney ID No. 306921

For:

John R. Evans
Small Business Advocate

Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101

Dated: October 6, 2016

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email and/or First-Class mail (unless other noted below) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Susan D. Colwell
Administrative Law Judge
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265
scolwell@pa.gov
(E-mail and Hand Delivery)

Amy E. Hirakis, Esquire
Darryl Lawrence, Esquire
Office of Consumer Advocate
555 Walnut Street - 5th Floor
Harrisburg, PA 17101-1923
ahirakis@paoca.org
dlawrence@paoca.org
(E-mail and Hand Delivery)

Richard Kanaskie, Esquire
PA Public Utility Commission
Director, Bureau of Investigation and Enforcement
400 North St., Commonwealth Keystone Bldg
Harrisburg, PA 17120
rkanaskie@pa.gov
(E-mail and Hand Delivery)

Devin Ryan, Esquire
Post & Schell, PC
17 N. 2nd Street, 12th Floor
Harrisburg, PA 17101-1601
dryan@postschell.com
(Email and US Mail)

Paul E. Russell, Esquire
Kimberly A. Klock, Esquire
PPL Electric Utilities Corporation
2 North 9th Street
Allentown, PA 18101
(Email and US Mail)

David B. MacGregor, Esquire
Post & Schell, PC
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
dmacgregor@postschell.com
(Email and US Mail)

Carl Shultz, Esquire
Eckert, Seamans, Cherin & Mellott
213 Market St., 8th Floor
Harrisburg, PA 17101
cshultz@eckertseamans.com
(Email and US Mail)

Judith A. Cassel, Esquire
Micah R. Bucy, Esquire
Hawke, McKeon and Sniscak, LLP
100 N. 10th Street
Harrisburg, PA 17101
jdcassel@hmslegal.com
mrbucy@hmslegal.com
(Email and US Mail)

Patrick Cicero, Esquire
Harry S. Geller, Esquire
Elizabeth R. Marx, Esquire
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net
emarxpulp@palegalaid.net
(Email and US Mail)

Joseph L. Vullo, Esquire
Burke, Vullo, Reilly, Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@aol.com
(Email and US Mail)

Derrick Price Williamson, Esquire
Barry A. Naum, Esquire
Spilman, Thomas & Battle, PLLC
1100 Bent Creek Blvd., Suite 101
Mechanicsburg, PA 17050
dwilliamson@spilmanlaw.com
bnaum@spilmanlaw.com
(Email and US Mail)

Adeoule A. Bakare, Esquire
McNees, Wallace & Nurick
100 Pine Street
PO Box 1166
Harrisburg, PA 17108-1166
abakare@mwn.com
(Email and US Mail)

Scott H. DeBroff, Esquire
Tucker Arensberg
2 Lemoyne Drive, Suite 200
Lemoyne, PA 17043
sdebroff@tuckerlaw.com
(Email and US Mail)

DATE: October 6, 2016

Elizabeth Rose Triscari
Deputy Small Business Advocate
Attorney I.D. No. 306921