



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166
Tel: 717.232.8000 • Fax: 717.237.5300

Adeolu A. Bakare
Direct Dial: 717.237.5290
Direct Fax: 717.260.1712
abakare@mcneeslaw.com

December 28, 2016

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

VIA ELECTRONIC FILING

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


Dear Secretary Chiavetta:

Attached please find the Petition for Appeal of Staff Action of the PP&L Industrial Customer Alliance's ("Petition"), which was originally filed with the Pennsylvania Public Utility Commission ("PUC") on November 14, 2016, in the above-referenced proceeding. We are re-filing the Petition in response to a request from PUC staff indicating page six does not appear on the e-filed copy.

As the electronic and hard copies of the Petition previously served upon parties pursuant to the Certificate of Service were not affected, only this transmittal letter will be served upon the parties. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

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

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

VIA E-MAIL AND FIRST-CLASS MAIL

Devin T. Ryan, Esq.
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
dryan@postschell.com

David B. MacGregor, Esq.
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
dmacgregor@postschell.com

Kimberly A. Klock, Esq.
PPL Electric Utilities Corporation
2 North Ninth Street
Allentown, PA 18101
kklock@pplweb.com

Lauren M. Burge, Esq.
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
lburge@paoca.org

Elizabeth Rose Triscari, Esq.
Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101
etriscari@pa.gov

Sarah C. Stoner, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
sstoner@eckertseamans.com
Counsel for Retail Energy Supply Association

Patrick M. Cicero, Esq.
Elizabeth R. Marx, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net
emarxpulp@palegalaid.net
Counsel for CAUSE-PA

Joseph L. Vullo, Esq.
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@aol.com
Counsel to Commission on Economic Opportunity

Derrick P. Williamson, Esq.
Barry A. Naum, Esq.
Spilman, Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
dwilliamson@spilmanlaw.com
bnaum@spilmanlaw.com
Counsel for Wal-Mart

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Page 2

Judith D. Cassel, Esq.
Micah R. Bucy, Esq.
Hawke McKeon and Sniscak, LLP
100 N. Tenth Street
Harrisburg, PA 17101
jdcassel@hmslegal.com
mrbcucy@hmslegal.com
*Counsel to Sustainable Energy Fund of
Central Eastern PA*

Scott H. DeBroff, Esq.
Clark Hill PLC
301 Grant Street, 14th Floor
Pittsburgh, PA 15219
sdebloff@clarkhill.com
Counsel to Nest Labs, Inc.

Kevin H. Hall, Esq.
Tucker Arensburg, P.C.
2 Lemoyne Drive
Lemoyne, PA 17043
khall@tuckerlaw.com
Counsel to EnerNOC, Inc.



Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

Dated this 28th day of December, 2016, at Harrisburg, Pennsylvania



McNees Wallace & Nurick LLC • 17170 • Harrisburg, PA 17103-1105
Tel: 717.237.5290 • Fax: 717.260.1712

Adeolu A. Bakare
Direct Dial: 717.237.5290
Direct Fax: 717.260.1712
abakare@mcneesiaw.com

November 14, 2016

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

VIA ELECTRONIC FILING

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

Dear Secretary Chiavetta:

Enclosed please find for filing with the Pennsylvania Public Utility Commission the Petition for Appeal of Staff Action of the PP&L Industrial Customer Alliance's ("PPLICA") in the above-referenced proceeding.

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

Very truly yours,

McNEES WALLACE & NURICK LLC

By

Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

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

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Devin T. Ryan, Esq.
Post & Scheil, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
dryan@postschell.com

David B. MacGregor, Esq.
Post & Scheil, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
dmacgregor@postschell.com

Paul E. Russell, Esq.
Kimberly A. Klock, Esq.
PPL Electric Utilities Corporation
2 North Ninth Street
Allentown, PA 18101
perussell@pplweb.com
kklock@pplweb.com

Amy Hirakis, Esq.
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
ahirakis@paoca.org

Elizabeth Rose Triscari, Esq.
Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101
etriscari@pa.gov

Sarah C. Stoner, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
sstoner@eckertseamans.com
Counsel for Retail Energy Supply Association

Patrick M. Cicero, Esq.
Elizabeth R. Marx, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net
emarxpulp@palegalaid.net
Counsel for CAUSE-PA

Joseph L. Vullo, Esq.
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@aol.com
Counsel to Commission on Economic Opportunity

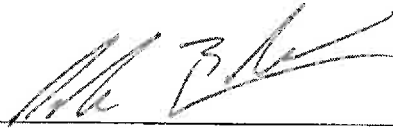
Derrick P. Williamson, Esq.
Barry A. Naum, Esq.
Spilman, Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
dwilliamson@spilmanlaw.com
bnaum@spilmanlaw.com
Counsel for Wal-Mart

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Judith D. Cassel, Esq.
Micah R. Bucy, Esq.
Hawke McKeon and Sniscak, LLP
100 N. Tenth Street
Harrisburg, PA 17101
jdcassel@hmslegal.com
mrbucy@hmslegal.com
*Counsel to Sustainable Energy Fund of
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Scott H. DeBroff, Esq.
Clark Hill PLC
301 Grant Street, 14th Floor
Pittsburgh, PA 15219
sdebroff@clarkhill.com
Counsel to Nest Labs, Inc.

Kevin H. Hall, Esq.
Tucker Arensburg, P.C.
2 Lemoyne Drive
Lemoyne, PA 17043
khall@tuckerlaw.com
Counsel to EnerNOC, Inc.



Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

Dated this 14th day of November, 2016, at Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation	:	
For Expedited Approval of Proposed Minor EE&C	:	Docket No. M-2015-2515642
Plan Changes Pursuant to the Commission's Expedited	:	
Review Process	:	

PETITION FOR APPEAL OF STAFF ACTION

Pursuant to Section 5.44 of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") regulations, 52 Pa. Code § 5.44, the PP&L Industrial Customer Alliance ("PPLICA") hereby petitions the Commission for review of the determinations of the Bureau of Technical Utility Services ("Staff"), contained in a Secretarial Letter dated November 4, 2016, at the above-referenced docket ("Secretarial Letter") PPLICA requests that the PUC reverse the determinations contained in the November 4, 2016, Secretarial Letter. In support of this request, PPLICA presents the following:

I. BACKGROUND

On October 15, 2009, Act 129 of 2008 ("Act 129") became law. Among other things, Act 129 expanded the scope of the Commission's regulations and imposed new requirements on Electric Distribution Companies ("EDCs") regarding the reduction of energy consumption and demand. In accordance with Act 129, on November 30, 2015, PPL Electric Utilities Corporation ("PPL" or "Company") submitted a Petition for Approval of its Phase III Energy Efficiency and Conservation Plan ("EE&C Plan" or "Phase III Plan"), which was approved in part and rejected in part by PUC Order entered June 9, 2016, at Docket No M-2016-2515642 ("Phase III Plan Order").

On September 21, 2016, PPL submitted a Petition to Amend its Phase III Plan to the Commission ("Petition"), pursuant to the Commission's procedures for amending EE&C plans.¹ PPL's proposed minor change is the elimination of the minimum cost-effectiveness eligibility standards for Custom Incentive Programs ("Custom Programs") under PPL's Phase III Plan. Instead, PPL would apply a discretionary standard allowing for approval of proposed projects that have a Total Resource Cost ("TRC") value of less than 1.0, subject to PPL's authority to reinstitute cost-effectiveness screening upon notice to customers. Because PPL viewed this change as a single "minor" change, it asked Staff to approve it expeditiously, without assigning the proceeding to an Administrative Law Judge for further review.

On October 5, 2016, PPLICA filed Comments in response to PPL's Petition. PPLICA did not oppose PPL's request to proceed under the process for minor plan changes, but PPLICA stressed that the Commission should modify PPL's proposal to preserve a mandatory minimum TRC threshold of 1.0 for every project funded through the Large C&I Custom Program.² The Office of Small Business Advocate ("OSBA") and Sustainable Energy Fund ("SEF") also filed Comments in opposition to PPL's proposal, generally asserting that the current cost-effectiveness screening requirement should remain in effect.³ On October 17, 2016, PPL filed Reply Comments generally opposing other parties' proposals and claiming it should have reasonable discretion to alter its EE&C Plan to ensure it meets compliance targets. However, PPL indicated that it would adopt SEF's recommendation to provide stakeholders with 90 days' notice prior to the establishment of any minimum TRC threshold *if* its request to eliminate consideration of minimum TRC thresholds, was approved by the PUC.

¹ See *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order Entered June 10, 2011) ("Minor Plan Change Order"), p. 20.

² PPLICA Comments, Docket No. M-2015-2515642, pp. 2-3.

³ See SEF Comments and OSBA Comments, Docket No. M-2015-2515642.

On November 4, 2016, Staff issued the Secretarial Letter approving PPL's Petition as modified by PPL in its Reply Comments.⁴ Staff agreed with PPL that the PUC only requires the overall EE&C Plan be cost-effective, not individual programs or measures.⁵ Staff also emphasized that no other program in PPL's EE&C Plan has a cost-effectiveness threshold for any of its measures.⁶ Furthermore, Staff concurred with PPL's position that "eliminating the minimum TRC threshold is likely to lower the program acquisition costs per kilowatt-hours of annual energy savings."⁷ In addition, Staff indicated that PPL's proposed change would make its EE&C Plan consistent with other Pennsylvania EDCs' EE&C plans.

II. REASONS FOR GRANTING PPLICA'S APPEAL

As discussed in PPLICA's Comments, PPL's Petition would eliminate the minimum TRC threshold currently applied to projects submitted for rebates under PPL's Large C&I Custom Program. Staff approved PPL's request after determining that PPL is not required to ensure individual Programs are cost-effective and that the risks of funding inefficient projects through the Custom Program shall be borne by PPL alone. PPLICA respectfully disagrees with Staff's determination. Sections 2806.1(k)(1) and 2806.1(b)(2) require the rejection of PPL's proposal. PPL's practice of screening custom projects for a TRC of at least 1.0 appropriately ensures that the costs recovered from customers are reasonable and prudent, as required by Section 2806.1(k)(1).⁸ Additionally, the Commission should consider that Large C&I customers pay significant revenues into PPL's Custom Program and are therefore impacted as stakeholders by the awarding of customer-funded rebates to inefficient projects. PPL and the PUC must be good stewards of the

⁴ Secretarial Letter, p. 1.

⁵ *Id.* at 2.

⁶ *Id.*

⁷ *Id.*

⁸ 66 Pa. CS § 2806.1(k)(1).

money that customers pay into the program, and allowing non-cost effective projects to be subsidized is not good stewardship of those funds, nor is it just, reasonable and non-discriminatory.

a. A Reasonable Minimum Cost-Effectiveness Threshold Should Remain In Place For Custom Programs to Ensure the Program Costs are Reasonable and Prudent Pursuant to Section 28061(k)(1).

The Secretarial Letter approving PPL's proposed plan change emphasized the Commission's discretion to approve PPL's proposed change without appropriately considering the legal and policy reasons for minimum cost-effectiveness screening. Staff approved PPL's proposed plan change in part because the Phase III EE&C Implementation Order ("Implementation Order") only imposes a minimum TRC requirement on PPL's overall EE&C Plan and no other EDC adopted a similar minimum TRC requirement for Large C&I custom projects. *See* Secretarial Letter, p. 2. Section 2806.1(k)(1) of the Public Utility Code entitles PPL to recover only the "reasonable and prudent" costs of the plan. Costs to subsidize projects with a TRC below 1.0 are, by definition, neither reasonable nor prudent. Furthermore, regardless of whether minimum TRC screening is mandatory under Act 129 or prevalent among other EDCs' EE&C Plans, the Commission should primarily consider the strong policy reasons supporting minimum cost-effectiveness screening for PPL's Custom Program in reviewing PPL's proposed change. *See id.*

Staff's analysis of the Implementation Order and the practices of other EDCs fails to address the actual merits of PPL's proposed change. While the Secretarial Letter focused on the Commission's mandate to ensure cost-effectiveness of PPL's entire EE&C Plan, it also confirmed the Commission's discretion under the Implementation Order to reject EE&C programs with negative TRC values. *See* Secretarial Letter, p. 2. Accordingly, the Commission certainly maintains its authority to impose cost-effectiveness standards on a program basis. PPLICA

respectfully submits that a per-project threshold is a fundamental method to ensure that the plan costs are reasonable and prudent under Section 2806.1(k)(1).

Additionally, the Secretarial Letter granted undue weight to the uniformity of PPL's cost-effectiveness screening among other EDCs. *See id.* Just as other EDC Plans did not impact the Commission's decision to initially approve PPL's cost-effectiveness screening for the Custom Program, the practices of other EDCs should not guide the Commission's decision as to whether to preserve or eliminate PPL's Custom Program cost-effectiveness screening. Therefore, PPL's TRC threshold should not be eliminated for the sake of making Custom Program eligibility requirements identical to the eligibility requirements of other PPL EE&C Plan programs. Instead, the Commission should assess PPL's proposal on its merits.

Unlike other programs in PPL's EE&C Plan, the Custom Program offers tremendous flexibility for customers to design and propose unique efficiency measures. Specifically, PPL's Large C&I Custom Program allows customers to seek EE&C rebates for measures that are not addressed in the Commission's Technical Reference Manual (TRM"). *See* PPL Phase III EE&C Plan, p. 118. This flexibility allows customers to propose projects utilizing new and comparatively untested technologies, thereby increasing the risk that the costs of those programs will outweigh their benefits.⁹ Imposition of a mandatory 1.0 TRC threshold of for Large C&I Custom Programs reasonably mitigates the risk of failed projects, which, as addressed in the following section, impact both PPL and its Large C&I customers.

⁹ The Secretarial Letter adopted PPL's representation that eliminating the TRC threshold will likely lower the acquisition costs for Custom Programs. *See* Secretarial Letter, p. 2. As disclosed in PPL's Reply Comments, this result would be attributable to the cap in incentives for Custom Programs and does not indicate that the projects are cost-effective. PPL Reply Comments, p. 10. Essentially, PPL would be permitted to approve wasteful and efficient projects with failing TRC ratios (which consider total expenses), but low acquisition costs (which measure only program expenses). Regardless of the impact on acquisition costs, the Commission should not support policies forcing Large C&I customers to subsidize flawed efficiency projects.

b. The Secretarial Letter Fails to Consider the Impact of PPL's Proposed Plan Change on Customers.

In approving PPL's proposed plan change, Staff did recognize the elevated risk of failed projects, but inappropriately determined that PPL should have complete discretion to require or waive cost-effectiveness screening *as the sole entity assuming the aforementioned risk*. The Commission's Staff based its analysis on PPL's status as the sole entity responsible for meeting the applicable compliance targets established by the Commission. *See* Secretarial Letter, p. 3. While Staff is correct that customers are not susceptible to penalties under Act 129, PPL's Large C&I customers are compelled to fund PPL's Large C&I Custom Program. Particularly in light of higher per-customer revenues paid into PPL's Phase III Plan relative to individual customers in other classes, PPL's Large C&I customers are significant stakeholders impacted by the administration of PPL's Phase III Plan. As a matter of policy and fairness, PPL's Large C&I customers should reasonably expect that costly custom projects submitted for customer-funded Custom Program rebates meet reasonable cost-effectiveness thresholds.¹⁰

c. Section 2806.1(b)(2) Supports Retention of a Minimum TRC for Custom Projects of at Least 1.0.

The Secretarial Letter approving PPL's proposed change is based on the belief that PPL may need to rely on non-cost effective projects to meet the Commission's energy efficiency goals. Act 129 includes a specific remedy for this situation in Section 2806.1(b)(2), 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

¹⁰ The Secretarial Letter references a *Distribution Generation Potential Study for Pennsylvania* report suggesting that "a significant number of CHP projects would be cost-effective under a TRC calculation if the useful life of the project were taken into account, thereby supporting consideration of providing incentives to worthy projects even beyond those having TRC values greater than 1.0." *See* Secretarial Letter, p. 2 note 8. PPLICA submits that the Commission reserves discretion to request that the legislature modify the Total Resource Cost Test definition to incorporate longer useful life assumptions; however, using dissatisfaction with the required TRC application as a reason to approve non-cost effective projects is inappropriate.

required reductions in consumption in a cost-effective manner under subsections (c) and (d).

66 Pa. CS § 2806.1(b)(2). Including projects with TRC results of less than 1.0 in PPL's plan demonstrates that the goals set forth in the plan for the Large C&I Custom Program Measure cannot be achieved in a cost-effective manner. As such, the PUC shall direct PPL to terminate the measure or modify the goals assigned to this measure. Removing the TRC threshold is contrary to the cost-effectiveness requirement of Section 2806.1(b)(2).


III. CONCLUSION

WHEREFORE, for all of the foregoing reasons, PPLICCA respectfully requests that the PUC enter an order which:

1. Grants this Petition for Appeal and reverses the determinations contained in the Staff's November 4, 2016, Secretarial Letter; and
2. Grants any additional relief that it deems just and reasonable under the circumstances.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 
Pamela C. Polacek (I.D. No. 78276)
Adeolu A. Bakare (I.D. No. 208541)
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300

Counsel to the PP&L Industrial Customer Alliance

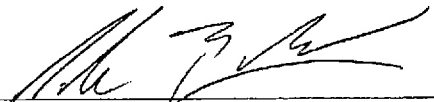
Dated: November 14, 2016

Petition of PPL Electric Utilities Corporation For
For Expedited Approval of Proposed Minor EE&C Plan Changes
Pursuant to the Commission's Expedited Review Process; Docket No. M-2015-2515642

VERIFICATION

I, Adeolu A. Bakare, counsel to the PP&L Industrial Customer Alliance ("PPLICA"), hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief), and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

11/21/16
Date



Signature