

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities :
Corporation for an Evidentiary Hearing :
On the Energy Efficiency Benchmarks : Docket No.: P-2012-2320369
Established for the Period June 1, 2013 :
through May 31, 2016 :

**MAIN BRIEF
OF THE SUSTAINABLE ENERGY FUND
OF CENTRAL EASTERN PENNSYLVANIA**

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Dated: October 26, 2012

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I. INTRODUCTION

On August 3, 2012, the Public Utility Commission (“Commission”) entered the Energy Efficiency and Conservation Program, Implementation Order for Phase II of the program.¹ In that Order, the Commission adopted incremental reductions in consumption, and established the standards each Energy Efficiency and Conservation (“EE&C”) plan must meet and provide guidance on the procedures to be followed for submittal, review and approval of all aspects of EE&C plans for Phase II of the program.

In particular, the Commission adopted a three (3) year Phase II Act 129 EE&C Program that will operate from June 1, 2013 through May 31, 2016.² The Commission also had tasked the Statewide Evaluator (“SWE”) to conduct a market potential study to inform the Commission and interested parties of its findings regarding the energy savings potential remaining in the large Electric Distribution Company’s (“EDCs”) service territories. The SWE was also tasked with conducting baseline studies for the residential, commercial and industrial sectors in Pennsylvania. These studies gathered data from onsite surveys conducted by engineers to characterize the energy usage and electric energy efficiency opportunities for each of the seven (7) large EDCs.

The baseline studies formed the basis for the SWE’s Electric Energy Efficiency Potential for Pennsylvania Final Report (“Market Potential Study”). The Market Potential Study is SWE Statement No. 1 in this proceeding. Based on the spending cap of 2% of 2006 annual revenues for annual program spending and using the previously established load forecasts, the SWE

¹ *Energy Efficiency and Conservation Program, Implementation Order*, Docket Nos. M-2012-2289411 and M-2008-2069887 (August 3, 2012) (“Phase II Implementation Order”).

² Phase II Implementation Order at 22.

concluded that instituting a second phase of Act 129 electric energy efficiency programs will be cost effective for Pennsylvania ratepayers.³

The Market Potential Study also recommended EDC – specific energy reduction targets. The Commission tentatively adopted the consumption reduction targets recommended by the SWE. For PPL Electric Utilities Corporation (“PPL”), the three (3) year percentage energy consumption reduction target is 2.1%.⁴ The tentative adoption was subject to challenge by an EDC. If an EDC did not raise a challenge, the consumption reduction targets will become final for any EDC that did not petition the Commission for an evidentiary hearing by August 20, 2012.⁵ The purpose of any petition is to contest the facts the Commission relied upon in adopting the consumption reduction target.⁶

PPL took two (2) actions on August 20, 2012. It filed the Petition of PPL Electric Utilities Corporation for an Evidentiary Hearing (“PPL Evidentiary Petition”). It also filed the Petition of PPL Electric Utilities Corporation for Reconsideration of the Phase II Implementation Order (“PPL Petition for Reconsideration”). The PPL Evidentiary Petition and the PPL Petition for Reconsideration essentially requested the same result. That result is for the Commission to affirmatively state that its approval of the 25% adjustment factor, included in the Market Potential Study, and the potential acceptance of the Phase II reduction compliance target does not: (1) preclude EDCs from challenging future modifications to the Technical Reference Manual (“TRM”); and (2) prohibit an EDC from petitioning the Commission to modify the applicable Phase II consumption reduction target based upon future changes to the TRM or other market changes that are not presently known. Indeed, the PPL Evidentiary Petition noted that, if

³ SWE Statement No. 1 at Section 1.1.

⁴ Phase II Implementation Order at 24.

⁵ Id. at 30-31.

⁶ Id. at 31.

the Commission granted the PPL Petition for Reconsideration, there would be no need for the requested evidentiary hearing.

The Sustainable Energy Fund of Central Eastern Pennsylvania (“SEF”) was an active party participating in this proceeding.

II. SUMMARY OF ARGUMENT

PPL’s evidentiary petition does not presently challenge the Commission’s established 2.1% consumption reduction target, even given the proposed changes in the 2013 TRM. PPL can only assert that it would be difficult to achieve the 2.1% compliance target if PPL carried forward its Phase I EE&C plan mix of measures to its Phase II EE&C plan. Similarly, PPL can only assert that the SWE’s proposed 25% adjustment factor to the program acquisition costs is not sufficient if the structure of PPL’s Phase II EE&C plan is similar to its Phase I plan. However, PPL testified that it can make adjustments to accommodate the new program acquisition costs and believes that it can develop a Phase II EE&C plan that complies with the 2.1% consumption reduction target.

The Commission has recognized that PPL retains the ability to challenge any future changes to the TRM. Thus, the 25% adjustment factor does not prevent PPL from challenging future changes during Phase II, including future TRMs.

The 25% adjustment factor does not limit PPL’s options with regard to its Phase II EE&C plan, thereby necessitating the ability to challenge PPL’s 2.1% consumption reduction target. PPL has the ability to adjust its Phase II EE&C plan to address future changes, as it has in Phase I. It has the obligation to meet that requirement for the benefit of its ratepayers, and, as in Phase I, it should not be provided disincentive of a potential safety net through the ability to challenge

its Commission determined consumption reduction target simply to avoid the potential of civil penalties.

III. ARGUMENT

A. **PPL does not presently challenge the Commission's 2.1% consumption reduction target, even given the proposed changes in the 2013 TRM.**

The purpose behind PPL's evidentiary petition appears to center on one facet of the Phase II Implementation Order. PPL does not challenge the 2.1% consumption reduction target in the Phase II Implementation Order. PPL witness Cleff noted that PPL has indicated that it believes the 2.1% consumption reduction target is reasonably achievable.⁷ While PPL discusses at great length the potential impacts in program results of the proposed 2013 TRM changes and the 2013 Final TRC Order, along with unknown changes in subsequent TRMs, PPL witness Cleff noted that PPL is basing its Phase II EE&C plan on the proposed 2013 TRM and believes that it can meet the compliance targets with the lower savings proposed in the 2013 TRM.⁸ Following a litany of testimony regarding the effect of the proposed changes in the proposed 2013 TRM, the 2013 TRC Order and the reduction in lighting savings for Energy Independence and Security Act of 2007 ("EISA") that were included in the 2012 TRM, witness Cleff concludes that it would be difficult for the company to achieve the 2.1% consumption reduction compliance target if PPL carried forward the Phase I EE&C plan mix of measures to the Phase II EE&C plan.⁹ Witness Cleff goes on to note that the SWE's proposed 25% adder to the program acquisition costs is not sufficient to address all of the cited impacts and potential impacts if the structure of PPL's Phase II EE&C plan is similar to its Phase I plan.¹⁰ However, witness Cleff admits that PPL will likely have to adjust the mix of measures and customer sectors to accommodate the new program

⁷ PPL Electric Utility Corporation Statement No. 1 at 7.

⁸ Id. at 13.

⁹ Id. at 20.

¹⁰ Id. at 22.

acquisition costs and still believes that it can develop a Phase II EE&C plan that complies with the targets and funding constraints.¹¹

B. The 25% adjustment factor does not prevent PPL from challenging future changes during Phase II, including future TRMs, nor does it limit PPL's options thereby necessitating the ability to challenge PPL's 2.1% consumption reduction target based upon Phase II events.

It is clear that PPL's concern is with the impact of the 25% adjustment factor included in the Market Potential Study on future changes during the implementation of its Phase II EE&C.

As PPL notes, the Phase II Implementation Order explains that the Market Potential Study methodology averaged the administrative costs from Phase I, program years one (1) and two (2), and increased them by 25%. Similarly, the program incentive funding estimates from Phase I were increased by the SWE by 25% for Phase II. Further, the Commission tentatively determined that the SWE provided valid reasons in support of the 25% adjustment factor for projected acquisition costs.¹² PPL supports the Commission's decision to increase the EE&C plan adjustment factor by 25%.¹³

PPL's concern is the Commission's statement that the application of the 25% adjustment factor allows for future TRM adjustments on savings adjustments in future years without revising program goals.¹⁴ Therefore, it requests the Commission to affirmatively state that the approval of the 25% adjustment factor does not preclude the company from challenging subsequent changes to the TRM, TRC or any other Commission requirement, does not preclude the company from challenging the application of any changes in the TRM, TRC or other Commission requirement to PPL's Phase II requirement, and from seeking changes to its 2.1% target if said changes are applied. Finally, PPL requests that the Commission state that the

¹¹ Id. at 22-23.

¹² PPL Electric Corporation Statement No.1 at 11.

¹³ Id.

¹⁴ Phase II Implementation Order at 20; PPL Electric Corporation Statement No. 1 at 11.

approval of the 25% adjustment factor in the EDC's Phase II EE&C plan does not restrict an EDC from requesting the Commission to modify the consumption reduction target set forth in the Phase II Implementation Order based on changes to future TRM, TRC or any other Commission requirement.¹⁵

PPL essentially seeks a safety net if it believes that the approved 2.1% consumption reduction targets may not be attainable given changes during the operation of its Phase II plan. The purpose of this is to prevent the imposition of a civil penalty under Act 129. The SEF believes that this requested safety net is inappropriate within the constricts of Act 129.

The Commission's Reconsideration Order effectively addresses most of PPL's concerns.¹⁶ The Commission noted that, since the inception of the TRM, the Commission has at all times allowed all interested parties to participate in and challenge any proposed updates or changes to the TRM and will continue to do so. PPL pointed to no language in the Phase II Implementation Order that expressly restricts a party from challenging future proposed changes to the TRM.¹⁷ The Commission, therefore, found PPL's assertion that the Implementation Order restricts it or any other party from challenging any proposed future changes or updates to the TRM to be meritless.

The Commission expressly affirmed that all interested parties may participate, and are encouraged to do so, in any future proceedings that propose changes or updates to the TRM. As it noted, such participation may take the form of support or challenge to any proposed change or update to the TRM. In addition, the Commission expressly noted that the TRM measures are

¹⁵ PPL Electric Utilities Corporation Statement No. 1 at 2-3.

¹⁶ *Energy Efficiency and Conservation Program, Reconsideration Order*, Docket Nos. M-2012-2289411 and M-2008-2069887 (September 27, 2012) ("Reconsideration Order").

¹⁷ Reconsideration Order at 14.

subject to challenge in any subsequent proceeding in which an EDC's compliance is at issue.¹⁸ Thus, the 25% adjustment factor included in the Market Potential Study does not restrict an EDCs arguments against modifications to future TRMs.

The Commission denied PPL's request to subject its Phase II consumption reduction target to potential revision to reflect any potential revisions. The Commission clearly noted that the TRM and any potential changes to it does not in any way hinder or affect the energy savings that can be achieved by an EDC's EE&C plan. As the Commission has stated in the past, the TRM is a tool EDCs can use to estimate the amount of energy savings a program offering can potentially provide. The TRM does not establish the goal, nor do changes to the TRM move the goal, rather the TRM simply measures the amount of electric energy savings obtained by the installation or implementation of a measure or program.¹⁹

In addition, the Commission noted that many factors affect the amount of energy savings achieved by a EDC's plan. The TRM does not cover all measures contained in an EDC's EE&C plan that also contains cost and savings estimates for programs and measures not contained in the TRM. In addition, each plan contains estimates of the potential customer participation rate, proper incentives and other program impact and implementation assumptions, all of which could affect the amount of energy savings achieved by the EE&C plan, the cost of the plan and its cost effectiveness.²⁰ The Commission noticed instances where it has in the past added new measures at the request of EDCs and revised TRM values, both of which increased the amount of savings the TRM has attributed to measures and programs contained in EDC's EE&C plans.²¹ The

¹⁸ Id. at 14-15.

¹⁹ Id. at 17.

²⁰ Id.

²¹ Id.

Commission anticipates doing the same in the future, and not all TRM changes will reduce electric energy savings attributable to a measure or program being implemented by an EDC.

The Commission appropriately determined that it was mandated to establish consumption reduction evaluation targets and that it would decline to subject EDCs, the statutory advocates, its staff and other interested parties to proceedings related to those targets where many factors, including TRM, could impact both positively and negatively the amount of savings attributable to an EE&C plan.²²

PPL's principal argument appears to be reduced to the fact that it will have to adjust its Phase II EE&C plan to address future changes.²³ This is no different than what occurred in Phase I with PPL making numerous on-going adjustments to its Phase I EE&C plan. The Commission also has a process that provides for an expedited review process differentiated between minor and non-minor proposed EE&C plan changes.

SEF submits there should be no different treatment under Phase II. As in Phase I, the EDC is able to recover all prudent and reasonable costs related to the provision or management of its EE&C plan, but limit to such costs to an amount not be exceed 2% of the EDCs total annual revenues as of December 31, 2006. This recovery will be through a Phase II reconcilable adjustment clause tariff mechanism in accordance with 66 Pa. C.S. § 1307.²⁴ Thus, PPL is charged with using ratepayer provided funds to provide the consumption reduction targets to benefit its ratepayers. As in Phase I, there are potential civil penalties for failure to meet such reduction requirements.

In Phase I, all of the EDCs made changes to their EE&C plans, including PPL, based upon modifications to the TRM, discovered efficiencies or inefficiencies in programs or

²² Id. at 16, 18.

²³ PPL Utilities Corporation Statement No. 1 at 6.

²⁴ Id. at 118.

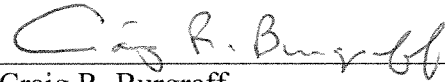
measures, of for other reasons in order to meet the targets over the life of the plan. Changes to the reduction targets themselves were not permitted.

There is no justifiable reason allowing PPL, or any other EDC, to be allowed the safety net of the ability, during the life of the Phase II plan, to seek the reduction of PPL's consumption reduction target for the purpose of avoiding any penalties. This is especially true where a 25% adjustment factor was included in arriving at that target. PPL is using ratepayers dollars to attempt to meet the Phase II target, and the Commission has determined the consumption reduction target that ratepayers should receive for its funds. While there may be future changes that affect the measures and methods used to meet the Commission's established goals, PPL has numerous opportunities to amend its Phase II plan to accomplish this purpose. Removing any incentive through the provision of a safety net associated with the ability to seek to reduce the consumption reduction target is counter to the purposes of Act 129, SEF submits that PPL's request should be denied.

IV. CONCLUSION

The Sustainable Energy Fund of Central Eastern Pennsylvania requests that the Commission reaffirm that PPL has the ability to challenge subsequent changes to the TRM, TRC or other Commission requirements. The Commission should also expressly deny that PPL may seek modifications in the future to the Commission's determined Phase II 2.1% consumption reduction target for PPL.

Respectfully submitted,



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October 26, 2012

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
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RE: Petition of PPL Electric Utilities Corporation for an Evidentiary Hearing on the Energy Efficiency Benchmarks Established for the Period June 1, 2013 through May 31, 2016, Docket No. P-2012-2320369: **MAIN BRIEF OF THE SUSTAINABLE ENERGY FUND OF CENTRAL EASTERN PENNSYLVANIA**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is an original Main Brief of the Sustainable Energy Fund of Central Eastern Pennsylvania. This filing has been served in accordance with the attached Certificate of Service.

If you have any questions concerning this filing, please do not hesitate to contact undersigned counsel.

Very truly yours,

Craig R. Burgraff
*Counsel for Sustainable Energy Fund of
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CRB/jld/151135.1

Enclosures

cc: Administrative Law Judge Elizabeth H. Barnes (w/encls)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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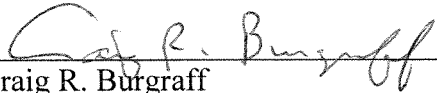
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