**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation : M-2020-3020824

for Approval of its Act 129 Phase IV Energy :

Efficiency and Conservation Plan :

**PREHEARING ORDER**

The Pennsylvania Public Utility Commission (Commission) approved PPL Electric Utilities Corporation’s (PPL Electric’s) initial Phase IV Energy Efficiency and Conservation (EE&C) Plan on March 25, 2021. *See Petition of PPL Electric Utilities Corp. for Approval of its Act 129 Phase IV Energy Efficiency and Conservation Plan*, Docket No. M-2020-3020824 (Order entered Mar. 25, 2021) (March 2021 Order).

On December 30, 2022, PPL Electric filed a Petition for approval of 11 changes, both major and minor, to its Phase IV EE&C Plan (Petition). The Company requested that the Commission review the modifications under the procedures for changes that do not meet the minor change criteria (i.e., “major changes”) set forth in the Commission’s *Minor Plan Change Order*.[[1]](#footnote-1)

On January 19, 2023, the Office of Small Business Advocate (OSBA) filed an Answer to the Petition.

On January 30, 2023, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed an Answer to and Comments on the Petition.

On January 31, 2023, the Office of Consumer Advocate (OCA) filed a letter stating that it would not be filing Comments. Also, the PP&L Industrial Customer Alliance (PPLICA) filed a letter in lieu of Comments, requesting that “the Commission take all reasonable steps to review the proposed budget reallocation within the requisite timeframe to ensure PPL reflects the adjusted sector budgets in the public filing of its June 1, 2023, ACR rate adjustment.”

On February 21, 2023, PPL Electric filed Reply Comments, setting forth the Company’s support for the proposed modifications to the EE&C Plan.

On April 27, 2023, the Commission entered an Opinion and Order granting in part and denying in part the Company’s Petition. Specifically, the Commission approved all of the proposed modifications, except for the Company’s proposed shift of approximately $18 million from the Large Commercial and Industrial (C&I) sector budget in the Non-Residential Program to the Small C&I sector budget in the Non-Residential Program (*i.e.*, Change No. 5) and the related changes to the savings and estimated peak demand reductions for the Large C&I and Small C&I sectors due to that proposed budget shift (*i.e.*, Change Nos. 7 and 8). The Commission referred Change Nos. 5, 7, and 8 to the Office of Administrative Law Judge for proceedings as may be necessary and the issuance of a Recommended Decision within ninety (90) days of April 27, 2023.

On April 28, 2023, a Notice was issued scheduling a Telephonic Prehearing Conference for May 15, 2023, at 10:00 a.m. before Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Emily I. DeVoe (ALJs).

On May 1, 2023, a Prehearing Conference Order was served, which, among other things, directed the parties to file prehearing conference memoranda by 12:00 p.m. on May 12, 2023.

The Prehearing Conference was held as scheduled on May 15, 2023. The participants were: Devin T. Ryan, Esquire, for PPL Electric, Aron J. Beatty, Esquire, for OCA, Steven C. Gray, Esquire, for OSBA, Elizabeth R. Marx, Esquire, for CAUSE-PA, Joseph L. Vullo, Esquire, for the Commission on Economic Opportunity (CEO), Adeolu A. Bakare, Esquire, for PPLICA, Judith D. Cassel, Esquire and Micah R. Bucy, Esquire for the Sustainable Energy Fund of Central Eastern Pennsylvania (SEF).

This Prehearing Order memorializes the matters decided by the undersigneds and agreed upon by the parties attending the conference and orders a litigation schedule for this proceeding.

**Litigation Schedule**

The following litigation schedule is hereby ordered:

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| --- | --- |
| **Date** | **Event** |
| May 25, 2023 or May 26, 2023 | Settlement Conference |
| May 25, 2023 | Service of All Written Direct Testimony |
| June 6, 2023 | Service of Written Rebuttal Testimony |
| June 12, 2023, at  10:00 a.m. | Telephonic Evidentiary Hearing |
| June 23, 2023 | Filing and Service of Main Briefs |
| June 30, 2023 | Filing and Service of Reply Briefs or a Petition for Settlement or Partial Settlement with Statements in Support |

The parties are reminded of the Commission’s requirements for the preparation and filing of written testimony. 52 Pa.Code § 5.412. Written testimony must be accompanied by all exhibits to which it relates. The above-stated dates are in-hand dates for service on the parties and the presiding ALJs. The parties at the prehearing conference and the presiding ALJs agreed to accept electronic service of such material,[[2]](#footnote-2) so long as the subject email is received by the date due. The email addresses of the presiding ALJs are [mhoyer@pa.gov](mailto:mhoyer@pa.gov) and [edevoe@pa.gov](mailto:edevoe@pa.gov).

The court reporter will appear telephonically for the scheduled hearing. Therefore, prior to the hearing, the parties will be given instructions for providing electronic copies of evidence (written statements and accompanying exhibits) to be offered at the hearing to the ALJs in a form such that admitted electronic evidence can be forwarded to the assigned court reporter for inclusion in the record. Electronic statements and exhibits should be organized and provided in such a way that participants can quickly access the material on a computer during the hearing. Other exhibits admitted at the hearing must be electronically served on all parties. The undersigned will address any procedural issues or objections that may arise as a result of a party offering a hearing exhibit that was not served in advance of the scheduled hearing during the hearing or in an order following the hearing.

The scheduled telephonic hearing will begin promptly at **10:00 a.m.** The parties must confer before commencement of the hearing to schedule their witnesses so as to avoid “holes” or “dead time” during the hearing.

**Service List**

The Service List for this proceeding is attached to this Prehearing Order.

**Issues**

In their respective prehearing memoranda, the parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues. Additional issues may arise as the discovery process unfolds.

**Discovery**

The parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa.Code § 5.322. If this process fails, the parties have recourse to the Commission’s procedures for formal discovery, as herein modified. 52 Pa.Code §§ 5.321, *et* *seq*. The parties must not send the presiding ALJs discovery material or cover letters, unless attached to a motion to compel. All motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally. If a motion to compel fails to contain such certification, the presiding ALJs will contact the parties and direct them to pursue informal discovery.

With the agreement of all parties attending the prehearing conference, the following modified discovery procedure applies in this case to all discovery, including interrogatories served on PPL Electric by PPLICA prior to the Prehearing Conference:

1. Answers to written interrogatories and requests for production of documents shall be served in-hand within five (5) calendar days of service.
2. Objections to interrogatories and/or requests for production of documents shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories. Unresolved objections shall be served in writing to the propounding party within five (5) days of service of the interrogatories and/or requests for production.
3. Motions to dismiss objections and/or direct the parties to answer interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.
4. Answers to motions to dismiss objections and/or compel answers and/or requests for production shall be filed within three (3) calendar days of service of such motions.
5. Requests for admission shall be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
6. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.
7. Any discovery or discovery-related pleadings (such as objections, motions, and answers to the same) served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.

Parties providing Direct and Rebuttal testimony shall either include with such testimony the electronic workpapers, cited studies, and other documents relied on, or provide the same in workable electronic format within two (2) business days of the testimony submission date to all parties.

**Settlement and Stipulations**

The parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa.Code § 5.231(a). The parties are strongly urged to seriously explore this possibility.

If settlement is not feasible, the parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve precious administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234. All stipulations entered into by the parties must be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearing in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

**Cross-Examination**

Friendly cross-examination or cumulative cross-examination during the hearing will not be permitted. 52 Pa.Code §§ 5.76 & 5.243.

**Briefs, Reply Briefs and Petitions for Settlement**

The parties must comply with 52 Pa.Code §§ 5.501, *et* *seq*., regarding the preparation and filing of briefs. Briefs must include proposed findings of fact **with citations to the record evidence relied upon as the basis for the proposed findings of fact**, proposed conclusions of law and proposed ordering paragraphs. Common brief outlines and page limitations on briefs will be discussed at the hearing.

Any petition for settlement or partial settlement filed must include **citations to the record evidence relied upon as the basis for each proposed settlement term**, proposed conclusions of law and proposed ordering paragraphs. A petition for settlement or partial settlement must be accompanied by statements in support from the signatory parties.

Any petition for settlement or partial settlement with accompanying statements in support must be filed by **June 30, 2023.**

**Modification**

Any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

Date: May 18, 2023 /s/

Mark A. Hoyer  
Deputy Chief Administrative Law Judge

/s/

Emily I. DeVoe  
Administrative Law Judge

**M-2020-3020824 - PETITION OF PPL ELECTRIC UTILITIES CORPORATION FOR APPROVAL OF ITS ACT 129 PHASE IV ENERGY EFFICIENCY AND CONSERVATION PLAN**

*Revised 2/11/21*

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1. In addition to establishing a new expedited review process for minor changes, the *Minor Plan Change Order* detailed the review process for non-minor (*i.e.*, major) changes. *See Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order entered June 10, 2011) (*Minor Plan Change Order*). Specifically, the Commission provided that “EDCs seeking approval of changes that do not fit within the Minor EE&C Plan change criteria . . . must file a petition requesting that the Commission rescind and amend its prior order approving the plan.” *Minor Plan Change Order*, p. 20. Furthermore, “[t]his petition shall be served on all parties, who will have 30 days to file comments, an answer or both.” *Id.* Then, the parties “have 20 days to file replies, after which the Commission will determine whether to rule on the changes or refer the matter to an Administrative Law Judge for hearings and a recommended decision.” *Id.* These procedures superseded those previously established for EE&C Plan changes and “apply to all petitions for approval of an EE&C Plan change, other than petitions seeking review under the expedited process” for minor changes. *Id.* at p. 21. [↑](#footnote-ref-1)
2. The documents are to be served electronically on the date indicated, by 4:00 p.m. unless otherwise indicated. [↑](#footnote-ref-2)