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File #: 2507/140059

November 12, 2010

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: PPL Electric Utilities Corporation's Universal Service and Energy Conservation Plan for 2011 - 2013
Docket No. M-2010-2179796

Dear Secretary Chiavetta:

Enclosed please find the Answer of PPL Electric Utilities Corporation to the Amended Petition to Intervene of The Pennsylvania Communities Organizing for Change for the above-referenced proceeding. Copies will be provided as indicated on the certificate of service.

Respectfully Submitted,

Anthony D. Kanagy

ADK/skr
Enclosures
cc: Honorable Susan D. Colwell
Certificate of Service

CERTIFICATE OF SERVICE

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

VIA E-MAIL and FIRST CLASS MAIL

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Date: November 12, 2010

Anthony D. Kanagy

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PPL Electric Utilities Corporation	:	
Universal Service and Energy	:	Docket No. M-2010-2179796
Conservation Plan for 2011-2013	:	

ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO THE AMENDED PETITION TO INTERVENE OF THE PENNSYLVANIA COMMUNITIES ORGANIZING FOR CHANGE

TO ADMINISTRATIVE LAW JUDGE SUSAN D. COLWELL:

PPL Electric Utilities Corporation ("PPL Electric" or the "Company") hereby submits this Answer to the Amended Petition to Intervene of the Pennsylvania Communities Organizing for Change d/b/a Action United, Inc. ("PCOC"), pursuant to 52 Pa. Code § 5.66 and the Second Prehearing Order issued by Administrative Law Judge Susan D. Colwell (the "ALJ") on October 29, 2010, in the above-captioned proceeding. By way of general response, PPL Electric objects to PCOC's intervention in this proceeding because it has failed to comply with the Commission's regulations regarding petitions to intervene, has failed to allege sufficient facts to support its standing to participate in this proceeding, and has failed to comply with the requirements of the ALJ's Second Prehearing Order. In support of this Answer, PPL Electric states as follows:

1. Admitted.

2. Admitted.

3. Denied as stated. The Amended Petition was filed by the Pennsylvania Communities Organizing for Change d/b/a Action United, Inc.

4. Admitted.

5. Admitted.

6. Denied. It is specifically denied that PCOC has complied with the requirements of the ALJ's Second Prehearing Order. The Amended Petition has not provided a list of PCOC's members and has not indicated which of its members are customers of PPL Electric. Instead, the Amended Petition identifies four members of PCOC who are customers of PPL Electric, but fails to allege that any of the identified members are low-income customers of PPL Electric or that those members have authorized PCOC to represent their interests in this proceeding. In addition, PCOC has provided no further information regarding the relationship between PCOC and Action United despite a direct request to do so from the ALJ.

By way of further response, it should be noted that, after reasonable investigation, PPL Electric alleges that there is no corporate entity "Action United, Inc." Rather, it appears that "Action United" is a fictitious name registered with the Pennsylvania Department of State and is not a separate corporate entity. A true and correct copy of Pennsylvania Department of State Business Entity Filing for Action United is attached hereto as Appendix A. Also, it is not clear whether individuals or entities that become members are actually members of PCOC or Action United. Indeed, it is unclear from PCOC's membership enrollment/donation website whether the members are joining PCOC or Action United. A true and correct copy of the membership enrollment/donation page is attached hereto as Appendix B. In fact, it is not clear that individuals who enroll through the website even know whether or not they are becoming members of PCOC.

7. Admitted in part and denied in part. It is admitted that PCOC is a non-profit domestic corporation operating and existing pursuant to the laws of the Commonwealth. After reasonable investigation, PPL Electric is without sufficient information to admit or deny the truth

of the averment that PCOC is a membership-based advocacy organization or that its application for 501(c)(4) status is pending.

PPL Electric also denies that PCOC's mission is to advocate on behalf of low and lower income persons for the purpose of access to affordability of utility service. Rather, PCOC's mission statement provides that "Action United is a membership organization of low and moderate income Pennsylvanians working to build power through organizing communities to win changes on the issues that are important to them." A true and correct copy of the PCOC/Action United Mission Statement is attached hereto as Appendix C. It is therefore denied that PCOC represents exclusively the interests of low and lower income citizens. In addition, it does not appear that there is any income requirement for membership in PCOC. Indeed, it appears that anyone can join PCOC regardless of income. *See* Appendix B.

8. Admitted in part and denied in part. It is admitted that PCOC does not have an office within PPL Electric's service territory. The remainder of the averments set forth in Paragraph 8 of the Amended Petition are denied. PCOC has failed to sufficiently show that it has an adequate interest in this proceeding.

Pursuant to the Commission's regulations, a petition to intervene may be filed by a person claiming, *inter alia*, an interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding. *See* 52 Pa. Code § 5.72(a).[1] A petition to

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[1] The purpose of the requirement of standing is to protect against improper parties. In order to meet that requirement, a party must allege and prove an interest in the outcome of the action that surpasses the common interest of all citizens in procuring obedience to the law. To surpass the common interest, the interest is required to be, at least, substantial, direct, and immediate. *Application of Biester*, 487 Pa. 438, 442-443, 409 A.2d 848, 851 (1979) (*citing William Penn Parking Garage v. City of Pittsburgh*, 464 Pa. 168, 192, 346 A.2d 269, 281 (1975)).

intervene must set out clearly and concisely, *inter alia*, the facts from which the alleged intervention right or interest can be determined, and the grounds of the proposed intervention. *See* 52 Pa. Code § 5.73(a).

From the representations made in the Amended Petition, PCOC has no interest, direct or otherwise, that can be affected by this proceeding in which it seeks to intervene. PCOC does not assert that it is a customer of PPL Electric, consequently, there is no factual basis on which PCOC can assert that its interests are or could be affected by the outcome of this proceeding. In the absence of such an interest, PCOC is not eligible to intervene in this proceeding. *See* 52 Pa. Code § 5.72(a). Therefore, because PCOC's Petition contains no statement of any interest, direct or otherwise, that could be affected by the outcome of this proceeding, the Petition does not comply with 52 Pa. Code § 5.73 and, on that basis alone, should be denied.

To the extent that PCOC purports to obtain standing through its members that reside within PPL Electric's service territory and are customers of PPL Electric, the Amended Petition fails to comply with the requirements for representational standing. An association may have standing solely as a representative of its members. *Tripps Park v. Pa. PUC*, 415 A2d 967 (Pa. Cmwlth. 1980). However, to have representational standing before the Commission, the association must not only demonstrate an immediate direct and substantial interest or injury, it must also demonstrate either: (a) the representative will fairly and adequately represent those who have a sufficient interest, and that those entitled to complain are unable to adequately pursue their interests; or (b) there is a showing that the allowance of the representative's participation will aid the Commission in the development of facts necessary for a proper disposition of the proceedings. *Manufacturers Association of Erie v. The City of Erie-Bureau of Water*, Docket No. 20518, 50 Pa. PUC 43, 1976 Pa. PUC LEXIS 79 (1976). On the facts alleged, PCOC does

not have representational standing to represent the interests of low income customers in PPL Electric's service territory. As explained above, it appears that anyone can join PCOC regardless of income, and that PCOC does not exclusively represent the interests of low income citizens. *See* Appendix B. Further, the Amended Petition fails to allege how PCOC's participation will aid the Commission in the development of the facts necessary in this proceeding.

Further, the Amended Petition fails to comply with the Commission's regulations regarding representational standing. Section 5.73(b) of the Commission's regulations provide that:

> When circumstances warrant, petitions to intervene filed on behalf of more than one person may be required to list those persons and entities comprising the represented group.

52 Pa. Code § 5.73(b). Although PCOC has inserted a footnote into the Amended Petition indicating that four of its members are customers of PPL Electric, PCOC has failed to provide a list of its members as required by the Commission's regulations.[2] Therefore, consistent with 52 Pa. Code § 5.73(b), to the extent that PCOC claims to represent more than one person it should be required to list those persons and entities comprising the represented group, confirm whether the members are members of PCOC or Action United, confirm whether its members are low income individuals and/or actually participate in the Universal Service and Energy Conservation programs at issue in this proceeding, and confirm that it is authorized to represent the interests of those individuals in this proceedings.

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[2] PPL Electric acknowledges that the four individuals referenced in footnote 2 of the Amended Petition are customers of PPL Electric, and that one of those four individuals is a Universal Service customer. However, footnote 2 of the Amended Petition fails to satisfy the requirement that PCOC provide a list of its members and identify whether these members have a substantial, direct, and immediate interest that may be affected by this proceeding, or whether these members have authorized PCOC to represent any interests they may have in this proceeding.

Moreover, the Petition does not explain the relationship between Action United and PCOC. The verification appended to the Amended Petition is signed by the Executive Director of PCOC d/b/a Action United, Inc. However, as explained above, there is no corporate entity "Action United, Inc." and it is not clear whether individuals or entities that become members are actually members of PCOC or Action United. As such, it is unclear whether the members of PCOC/Action United have authorized PCOC to represent any interests they may have in this proceeding.

9. Denied. The averments of Paragraph 9 of the Amended Petition contain statements of PCOC's subjective intent in this proceeding. As such, they are not averments of facts, and therefore, no response is required. To the extent that a response is deemed necessary, PPL Electric denies the same.

By way of further response, it is denied that no other active party exclusively represents the interests of low-income customers. PCOC does not exclusively represent the interests of low-income customers. Indeed, as noted above, PCOC's mission statement indicates that it is "a membership organization of both low and moderate income Pennsylvanians." *See* Appendix C. Further, it appears from the membership enrollment/donation website that any individual or entity may become a member of PCOC/Action United regardless of their economic status. *See* Appendix B. The Pennsylvania Office of Consumer Advocate intervened and has been active in this proceeding advocating on behalf of all PPL Electric's residential customers, including low income residential customers. Finally, as explained above, it is unknown whether PCOC/Action United represents more than one customer that participates in PPL Electric's Universal Service and Energy Conservation programs. For these reasons, PCOC has failed to allege sufficient facts

to support a finding that, absent PCOC's intervention, the interests of its purported members will not adequately be represented in this proceeding.

10. Denied. The averments set forth in Paragraph 10 of the Amended Petition relate to and reference a statute, the terms of which speak for themselves. Any interpretation, characterization, or quotation thereof is denied.

11. Denied. The averments set forth in Paragraph 11 of the Amended Petition contain a legal conclusion of law, to which no responsive pleading is required. To the extent a response is deemed necessary, PPL Electric specifically denies the same and states that any such conclusions are solely within the province of ALJ and the Commission to determine. By way of further response, the Commission's statutory obligation under the Public Utility Code does not somehow excuse the requirement that a petition to intervene set out clearly and concisely the following:

> (1) The facts from which the alleged intervention right or interest of the petitioner can be determined.
>
> (2) The grounds of the proposed intervention.
>
> (3) The petitioner's position regarding the issues in the proceeding.

52 Pa. Code § 5.73(a). As noted above, the Amended Petition fails to clearly and concisely allege the intervention right of its purported members or their grounds for the proposed intervention. Further, the Amended Petition fails to provide any indication of the position of PCOC's members regarding PPL Electric's proposed Universal Services and Energy Conservation programs. PCOC's bare assertions of general concern fail to meet the "clear and concise" standard set forth in Section 5.73(a) of the Commission's regulations.

12. Paragraph 12 of the Amended Petition identifies PCOC's counsel in this proceeding, to which no response is required. To the extent a response is deemed necessary, PPL Electric denies the same.

WHEREFORE, PPL Electric Utilities Corporation objects to intervention of the Pennsylvania Communities Organizing for Change d/b/a Action United, Inc. in the above-referenced proceeding and, for the reasons explained, above respectfully requests that Administrative Law Judge Susan D. Colwell deny the Amended Petition to Intervene

Respectfully submitted,

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Of Counsel:

Post & Schell, P.C.

Date: November 12, 2010

Attorneys for PPL Electric Utilities Corporation

VERIFICATION

I, Timothy R. Dahl, being the Manager-Regulatory Programs and Business Services at PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that PPL Electric Utilities Corporation 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.

Date: Nov. 11, 2010

Timothy R Dahl

Timothy R. Dahl

Appendix A

PENNSYLVANIA
Department of State

Corporations

Search
By Business Name
By Business Entity ID
Verify
Verify Certification
Online Orders
Register for Online Orders
Order Good Standing
Order Certified Documents
Order Business List
My Images
Search for Images

Business Entity Filing History

Date: 11/8/2010 (Select the link above to view the Business Entity's Filing History)

Business Name History

Name	Name Type
Action United	Current Name

Fictitious Names - Domestic - Information

Entity Number:	3970067
Status:	Active
Entity Creation Date:	7/26/2010
State of Business.:	PA
Principal Place of Business:	846 North Broad Street Philadelphia PA 19130
Mailing Address:	No Address

Owner Information

Owner(s) for:	Action United

Owners

Name:	**Pennsylvania Communities Organizing for Change, Inc.**
Mailing Address:	846 N Broad St Philadelphia PA 19130

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Commonwealth of PA Privacy Statement

Appendix B

Your Information

First Name*
Last Name*
Email*
Phone*
Cell Phone
Street*
Street 2
City*
State/Province*
Select a state
Zip/Postal Code*
Organization

This donation is...

in honor of *Keep blank if none*

Name
Email
Address

in memory of *Keep blank if none*

Name

Donation Amount

By contributing on a recurring, monthly basis, your contribution goes further and allows us to focus more on organizing, and less on fund raising. However, to make a one time donation click here.

Please select your monthly membership level:

I want to make a recurring donation. (what's this?)
Every Month for
Unlimited times

$10 $15
$20 $25
$35 $50
$65 $80
$100
other $

Credit Card Information

Card Type:

Please enter your card number with no spaces or dashes.
Card Number:

Expires:

Security Code (What's this?)

Submit

Please click the submit button only once.

Action United *For the common good*

Appendix C

Mission Statement

Action United is a membership organization of low and moderate income Pennsylvanians working to build power through organizing communities to win changes on the issues that are important to them.

Action United *For the common good*