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File #: 2507/140069

September 9, 2009

James J. McNulty
Secretary
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
PO Box 3265
Harrisburg, PA 17105-3265

**RE: Petition of PPL Electric Utilities Corporation for Approval of an Energy Efficiency and Conservation Plan - Docket No. M-2009-2093216**

Dear Secretary McNulty:

Enclosed, for filing, is the original Reply Brief of PPL Electric Utilities Corporation in the above-referenced proceeding.

As indicated on the certificate of service, copies have been provided to the parties in the manner indicated.

Respectfully Submitted,

Andrew S. Tubbs

AST/jl
Enclosures
cc: Honorable Susan D. Colwell
Certificate of Service

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: September 9, 2009

Andrew S. Tubbs

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**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|---|
| Petition of PPL Electric Utilities | : | |
| Corporation for Approval of an Energy | : | Docket No. M-2009-2093216 |
| Efficiency and Conservation Plan | : | |

# REPLY BRIEF OF PPL ELECTRIC UTILITIES CORPORATION


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Date: September 9, 2009

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### STATE STATUTES

## I. INTRODUCTION

On August 28, 2009, pursuant to the schedule established by Administrative Law Judge Susan D. Colwell (the "ALJ"), PPL Electric Utilities Corporation ("PPL Electric" or the "Company"), the Office of Consumer Advocate ("OCA"), the Office of Trial Staff ("OTS"), the Office of Small Business Advocate ("OSBA"), ClearChoice Energy ("ClearChoice"), the Commonwealth of Pennsylvania - Department of Environmental Protection ("DEP"), EnerNOC, Inc. ("EnerNOC"), Eric Joseph Epstein, Field Diagnostic Services, Inc. ("FDSI"), Pennsylvania Association of Community Organizations for Reform Now ("ACORN"), PP&L Industrial Customer Alliance ("PPLICA"), Richards Energy Group, Inc. ("Richards Energy"), Sustainable Energy Fund ("SEF"), UGI Utilities, Inc., UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. (collectively, "UGI") filed main briefs in this proceeding. In its Main Brief, PPL Electric explained its positions on the issues pending before the Pennsylvania Public Utility Commission ("Commission") concerning PPL Electric's Energy Efficiency and Conservation Plan ("EE&C Plan" or "Plan").[1] In so doing, PPL Electric anticipated and, to a very large degree, responded to many of the arguments raised by the other parties in their main briefs. As to certain issues, however, some further response is required.

## II. PROCEDURAL HISTORY

A full summary of the procedural history of this proceeding is contained in PPL Electric's Main Brief at pp. 1-4.

[1] The Amended Energy-Efficiency and Conservation Plan was admitted into the record in this proceeding as PPL Electric Exhibit 1.

## III. DESCRIPTION OF EE&C PLAN

PPL Electric's EE&C Plan is described in detail in the petition filed in this proceeding on July 1, 2009,[2] and in PPL Electric's Main Brief (pp. 4-9). Moreover, the Plan, as amended on July 31, 2009, was admitted into evidence in this proceeding as PPL Electric Exhibit 1.

## IV. SUMMARY OF ARGUMENT

As stated in the Company's Main Brief, PPL Electric's Plan has widespread support. *See e.g.*, EnerNOC Main Brief, p. 4; PPLICA Main Brief, p. 4. The statutory parties, OTS, OCA and OSBA, have largely supported the Plan and their proposed revisions deal primarily with cost allocation and cost recovery issues. OTS Main Brief, p. 5; OCA Main Brief, p. 9; OSBA Main Brief, p. 4. Additionally, ACORN, advocating on behalf of low-income customers, supports the low-income programs contained in the Plan. ACORN Main Brief, p. 13. Only two parties, SEF and Mr. Epstein, propose that the Commission reject the Plan in total or reject major portions of the Plan. SEF Main Brief, p. 2; Epstein Main Brief, pp. 17, 22. As explained in PPL Electric's Main Brief (pp. 17-19, 32, 35-37) and below, these proposals are not supported by any credible evidence, are based upon a fundamental misunderstanding of Act 129 and the Company's Plan, and should be summarily rejected.

Several parties have recommended specific changes to the Company's Plan. Those recommendations, for the most part, are designed to promote each party's individual self-interest and do not consider the potential effect of the proposed changes on the overall Plan or the interests and concerns of other parties to this proceeding. For example, SEF advocates that PPL Electric add an on-bill financing program to finance customer efficiency improvements, but provides no information as to how much money should be spent on such a program, what other programs would be cut from the Plan and whether this unspecified revised Plan would comply

[2] PPL Electric Exhibit 2.

with Act 129. SEF Main Brief, p. 31. Moreover, SEF suggests that it be the party selected to operate this program for PPL Electric, apparently without having to participate in any competitive bidding process. SEF Main Brief, pp. 36-37. As stated in its Main Brief and as explained below, PPL Electric believes that these efforts to advance limited parochial changes to the Plan should be rejected.

Moreover, PPL Electric was very careful to design its Plan to comply with Act 129 and all of the Commission's Orders and guidance regarding the implementation of Act 129. A number of parties, however, are using this proceeding to relitigate issues that have already been addressed in the Commission's Act 129 implementation orders. The Commission has already addressed the issue of natural gas fuel switching raised by UGI, the free-ridership issue raised by SEF, and DEP's arguments concerning how to account for energy usage reductions. As stated in PPL Electric's Main Brief (pp.10-11), it is not appropriate for parties to use this proceeding to relitigate matters previously decided by the Commission because of the expedited nature of this proceeding and the short time frame within which PPL Electric must be in compliance with Act 129.

For the reasons explained in PPL Electric's Main Brief and as more fully explained below, PPL Electric requests that the Commission approve the EE&C Plan as filed with the previously noted minor corrections for the allocation of common costs and for the benefit-to-cost ratios of the Direct Load Control and Load Curtailment Programs. *See* PPL Electric Main Brief, p. 60.

## V. ARGUMENT

### A. ACT 129 CONSERVATION AND DEMAND REDUCTION REQUIREMENTS

#### 1. Low-Income Program Requirements

Act 129 provides, *inter alia*, that an electric distribution company's ("EDC") conservation plan must include specific energy-efficiency measures for households at or below 150% of the federal poverty income guidelines. 66 Pa.C.S. § 2806.1(b)(i)(G). PPL Electric Main Brief, p. 16. Mr. Epstein argues that the Plan contains no provisions for financially distressed customers even though Act 129 mandates that the EE&C Plan include such specific measures. Epstein Main Brief, p. 5. Mr. Epstein's assertion is incorrect. As fully explained in PPL Electric's Main Brief (p. 16), the Company has developed two programs specifically for the low-income sector. PPL Electric Exhibit 1, p. 220. The first is the Low-Income WRAP (Winter Relief Assistance Program), which is an expansion of the current WRAP designed to reduce electric consumption and improve comfort for low-income customers. PPL Electric Exhibit 1, pp. 94-99. The program provides free energy audits, energy-efficiency measures, and energy education to income-qualified participants. As stated in the Plan, the program targets PPL Electric customers at or below 150% of the federal poverty level. *Id.*, p. 94.

The second low-income specific program, the E-Power Wise Program, will provide low-income customers with energy-efficiency education and low cost energy-efficiency measures for self installation. PPL Electric Exhibit 1, pp. 100-105. As with the Low-Income WRAP, the E-Power Wise Program targets PPL Electric customers at or below 150% of the federal poverty level.[3] *Id.*, p. 100. In addition to these two programs, PPL Electric's Plan specifically provides for low-income sector involvement in the Compact Fluorescent Lighting Campaign, the Direct

[3] Notably, Mr. Epstein himself discusses the Low-Income WRAP and the E-Power Wise Program programs on pages 9-12 of his Main Brief.

Load Control Program and Time of Use rates. PPL Electric Exhibit 1, pp. 106-111. Moreover, nothing bars low-income customers from participating in any of the other programs in the Plan, provided the eligibility requirements are met.

Notably, ACORN, which conducts outreach with low-income households,[4] states that PPL Electric's EE&C Plan "sufficiently addresses the specific low-income requirements of Act 129," and that "the Commission should approve the Low-Income Program segment of [PPL Electric's] Plan." ACORN Main Brief, pp. 1, 2. Moreover, OCA states that the "EE&C Plan is designed to meet the requirements in Section 2806.1 (b)(1)(i)(G) for providing programs and savings for low-income customers." OCA Main Brief, p. 9. Because of the EE&C Plan's inclusion of programs directed at customers at or below 150% of the federal poverty level, a fact acknowledged by multiple parties in this proceeding, Mr. Epstein's contention that the Plan does not include provisions for financially distressed customers should be rejected.

### 2. Overall Issues Raised by the Parties

#### a. Rejection of Entire EE&C Plan

SEF avers that the Commission should reject PPL Electric's entire Plan. SEF Main Brief, pp. 2, 39. As fully explained in PPL Electric's Main Brief (p. 17), SEF's argument should be rejected for three principal reasons: (1) SEF is the only party to request that the Plan be rejected; (2) SEF provides absolutely no basis for its extreme position; and (3) SEF's proposal regarding the Total Resource Cost ("TRC") test, if adopted, would significantly <u>increase</u> the benefit-to-cost ratio of the Plan and would provide further support for PPL Electric's EE&C Plan.

##### (1) Determinations of Benefits and Costs

SEF's basic argument is that PPL Electric did not properly reflect incentive payments in the TRC test. SEF Main Brief, p. 7. SEF argues that PPL Electric's TRC test does not follow

[4] ACORN St. 1, p. 2.

the Commission's requirements because it includes incentive payments from PPL Electric in the calculation of each program's cost/benefit ratio where PPL Electric incentives are included in the program. SEF Main Brief, p. 6. Based on this assertion SEF maintains that the Commission should reject PPL Electric's Plan. SEF's position is without merit.

First, SEF has misconstrued the costs at issue as incentive payments. As PPL Electric explained in its Main Brief (p. 18), the costs identified by SEF are not incentive payments paid to customers by PPL Electric. These costs are rebates that cover part of the incremental cost of energy-efficiency measures. Treating these costs as incentives, and excluding them from the TRC analysis, would create an inaccurate picture of the actual costs of energy-efficiency resources when compared to supply-side resources. Moreover, it is important to note that these payments are part of the "transaction costs" and, therefore, they should be part of TRC costs.

Second, SEF's position, even if adopted, does not support rejection of the Company's Plan. The table below shows the portfolio-level costs and benefits submitted under the EE&C Plan. As filed, the PPL Electric Plan shows an overall benefit/cost ratio of 2.89. The table also indicates that the total net present value of the rebates offered through the Plan is approximately $153.3 million (column 1). If, as SEF proposes, this amount is removed from the TRC analysis (column 2), the TRC benefit cost ratio would increase from 2.89 to 4.81. SEF's criticisms therefore provide no basis for the Commission to reject PPL Electric's EE&C Plan.

| Benefits, Costs, Net Benefits and B/C ratios | | |
|---|---|---|
| | **TRC** | **TRC w/out Utility Rebates** |
| NPV Benefits | $1,113,580,323 | $1,113,580,323 |
| NPV Costs: Utility Admin | $59,772,946 | $59,772,946 |
| NPV Costs: Utility Rebates | $153,286,004 | $0 |
| NPV Costs: Participant Costs | $171,864,530 | $171,864,530 |
| NPV Net Benefits | $728,656,843 | $881,942,847 |
| **B/C Ratio** | **2.89** | **4.81** |

As explained above, PPL Electric does not support this revised approach because these costs are not, strictly speaking, "incentives." They are rather the actual costs associated with acquisition of energy-efficiency resources from a total cost perspective. To adopt SEF's argument to treat these costs as incentives and exclude them from the TRC analysis would create an inaccurate picture of the actual costs of energy-efficiency resources as compared to supply-side resources. Instead, these costs are a part of PPL Electric's "transaction costs" for procuring the energy-efficiency savings and should be included in the EE&C Plan's TRC costs. However, there is no need for the Commission to reach this issue at this time because PPL Electric's Plan fully complies under either approach.

**(2) Free-Riders**

SEF argues that the EE&C Plan is deficient because of free-ridership problems. Specifically, SEF argues that free-ridership ties up plan assets to accomplish conservation and demand reduction goals that will occur regardless of PPL Electric's program. SEF Main Brief, p. 13. As explained in PPL Electric's Main Brief (p. 28), SEF fails to account for the fact that the Commission's Technical Reference Manual ("TRM") and TRC test specifically address net-to-gross adjustments, including free-ridership, and PPL Electric's determination of estimated savings complies with the TRM. All savings projections in the Plan are "net savings" inclusive of any net-to-gross adjustments that are specified in the TRM and TRC. PPL Electric St. 2-R, pp. 2-3. Further, actual, *ex post* savings will be determined during the Evaluation, Measurement, and Verification ("EM&V") process and will be validated by the Statewide Evaluator. *Id.*

Further, while SEF freely criticizes PPL Electric's proposal as to the free-ridership issue, it fails to note that its own proposals present the same issue. SEF argues that PPL Electric should include measures that provide incentives for solar domestic hot water heating and solar photovoltaic programs; however, SEF offers no solution as to how to address any potential free ridership issues under its own proposals. SEF Main Brief, pp. 27-31. In support of its proposal to include incentives for solar domestic hot water heating in PPL Electric's Plan, SEF highlights the fact that there is currently a 30 percent federal tax incentive for solar domestic water heating and the PA Sunshine program provides for 25 percent of the costs. SEF Main Brief, p. 28. SEF attacks PPL Electric's Compact Fluorescent Lighting ("CFL") Campaign because other efforts are already underway to encourage the use of energy efficient products, but fails to acknowledge that its own water heater proposal suffers from the same free-ridership effect. Notably, SEF offers no solution to the free-ridership issue raised by its own proposals.

**b. ARRA and Act 129 Funding**

DEP asserts that the Company's Plan jeopardizes the Commonwealth's ability to obtain future funding under the *American Recovery and Reinvestment Act of 2009* ("ARRA"). DEP Main Brief, p. 14. DEP states that the Department of Energy ("DOE") requires states to make a written commitment that certain ARRA funds will not be used to supplant or replace existing projects funded by the state, ratepayers, or other funding. *Id.* DEP alleges that allowing PPL Electric to "leverage" ARRA funds and "then claim full credit for the energy savings achieved in no way supplements Act 129 – it completely supplants it and threatens to violate the Department's commitment to DOE." *Id.* DEP's assertions should be rejected.

PPL Electric fully discussed the Commission's prior determination on this matter and how the ARRA funds will *not* be used to supplant or replace existing ratepayer funding. PPL Electric Main Brief, pp. 19-22. DEP's conclusion that ARRA funds will supplant Act 129 funding is incorrect and not supported by the record in this proceeding for the following reasons.

First, the Commission, in the Total Resource Cost Test Order concluded that EDCs will be able to fully include a measure's benefits in the TRC test if any portion of the measure is attributable to Act 129.[5] Although the Commission specifically refers to Act 1 in the Total Resource Cost Test Order, that same conclusion would also apply if the customer received funding from ARRA or any other non-EDC source.

Second, the ARRA increases the total amount of funds available for energy-efficiency and conservation efforts in Pennsylvania, it does <u>not</u> supplant any funding. PPL Electric St. 1-R, p. 5. PPL Electric's EE&C Plan clearly states that its programs are designed to complement, not compete with, existing energy-efficiency programs. PPL Electric Exhibit 1, p. 221. The Plan encourages customers to use incentives from as many sources as possible for an energy-efficiency project. In fact, Act 129 requires EDCs to provide information to customers about other sources of funding for energy efficiency, presumably to maximize the available incentives for a customer's project. 66 Pa.C.S. § 2806.1(j). It is difficult to understand why Act 129 would encourage customers to pursue that funding if it could not be combined with Act 129 funding to help customers achieve energy savings. PPL Electric Main Brief, p 20; PPL Electric St. 1-R, p. 5.

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[5] Implementation of Act 129 of 2008 – Total Resource Cost (TRC) Test at p. 25. (Docket No. M 2009-2108601) (Entered on June 23, 2009).

Third, DOE has posted answers to ARRA questions raised by state officials on its website, and two of the questions and answers (Nos. 9 and 15) address the interplay between ARRA funding, with regard to the State Energy Program ("SEP"), and ratepayer-funded initiatives. PPL Electric St. 1-R, p. 6. The questions and answers are reproduced below with the questions in bold and the answers in italics:

> **9. What is allowable for funding ratepayer-funded incentive programs with utilities? Under SEP rules, states cannot use DOE funding to replace ratepayers' funds, but can supplement these funds by offering incentives above and beyond those funded with ratepayer funds. Can we simply add ARRA funds to a rebate program to allow more rebates by using ratepayer and ARRA funds? Does it matter whose funds are spent first? If ARRA funds are spent first, does this not supplant ratepayer funds? If the ARRA funds have to be spent when ratepayer funds are exhausted, does that present problems with spending ARRA funds within a certain time frame?**
>
> *The state must provide assurance that state funds do not supplant program funds and that they are spent in the required timeframe. As long as the ARRA funds increase the total amount of funds available for rebates—they may not replace originally available funds that are then removed from the program—this would be acceptable. The rebate program should be designed to ensure that all sources of funds are spent within the applicable budget period.*
> *ARRA funds also should be spent and tracked according to program guidance. The state should coordinate rebate activities with the ARRA appliance rebate program when funds become available.*
>
> **15. Can ARRA funds be used for utility incentive programs? Can ARRA money be used to replace current funding? If funding for an incentive has run out, can ARRA money be used to provide additional incentives? Can ARRA funding be used to create new incentives from utilities? Can ARRA funding be used to increase the amount of a utility incentive? What uses of ARRA funding are prohibited for utility incentive programs?**
>
> *ARRA funds cannot be used to supplant (replace) current funding. The funds can be used to: (1) supplement current funding; (2) fund activities that no longer have funding available; and (3) implement new initiatives such as new incentives from utilities. The current prohibited expenditures apply to all SEP-funded activities.*

PPL Electric St. 1-R, p. 6.

Consistent with the answer to No. 9 and as noted above, ARRA funds increase the total amount of funds available for energy-efficiency and conservation efforts in Pennsylvania. PPL Electric St. 1-R, p. 7. Moreover, consistent with the answer to No. 15, PPL Electric's EE&C Plan does not propose that any ARRA funds supplant or replace any Act 129 funding. PPL Electric's EE&C Plan and any ARRA funding will <u>supplement</u> each other and increase the total amount of funding for conservation in the Commonwealth. *Id.*

DEP's proposal, if adopted, would have a negative effect on PPL Electric's ability to meet its reduction targets. PPL Electric St. 1-R, p. 7. Prorating savings would likely result in customers' projects not meeting the cost-effective eligibility requirements of PPL Electric's commercial and industrial programs. *Id.* Limiting or potentially eliminating PPL Electric's ability to participate in any commercial and industrial customer project that receives Act 1/ARRA funding would be devastating because 65% of PPL Electric's EE&C Plan reductions are expected to come from commercial and industrial customers. PPL Electric likely would have to withdraw those programs completely from its EE&C Plan. *Id.*

For the reasons discussed above and in PPL Electric's Main Brief, the Commission should reject DEP's request to limit the ability of an EDC to fully include the energy-efficiency and conservation benefits in the TRC test if any portion of the EDC's efforts is attributable to Act 129.

#### c. Customers That Purchase Generation Supply From an EGS

Richards Energy avers that customers that purchase generation supply from an EGS should not have to contribute to certain estimated annual costs. Richards Energy Main Brief, p. 14. Richards Energy states that shopping customers should be provided with a lower charge or a credit on their bills. *Id.* The Commission's *Implementation Order* provides that "[w]hen the EE&C plans to be offered by EDCs will benefit both shopping and non-shopping customers, the cost recovery mechanism shall be non-bypassable, and structured such that it will not affect the EDC's price to compare."[6] As explained in PPL Electric's Main Brief (p. 23), all customers, shopping and non-shopping, who take advantage of the programs included in the EE&C Plan will reduce their electricity consumption and save money regardless of their generation supplier. Further, all customers, even those who do not participate in the Company's programs, will benefit from lower wholesale energy and capacity prices over time due to lower electricity consumption. *Id.* Therefore, Richards Energy's proposal should be rejected as it is inconsistent with the policy stated in the *Implementation Order*.

#### d. Verification

Richards Energy avers that the Efficient Equipment Incentive Program (both for Residential and Small C&I sectors) lacks verification steps and that customers can just purchase new equipment without replacing older equipment. Richards Energy Main Brief, p. 5. These concerns are without merit. The objective of this program is to encourage customers to install high-efficiency equipment, whether the customer's reason for installing that equipment is for new construction, to replace less-efficient equipment, to replace failed equipment, or to add equipment to an existing facility (such as Richards Energy's example of adding an air conditioner to a previously non air conditioned space). Regardless of the customer's reason for installing the equipment, the clear objective of the program is to encourage the customer to install more-efficient equipment than they would otherwise install (without PPL Electric's program). As such, PPL Electric's rebates are designed to cover a portion of the incremental cost between "standard efficiency" equipment (such as a SEER 13 heat pump) and more-efficient equipment (such as a SEER 15 heat pump).

[6] *Energy Efficiency and Conservation Program Implementation Order*, Docket No. M-2008-2069887, entered on January 16, 2009 ("*Implementation Order*") at p. 38, Reconsideration Order entered May 2, 2009.

Regarding verification, Richards Energy is requesting that PPL Electric verify that the new energy efficient equipment is replacing the older inefficient equipment prior to providing incentive payments. Richards Energy Main Brief, p. 5. PPL Electric's EE&C Plan includes a description of its EM&V process for each program and clearly states that EM&V will comply with the TRM and the methods determined by the statewide EE&C Plan Evaluator. *See e.g,.* PPL Electric Exhibit 1, § 6. To the extent that savings are determined relative to previously installed equipment and not to a specified "baseline" (such as a SEER 13 heat pump, regardless of the type of equipment previously installed), then PPL Electric would certainly require customers to provide the necessary information as part of the enrollment process and PPL Electric would perform the necessary verifications as part of its EM&V. *Id.* Therefore, Richards Energy's assertions concerning the Efficient Equipment Incentive Program are without merit.

### 3. Issues Relating to Individual Conservation and Demand Reduction Programs

Several parties in their main briefs (and testimony) suggest revisions to one or more of the proposed programs. Most of these suggested revisions are specifically addressed in PPL Electric's Main Brief or generally addressed in recognition of the fact that there are many combinations of measures that could successfully meet Act 129's requirements. In this regard, several parties proposed what they described as small or minor changes to the Plan. These parties appear to either underestimate or completely ignore the integrated nature of the Plan. *See e.g.,* Richards Energy Main Brief, pp. 6-13; FDSI Main Brief, pp. 4-5. As stated in PPL Electric's Main Brief, every change impacts some other portion of the portfolio and would require "rebalancing" to fully identify the impact. PPL Electric Main Brief, p. 11. This is a particular problem because of the 2% cost cap. Because Act 129 placed a 2% expenditure cap on EE&C Plans, any increased cost due to a change proposed by a party in one measure of PPL

Electric's Plan would require a corresponding cost reduction in another part of the Plan. The rebalancing of costs would be required to ensure that the Plan would remain under the applicable cost cap. PPL Electric reiterates that it strongly believes that absent "fatal flaws" (such as non-compliance with the objective requirements of Act 129), it is not in the public interest to continue to iterate, "fine-tune," and rebalance the Plan at this time. PPL Electric Main Brief, pp. 11-12.

### a. Residential Energy Assessment & Weatherization

Mr. Epstein objects to the $50 customer cost for a walk-through survey under the Residential Energy Assessment & Weatherization program. Epstein Main Brief, p. 9. The indicated $50 is the customer's share of the cost of a walk-through audit estimated at $100. In designing this program, PPL Electric has assumed that the requirement that customers contribute to the cost of the audit is a prudent measure for reducing free-ridership and increasing the likelihood that participants would indeed install energy saving measures. Moreover, as noted in the EE&C Plan, if customers implement more than one of the recommended measures, their $50 cost is reimbursed 100% through bonus rebates. PPL Electric Exhibit 1, p. 51.

### b. Compact Fluorescent Lighting Campaign

Mr. Epstein avers that PPL Electric's CFL program will not meet the projected targets. Epstein Main Brief, p. 15. Mr. Epstein's assertion that the CFL campaign will not meet the projected targets is based on a misleading interpretation of PPL Electric's surveys regarding CFL use. This issue is fully discussed in PPL Electric's Main Brief (p. 29) in relation to a similar argument raised by SEF. In short, customers are not fully utilizing CFLs at this time, and there is significant potential to increase CFL use because only 28% of the eligible bulb sockets in the customer's home have CFLs. PPL Electric Main Brief, p. 29.

### c. Direct Load Control Program

#### (1) Demand Response CSPs

ClearChoice makes four specific recommendations all designed to promote its own narrow self interest.[7] First, while acknowledging PPL Electric's plan to solicit bids from demand response CSPs to provide blocks of firm curtailable load, ClearChoice avers that the size of the blocks should be a minimum of 1 MW. ClearChoice Main Brief, p. 15. Second, ClearChoice recommends that the Commission cap the amount of demand reduction that a single provider can be awarded. ClearChoice Main Brief, p. 11. Third, ClearChoice requests a 25% set aside in the demand response program be established for "disadvantaged businesses" along with a waiver of the collateral requirements. Fourth, ClearChoice avers that all marketing materials and presentations by PPL Electric state that customers may sign up through any PJM demand response curtailment service provider. All four of these requests are thinly veiled efforts to promote ClearChoice as a demand response CSP and should be rejected.

As stated in its Main Brief (p. 33), PPL Electric plans to solicit bids from demand response CSPs to provide blocks of firm curtailable load and/or direct load control. The blocks are expected to be between 5 MW and 25 MW in size, and the Company will select the most cost-effective combination. *Id.* The Company is currently drafting the demand response RFP and is evaluating the appropriate block size. That evaluation is not complete at the time of filing this Reply Brief. However, the Company expects that the minimum block size will not be larger than 5 MW and may be smaller. ClearChoice, for the first time in its brief, requests that this block size be reduced to 1 MW. ClearChoice Main Brief, p. 15. This proposal was not made in filed testimony or at the hearing. There is no record evidence to support this request, and it

[7] ClearChoice relies on and cites to material in its brief that were not admitted into the record in this proceeding. PPL Electric objects to ClearChoice's reliance on out of record material to support its positions taken on brief.

therefore should be rejected.[8] PPL Electric has had no opportunity to review ClearChoice's proposal to determine whether it is practical or appropriate to implement and no opportunity to respond on the record; therefore, ClearChoice's proposal should be denied.

ClearChoice also recommends that the Commission cap the amount of demand reduction that a single provider can be awarded. ClearChoice Main Brief, p. 11. PPL Electric fully addressed in its Main Brief (p. 33) the request for a cap on the amount of demand reduction that a single provider can be awarded. As stated in the Main Brief, the granularity of the blocks to be bid on by the CSPs alleviates the need for any cap on the amount of demand response a single provider can serve because the limited size of the blocks will allow for a robust bidding process from entities of all sizes and means. PPL Electric Main Brief, p. 34.

ClearChoice also requests a 25% set aside in the demand response program for disadvantaged businesses, with the proviso that disadvantaged businesses would not have to post collateral in the program. ClearChoice Main Brief, p. 13. At the outset, it is critical to point out that neither the set aside concept nor the waiver of the collateral provisions are addressed in the record and are raised for the first time in ClearChoice's Main Brief. Therefore, these issues are not supported by testimony and should not be considered in this proceeding.

On the merits, PPL Electric believes that because the Company plans to establish a competitive bidding system for the firm load reduction blocks, it is not appropriate to establish a 25% set aside for "disadvantaged businesses." Such a set aside could negatively affect the competitive nature of the bid process and not result in the best price, including the possibility of an inherent incentive for disadvantaged businesses to quote higher prices. Further,

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[8] 52 Pa. Code § 5.431(b) expressly provides:

> (b) After the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion.

"disadvantaged businesses" are addressed in the Company's CSP bid evaluation criteria that were approved by the Commission. Moreover, it is not clear how ClearChoice would propose that PPL Electric determine the 25% set aside. For example, is ClearChoice requesting that 25% of the demand response CSPs be disadvantaged businesses or is the 25% set aside to be based on the total demand response load?

Further, the requested waiver of the collateral provisions is inappropriate. The posting of collateral is very important because it is the only way PPL Electric can insure a CSP's performance. Moreover, due to the cost cap and penalty provisions implemented by Act 129, the Company could face a substantial risk of loss if collateral is not posted. For example, if a CSP does not perform its task, and PPL Electric does not comply with Act 129, PPL Electric is liable for any penalties. If a CSP posts collateral in addition to incentivizing performance, those funds could at least be available to mitigate its liabilities in the event of default. ClearChoice also makes the unsupported claim that "disadvantaged" businesses necessarily have limited capital. ClearChoice Main Brief, p. 12. This assertion misconstrues how the term "disadvantaged" is used in this context. ClearChoice has defined a "disadvantaged business" as a minority/women/persons with disabilities-owned businesses. ClearChoice Main Brief, p. 12, *citing* 52 Pa. Code § 69.804. However, ClearChoice then makes the unsupported comment that these businesses have limited capital. This assertion is not supported by the definition cited or by the record in this proceeding. There is nothing in the record that indicates that these businesses could not post collateral, and there is no evidence that these businesses only have limited capital. Therefore, ClearChoice's requests regarding the set aside and the waiver of collateral are not supported by the record and should be rejected.

ClearChoice's recommendation concerning the marketing materials should also be rejected. Customers may participate in PPL Electric's Act 129 demand response program only, PJM's demand response program only, or both. If customers participate in PPL Electric's demand response program, they must enroll through PPL Electric's Act 129 demand response program and they must use PPL Electric's Act 129 demand response CSP(s). In addition, a customer that has an existing contract with a PJM curtailment service provider other than PPL Electric's CSP may participate in PPL Electric's program alone, a PJM program alone or may participate in both. Tr. 169. Further, if a customer is a PJM member and acts as its own curtailment service provider, the customer is allowed to participate in PPL Electric's program. *Id.* The load control program is highly flexible in order to meet a customer's requirements. In addition, the CSPs who are selected to deliver firm MW reductions for the Company's demand response programs are the entities who will be responsible for marketing and for recruiting participants. PPL Electric Exhibit 1, p. 150.

**d. Time of Use Rates**

SEF's assertion that the time-of-use ("TOU") program be removed from PPL Electric's EE&C Plan should be rejected. SEF Main Brief, p. 23. SEF's basic contention is that PPL Electric included within its EE&C Plan a TOU program that has not been approved by the Commission. This argument ignores the fact that a full review of the proposed TOU rates is pending before the Commission.

PPL Electric was required to make a TOU filing by January 1, 2010. 66 Pa.C.S. § 2807(f)(5). The EE&C Plan states that "[p]ursuant to the Commission-approved settlement at Docket No. P-2008-2060309, PPL Electric will make a separate filing for Commission approval of a Time of Use program for all eligible customers effective January 1, 2010. PPL Electric will endeavor to make this filing by July 31, 2009." PPL Electric Exhibit 1, p. 84. PPL Electric filed the new optional TOU program on July 31, 2009, at Docket No. R-2009-2122718. Currently, the Commission is in the process of evaluating the proposed TOU program.

Moreover, PPL Electric's Plan contains sufficient information to evaluate the TOU rates for the purposes of Act 129. Consistent with Section 2806.1(b)(F) of Act 129, PPL Electric provided estimates of all of the costs and benefits of PPL Electric's EE&C Plan. *See* PPL Electric Exhibit 1, p. 87. The actual values will be determined during the evaluation, measurement and verification process and verified by the Statewide Evaluator. Moreover, the filing in Docket No. R-2009-2122718 provides extensive information regarding PPL Electric's proposed TOU rate program. The TOU program is an integral part of PPL Electric's strategy for meeting the peak demand reductions required by Act 129, and to remove it from the EE&C Plan would deny customers an essential tool required to use energy more wisely under Act 129.

**e. Energy-Efficiency Behavior & Education**

**(1) The Distinction Between Education and Marketing**

Mr. Epstein avers that PPL Electric will receive marketing benefits from its sponsoring of presentations and demonstrations under the Energy-Efficiency Behavior & Education program and it is difficult to determine how much of the event should be attributed to energy consumption reduction. Epstein Main Brief, p. 17. PPL Electric reiterates that references to "marketing" or "education" in PPL Electric's Act 129 EE&C Plan are directly related and limited to Act 129 energy-efficiency programs. PPL Electric Main Brief, p. 38. This issue is highlighted by the testimony of PPL Electric witness Cleff (Tr. 178). PPL Electric does not anticipate separating marketing and education regarding the EE&C Plan because all of these efforts are intended to promote the conservation efforts under the EE&C Plan and to educate the public about the EE&C Plan. Therefore, no separate determination is required to ascertain what to attribute to energy consumption reduction, because all of the efforts under the EE&C Plan are directed toward that goal.

### f. Low-Income WRAP

#### (1) Population Figures

Mr. Epstein advocates using estimated population data instead of the current census data and also advocates updating the data sets used to evaluate the success of the EE&C's low-income programs. Epstein Main Brief, pp. 10-11. Mr. Epstein appears to be challenging how PPL Electric determined that approximately 6% of PPL Electric's total load is consumed by low-income customers and, therefore, the ability of PPL Electric's Act 129 programs to achieve approximately 6% of the energy consumption and peak load reductions from the low-income customer sector. PPL Electric believes it is appropriate to use population data from the most current census instead of the estimated data. Moreover, continually updating the data sets used would be inappropriate because it would defeat the purpose of establishing reduction goals. Tr. 182. PPL Electric appropriately used the current census data as of the filing date of the Plan and does not believe it is appropriate to adjust the estimated number of low-income customers overtime, thus creating a moving target where the Company would have to constantly adjust the Plan percentages. *Id.*

### g. Low-Income E-Power Wise

Mr. Epstein argues that PPL Electric has failed to identify the nature of these incentives and other factors such as the forecasted average cost per customer of the Energy Home Savings Kit. Epstein Main Brief, p. 12. The Energy Home Savings Kit will be distributed at no cost to low-income customers. The cost is categorized in Table 68 of the Plan as a direct utility cost. PPL Electric Exhibit 1, p. 105. Table 68 also shows the direct participant costs to be $0 for each year and for the duration of the program. The average cost per Energy Home Savings Kit (containing two CFLs, one faucet aerator, one showerhead, and educational material) to PPL Electric is $44.50.

### h. Commercial and Industrial Custom Incentive Program

#### (1) The Whole Facility Approach

DEP opposes individual rebate programs for government buildings because these programs may impair the ability to obtain significant long term energy consumption reductions through guaranteed energy savings contracts provided by energy service companies. DEP Main Brief, p. 7. DEP concludes that the rebate programs proposed by PPL Electric should only be implemented if they are part of a larger whole building conservation program. *Id.* PPL Electric addressed this issue in its Main Brief (p. 40); however, it is important to highlight certain aspects of the EE&C Plan that further address DEP's concerns.

PPL Electric's plan emphasizes customer choice regarding the approach to energy savings. Its custom program provides generous incentives for governmental customers interested in using a whole-building approach, either through a guaranteed savings contract or any other financial mechanism favored by the customer. PPL Electric Exhibit 1, p. 159. In addition to this option, PPL Electric provides an opportunity for these customers to receive program benefits in situations where a whole-building approach may not be an option (for example, emergency equipment replacement) or may not be desired by the customer (for example, if the customer has limited funds available). PPL Electric understands that it is DEP's position that a whole-building approach is preferred to a single-measure upgrade in order to capture the greater depth of savings, marketing and customer interactions. Therefore, PPL Electric will encourage these customers to pursue a whole-building approach wherever possible. This is not only in PPL Electric's best interest; it will be essential to meeting the savings requirements for customers in the government sector. PPL Electric, however, maintains that by making prescriptive equipment incentives unavailable to government sector customers, the Commission would be effectively denying widely-available program benefits to a single customer segment and potentially eliminating opportunities to capture savings from single measures when the benefits are available and warranted, and may prevent PPL Electric from meeting its Act 129 targets for the government and non-profit sectors.

#### i. HVAC Tune-Up Program

FDSI, similar to the position taken in its filed testimony, avers that PPL Electric should expand the HVAC Tune-Up Program and estimated participation level. FDSI Main Brief, p. 8; FDSI St. 1, p. 23. FDSI's expansion proposal is fully addressed in PPL Electric's Main Brief (p. 42). In summary, PPL Electric does not believe it is necessary or appropriate to expand the HVAC Tune-up Program at this time, but if actual participation levels exceed the estimated level in the Plan, PPL Electric would likely consider making the program available to more participants. PPL Electric Main Brief, p. 42.

A further response by the Company is warranted because of the additional attempts by FDSI to advocate changes to the EE&C Plan that, in the end, are intended to solely benefit FDSI's interests. First, FDSI states that if its initial request to expand the HVAC Tune-Up Program is rejected and PPL Electric's proposal to consider making the program available to more participants at a future date is accepted, the Commission should order the establishment of certain review parameters. FDSI Main Brief, p. 12. At the outset, there is nothing in the record that supports review parameters, nor does FDSI cite any support for its proposed review parameters; therefore, the proposals should be rejected. PPL Electric presented, as part of its EE&C Plan, detailed quality assurance and evaluation, measurement and verification protocols. PPL Electric Exhibit 1, § 6. These protocols provide for the evaluation and assessment of a program to determine which program processes work and which ones do not, and how the process or activity may be improved. *Id.,* p. 197. Moreover, PPL Electric has proposed a specific process and criteria for updating the Plan that includes stakeholder input and Commission approval of certain changes. PPL Electric Main Brief, p. 73. This effort will include issues related to the HVAC Tune-up Program. PPL Electric believes that its proposed review process will adequately address the potential for making the HVAC Tune-up Program available to more participants.

Second, FDSI requests that protocols and procedures for tune ups, as set forth in the Direct Testimony of FDSI witness Rossi, be incorporated into PPL Electric's Plan. FDSI Main Brief, pp. 14-16. Moreover, FDSI states that the financial incentives should only be rewarded for measures that are implemented according to appropriate industry protocols and procedures. *Id.* There is no need for the Commission to adopt the proposal advocated by FDSI. PPL Electric intends that all efforts undertaken as part of the HVAC Tune-up Program will be implemented according to appropriate industry protocols and procedures. As stated in the EE&C Plan, quality assurance is an integral part of the design and delivery of all programs in PPL Electric's EE&C Plan. PPL Exhibit 1, p. 193. Moreover, the Plan provides that "[q]uality control measures will be employed at various stages of program design and implementation to ensure the highest industry standards of operational efficiency, effectiveness and customer satisfaction." *Id.* Additionally, as part of this effort PPL Electric, in conjunction with the Quality Assurance and Quality Control CSP, will develop a standard QA/QC manual customized for each program. *Id.*, p. 194. Therefore, FDSI's proposal is not necessary as the EE&C Plan already addresses the issue raised by FDSI.

Finally, FDSI requests that the Commission order PPL Electric to use an automated process for diagnostics relating to the HVAC Tune-up Program. FDSI Main Brief, p. 16. This proposal should be rejected on its face as it is an attempt by FDSI to have the Commission require PPL Electric to purchase the type of diagnostic technology sold by FDSI. As the Plan states, PPL Electric will competitively select an HVAC Tune-up CSP to manage and administer the program, including tracking program data, and reporting to PPL Electric. PPL Electric Exhibit 1, p. 130. Notably, FDSI is able to bid on the CSP request for proposal. Moreover, a quality assurance plan will be developed to ensure contractors are performing program services properly, and the program is realizing energy savings. *Id.* This is an implementation planning/delivery detail and PPL Electric will determine, in collaboration with its program CSP, any implementation strategies and diagnostic protocols appropriate to support the program.

**4. New Programs**

**a. Fuel Substitution - Electric to Gas**

UGI avers that PPL Electric should include a specific program in the EE&C Plan that encourages customers to convert from electric to natural gas appliances. UGI Main Brief, p. 10. PPL Electric responded to this proposal at length in its Main Brief (p. 46). Specifically it is important to point out that UGI does not assert that PPL Electric's EE&C Plan will not meet the Act 129 requirements without the proposed fuel switching program. All UGI argues is that if the Plan encouraged direct end use of natural gas it would improve the Plan under the Commission's TRC Order. UGI St. 1, p. 12. Despite prior Commission determinations to the contrary, UGI advocates that the Commission require PPL Electric's EE&C Plan to be substantially revised to include broad based fuel-switching programs. In summary, the Commission recognized that fuel switching is a complicated topic that requires additional time and effort to fully address, and it established a fuel-switching working group to identify, research and address these issues.

In its Main Brief, PPL Electric addressed the major problems with UGI's fuel switching proposal. PPL Electric Main Brief, pp. 51-52. In summary, (1) adding fuel conversion measures in the EE&C Plan at this juncture would require substantial additional information, particularly on gas availability and gas avoided costs which are not available, and would involve complex regulatory policy, and economic issues; (2) improving energy efficiency with fuel conversion is contradictory because it would result in customers reducing their electric use, by increasing their consumption of natural gas; (3) implementing fuel conversion would likely promote inter-fuel competition; and (4) encouraging conversion to gas may expose PPL Electric's customers to gas price volatility. PPL Electric St. 2-SR, pp. 2-3. Moreover, UGI's proposals to add substantial broad based fuel switching programs to PPL Electric's EE&C Plan pose a very significant risk to PPL Electric's ability to meet its Act 129 requirements. Specifically, although UGI's proposed programs may result in customers reducing their electric usage, the programs will not contribute to PPL Electric meeting its Act 129 peak demand reduction requirements due to the fact that the presumed savings will primarily accrue during the Winter (heating season), which is outside the designated 100 Summer peak hours. PPL Electric Main Brief, p. 53.

In order to support its advocacy of fuel substitution, in its main brief, UGI references a report titled, *Comprehensive Assessment of Demand Side Resource Potentials,* prepared for Puget Sound Energy ("PSE"). UGI Main Brief, pp. 2, 17. One of the investigators on this report was Dr. Haeri, one of PPL Electric's witnesses in this proceeding. UGI attempts to use this report to show that fuel substitution is a cost-efficient measure and will provide long-term, sustainable electric usage and demand reductions in order to obtain Act 129's mandates and that this premise is supported by Dr. Haeri. This assertion by UGI, as discussed in PPL Electric's Main Brief, is without merit.

The referenced study was a comprehensive assessment of all demand-side management options, including energy efficiency, demand response, distributed resources, renewable technologies and fuel conversion over a 20-year (2008-2027) planning horizon. UGI Cross Examination Exhibit 1, p. ES-1. UGI cites certain passages in that study to support its advocacy of fuel switching as a cost-effective and significant addition to PPL Electric's EE&C Plan. UGI Main Brief, p. 22. In its citation, UGI fails to mention important facts about the context and important findings of that study. First, the study was commissioned by PSE, a *combination* utility serving about 1 million electric and 750,000 natural gas customers in Washington state. *See,* UGI Cross Examination Exhibit 1, pp. 2-1, 2-8. Issues regarding fuel switching are obviously quite different for combination companies in terms of lost revenues. Second, the study was conducted to support the utility's biennial integrated electric and natural gas integrated resource plans, which the utility is required to file with the Washington Utilities and Transportation Commission. UGI Cross Examination Exhibit 1, p. ES-1. Integrated planning of this nature has not been done in Pennsylvania. This is why the Commission deferred the issues of fuel switching to the working group.

Third, fuel conversion was one of several options that were studied. Opportunities for cost-effective conversion from electricity to gas were found to be limited to certain end-uses in the residential sector. Fourth, the potential for fuel conversion was found to be limited to less than 5% of the total electric energy-efficiency potential found to be reasonably achievable. Finally, and importantly, the identified potential, if deployed, was found to result in an increase of 1.2 million Dekatherms of gas consumed, which represented more than 17% of the 6.9 million Dekatherms of natural gas energy-efficiency potential available to the utility. UGI Cross Examination Exhibit 1, p. ES-1.

**b. Whole Home Performance Program**

DEP argues that PPL Electric should be required to implement a Whole Home Performance Program using a single CSP statewide. DEP Main Brief, p. 11. DEP refers to

Home Performance with ENERGY STAR as the foundation of such a program. *Id.* DEP asserts that it "believes PECO's Whole Home Performance program is a model that could serve as the basis for a statewide program," and that this argument is supported in its brief filed in PECO's Act 129 proceeding. *Id.* Items related to PECO's Act 129 proceeding are not part of the record in this proceeding. *Id.* Therefore, it is inappropriate for DEP to use these documents to support its position in this proceeding as they are not part of the record.

While DEP appears to support PPL Electric's Energy Assessment & Weatherization Program, it argues that Home Performance with ENERGY STAR ("HPwES") audits should be required. DEP Main Brief, pp. 11-12. DEP's proposal should be rejected. Utility sponsored HPwES programs have been capturing considerably less customer participation than lower cost energy audit programs. HPwES can be very costly for customers and may not meet cost-effectiveness criteria. Moreover, concerns exist about using a single contractor to conduct the audit and install all the equipment. For example, customers may believe they are being sold products that may not be cost effective or necessary. Additionally, the requirement that customers undergo a second "verification" audit following implementation of measures may resulted, in some cases, in customers "dropping out" of the HPwES process early because they see no real benefit from getting a second audit. Therefore, it is very difficult to track results or verify savings. PPL Electric has opted to implement a more cost effective, consumer-friendly program that delivers energy savings (through direct installation measures) and provides an effective marketing tool for weatherization and equipment rebates. State wide programs also remove program accountability and control from utilities and have been shown to have higher administrative costs. Moreover, PPL Electric has already issued a request for proposals for a contractor to administer and deliver its energy audit program and, given the urgency of its projected program launch date, expects to select a CSP and enter into a contract in the coming two months.

## B. COST ISSUES

### 1. Cost Allocation Issues

#### a. Allocation of Institutional Customers

OSBA asserts that Small C&I customers will be subsidizing the required reductions in consumption and peak demand of another class because the Company has grouped Small C&I customers and Government/Non-Profit customers together for cost recovery purposes. OSBA Main Brief, p. 6. This is not correct. OSBA incorrectly states that all government and non-profit entities are within the Small C&I group. OSBA Main Brief, p. 13. As stated in PPL Electric's Main Brief (p. 62) and in rebuttal testimony submitted by the company, PPL Electric allocated the EE&C Plan costs for the institutional customer group (*i.e.,* Government/Non-Profit) to each of the three customer classes—Residential, Small C&I and Large C&I. PPL Electric St. 4-R, p. 6. The allocation of these costs was based upon a ratio of the actual number of institutional customers in each of the three customer classes to the total number of institutional customers on PPL Electric's system. *Id.* A spreadsheet illustrating this is contained in PPL Electric Exhibit JMK-3. This shows that the small business customers will not be unduly burdened with paying for Act 129's programs for these Government/Non-profit customers. Therefore, there is no subsidization, as argued by OSBA.

OSBA also asserts that Government/Non-Profit customers should be placed into a separate rate class for cost recovery purposes. OSBA Main Brief, p. 13. A separate rate class, for cost recovery purposes, for Government/Non-profit customers, as advocated by OSBA, is not necessary as all Act 129 costs will be tracked by class and charged accordingly. Moreover, a separate rate class for Government/Non-profit customers is inconsistent with PPL Electric's current customer rate class designations. PPL Electric has three rate classes: Residential, Small C&I and Large C&I. There is no separate rate class (or separate rate schedules) for Government/Non-profit customers. Government/Non-profit customers, depending on their characteristics, are a subset of either the Residential class, the Small C&I class or the Large C&I class and receive service based on the appropriate rate schedule. OSBA's recommendation is completely inconsistent with the current handling of Government/Non-profit customers, and therefore it should be rejected. As stated above, PPL Electric has allocated the EE&C Plan costs based upon a ratio of the actual number of Government/Non-profit customers in each of the three customer classes to the total number of institutional customers on PPL Electric's system therefore, a separate rate schedule for these customers is not appropriate or necessary for cost recovery purposes.

### C. CSP ISSUES

All of the issues raised by the parties concerning CSPs are fully discussed in PPL Electric's Main Brief at pp. 67-69.

### D. IMPLEMENTATION AND EVALUATION ISSUES

#### a. Criticism of Stakeholder Process

In his main brief, Mr. Epstein reiterates his general criticisms of the PPL Electric's initial stakeholder process concerning the EE&C Plan. Epstein Main Brief, p. 6; Epstein St. 1, p. 4. PPL Electric fully addressed Mr. Epstein's arguments on this point in its Main Brief (pp. 69-70) and believes that the initial stakeholder process provided multiple opportunities to inform stakeholders of the Company's progress and to solicit their input. In response to the repeated claims by Mr. Epstein, the Company would like to point out that no party in this proceeding shares Mr. Epstein's view and notably certain parties expressed support for PPL Electric's efforts concerning the stakeholders. For example, ACORN states that "[r]epresentatives of low income residents were able to participate in a number of the stakeholder meetings, representing the interests of low income customers, and providing [PPL Electric] with feedback regarding the Act's requirements as they relate to low income households." ACORN Main Brief, p. 4. Additionally, "OCA found the initial stakeholder process to be useful in developing a more fully informed Plan and in resolving the numerous issues presented by the requirements of the Act in a beneficial manner." OCA Main Brief, p. 23. For the reasons expressed in the Company's Main Brief, and the additional items cited above, Mr. Epstein's criticisms of the stakeholder process should be rejected.

## E. OTHER ISSUES

### 1. The ACR Should Be Included in the Distribution Charge

#### a. Large C&I

PPLICA suggests two related revisions to PPL Electric's proposed costs recovery mechanism. The first requested revision is to modify the cost recovery mechanism for Large C&I customers to include a demand charge and a uniform customer charge. PPLICA Main Brief, p. 18. This is in addition to PPL Electric's proposed direct assignment of certain costs to specific program participants. The second revision requires PPL Electric to employ the PJM Peak Load Contribution ("PLC") factor in determining Large C&I customer demand for purposes of the EE&C cost recovery mechanism. *Id.*, p. 22.

Regarding PPLICA's requested modifications to the cost recovery mechanism, PPL Electric, in the Act 129 Compliance Rider ("ACR"), has proposed to recover the applicable EE&C program costs from the Large C&I customer class on the basis of monthly billing demands. PPL Electric, St. 4-R, p. 6. This is explained in the Company's response to Question PPLICA-1-7, which was identified as PPL Electric Exhibit JMK-4. The monthly billing demand (Billing KW) will be the average number of kilowatts supplied during the 15-minute period of maximum use during the current period. *Id.* Upon Commission approval of its EE&C Plan, PPL Electric will submit, in its compliance filing, a revised ACR which clarifies this issue. *Id.* The uniform customer charge requested by PPLICA, however, is not appropriate and should be rejected. PPL Electric's proposed EE&C Plan, which was filed in compliance with Act 129, is designed to encourage energy-efficiency and conservation by all electricity customers, including those in the Large C&I customer class. Accordingly, the costs incurred for those EE&C plans should be recovered from customers on the same basis as the behaviors being encouraged, i.e., reducing customer consumption (kWh) and reducing customer demand (kW). Therefore, PPL Electric's proposed recovery through the ACR, on a kW basis, of the applicable EE&C program costs for the Large C&I customer class is consistent with the design of its EE&C Plan and is appropriate for ratemaking purposes.

The request to employ the PLC factor to determine the Large C&I customer demand for cost recovery purposes also should be rejected. PPL Electric does not have reasonable access to the information necessary to employ a PLC factor for the entire Large C&I customer class, which includes both primary (12 kV and higher) and transmission (69 kV and higher) voltage level customers. Moreover, the effort and time required to potentially ascertain this information for all customers who are included in the Large C&I customer class, initially and on an ongoing basis, would be administratively burdensome and would not be cost-effective, given the amount of EE&C Plan costs to be assigned to this customer class. Therefore, the use of the PLC factor is not appropriate in the context of the proposed ACR.

**b. Competition Act**

OSBA opposes PPL Electric's proposal to include the ACR in its distribution rates for billing purposes. OSBA Main Brief, pp. 13-14. Specifically, the OSBA contends that the costs associated with the Plan are not distribution costs, but, instead "are subsidies to a subset of customers to encourage participation in conservation programs." *Id.*, p. 13. In addition, the OSBA asserts that the inclusion of EE&C Plan costs into the distribution rates violates the *Electricity Generation Customer Choice and Competition Act* ("Competition Act") mandate of unbundled charges for transmission, distribution and generation and that rates and rate structures be set for each service primarily on a cost-of-service study. *Id.*, pp. 13-14, *citing Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010, 1020 and 66 Pa.C.S. § 2804(3). Further, OSBA avers that customers may view the inclusion of the ACR in the distribution rates as a distribution rate increase and that this confusion may complicate the requirement to move distribution rates to cost of service. *Id.*, p. 14.

The OSBA's assertions are incorrect and ignore one of the stated policies of the Competition Act which is:

> that there are certain public purpose costs, including programs for low-income assistance, energy conservation and others, which have been implemented and supported by public utilities' bundled rates. The public purpose is to be promoted by continuing universal service and energy conservation policies, protections and services, and full recovery of such costs is to be permitted through a nonbypassable rate mechanism.

66 Pa.C.S. § 2802(17).

Consistent with this policy, PPL Electric proposed the ACR as a rider to be included in the distribution charges on customers' bills, in the same manner as the Company's Universal Service Rider ("USR") is included in the distribution charges on residential customers' bills. The Company's proposed approach is consistent with the Commission-approved approach it currently is following with other Section 1307 (e) cost recovery mechanisms such as the USR, Remand Rider-1 and Remand Rider-2. OSBA has provided no evidence that it is inappropriate to treat the ACR any different than the USR.

In addition, OSBA's position confuses unbundling issues with billing issues. PPL Electric has fully complied with the rate unbundling requirements of the Competition Act. The issue of how much detail to provide on a customer's bill is a separate and discrete issue. PPL Electric's tariff has many riders that are currently included in the distribution charge on its bills to customers, for example, the USR, Remand Rider-1, Remand Rider-2, the Renewable Energy Development Rider, and the Metering and Billing Credit Rider.

Moreover, PPL Electric's bills have become very complicated over the past several years, and the Company believes that adding another line item to the bill may unnecessarily confuse customers. Most of PPL Electric's customers prefer simpler bills with fewer line items. This is particularly the case since the estimated level of the ACR is very small and no purpose would be served by placing a separate line item for such a small amount on customers' bills. *See* PPL Electric Main Brief, pp. 72-73.

### 2. EE&C Plan Updates

The Company proposed specific process and criteria for updating the Plan in its Main Brief (p. 74). As part of that proposal PPL Electric defined the term "a major change" as "one that will increase the cost of the program by more $5 million or more than 10%, whichever is greater." PPL Electric hereby proposes to revise the definition to "one that will <u>change</u> the <u>total estimated</u> cost <u>for a customer sector</u> by more <u>than</u> $5 million or more than 10%, whichever is greater." Therefore, the Company's proposal, in its entirety is as follows:

PPL Electric will be permitted to modify a measure or program, *e.g.*, adjust incentive levels, estimated participation levels, delivery details, add/delete/modify measures, redirect resources from underperforming measures/programs to more successful measures/programs, and other program elements, to achieve EE&C Plan objectives. For minor changes, PPL Electric will be permitted to adopt these changes without prior Commission approval, but PPL Electric will notify the Commission and stakeholders of these changes through its quarterly and annual EE&C report to the Commission. For major changes, PPL Electric will notify stakeholders and the Commission, discuss these changes with stakeholders and seek appropriate Commission approval. For purposes of this proposal, a major change is defined as one that will change the total estimated cost for a customer sector by more than $5 million or more than 10%, whichever is greater. Cost changes adopted pursuant to this process will be fully recoverable by PPL Electric through the ACR.

## VI. CONCLUSION

WHEREFORE, for all the foregoing reasons discussed in this Reply Brief and the Company's Main Brief, the Energy Efficiency and Conservation Plan of PPL Electric Utilities Corporation should be approved.

Respectfully submitted,

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