**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :

for Approval of its Act 129 Phase II : M-2012-2334388

Energy Efficiency and Conservation Plan :

**ORDER CERTIFYING RECORD TO THE COMMISSION**

HISTORY OF THE PROCEEDING

 On August 3, 2012, the Commission entered an Implementation Order with respect to the *Energy Efficiency and Conservation Program* at Docket Nos. M-2012-2289411 and M-2008-2069887 (*Implementation Order*). In the *Implementation Order*, the Commission stated that tentative consumption reduction targets would become final for any electric distribution company (EDC) that did not petition the Commission for an evidentiary hearing by August 20, 2012. PPL Electric Utilities Corporation (PPL or Company) requested an evidentiary hearing and prepared its Phase II Energy Efficiency and Conservation Program in compliance with the Commission’s directive in the *Implementation Order*.

 On November 1, 2012, the Commission issued a Secretarial Letter notifying

EDCs that it would accept Phase II Energy Efficiency and Conservation (EE&C) plans on either November 1, 2012 or November 15, 2012 due to the impact of Hurricane Sandy and the need for EDC personnel to focus on storm response duties.

 On November 15, 2012, PPL filed a Petition for Approval of the Company's Phase II Energy Efficiency and Conservation Plan (Phase II Plan or Plan). PPL asserted that the Phase II Plan is in the public interest and is intended to reduce energy consumption in compliance with the requirements of Act 129 of 2008, 66 Pa.C.S. § 2806.1 (Act 129 or the Act) and the Commission's *Implementation Order*. In sum, PPL asked that the Commission issue an Order: (1) approving PPL's Phase II EE&C Plan and finding that the Plan satisfies the requirements of 66 Pa.C.S. § 2806.1(b)(1) and the Phase II *Implementation Order*; (2) approving the individual programs listed in the Phase II EE&C Plan; (3) approving the cost recovery mechanism proposed by PPL; (4) approving PPL's proposed *pro forma* Act 129 Compliance Rider to Tariff Electric – Pa. P.U.C. 201; (5) directing the filing of appropriate tariff supplements in accordance with the EE&C Plan, to be effective upon one day’s notice; and (6) marking the proceeding at this docket closed.

 On November 27, 2012, a Hearing Notice was issued in this case.

 On November 28, 2012, a standard form Prehearing Conference Order was issued in this case.

 On December 3, 2012, UGI Gas, UGI Penn Natural Gas, and UGI Central Penn Gas (collectively, UGI Distribution Companies) filed a Petition to Intervene in this case. On December 5, 2012, the Office of Small Business Advocate (OSBA) filed a Notice of Intent to participate in this proceeding and a Public Statement. On December 6, 2012, the following entities each filed a Petition to Intervene in this case: the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the Commission on Economic Opportunity (CEO), Citizens for Pennsylvania’s Future (PennFuture), the PPL Industrial Consumer Alliance (PPLICA), and Wal-Mart Stores East, L.P. and Sam’s East, Inc. (Walmart). Also on December 6, 2012, the Office of Consumer Advocate (OCA) filed a Notice of Intent to participate in this proceeding and a Public Statement. On December 7, 2012, the Sustainable Energy Fund of Central Eastern Pennsylvania (Sustainable Energy Fund) filed a Petition to Intervene in this case.

 A Prehearing Conference was held on Monday, December 10, 2012. That hearing was convened to discuss procedural issues relative to the Commission’s *Implementation Order*, to determine the further course of this proceeding, and to rule on the various Petitions to Intervene submitted up to that date.

 The Prehearing Conference was presided over by the undersigned and was attended by counsel for: PPL, the OCA, the OSBA, PennFuture, CAUSE-PA, Wal-Mart, CEO, UGI, and the Sustainable Energy Fund.

 The parties discussed the time constraints imposed by the directory language of the *Implementation Order* and the possible due process issues related thereto. Given that the Notice of this proceeding was not be published in the *Pennsylvania Bulletin* until December 1, 2012, with a twenty day comment/intervention period thereafter and the necessity of an evidentiary hearing by January 18, 2013, PPL and the parties very generously indicated that they would afford flexibility to future intervenors in terms of discovery. Also discussed was the possibility of a public input hearing, but ultimately a public input hearing was not requested. There were no objections to the Petitions to Intervene filed up to the date of the Prehearing Conference, and they were granted. I also made it clear that the record that I would certify to the Commission would include sworn testimony but not comments. N.T. at 22-23. A 27 page transcript of the Prehearing Conference was filed by the court reporter on December 13, 2012.

 On December 14, 2012, a Second Prehearing Order was issued memorializing agreements and rulings from the December 10, 2012 Prehearing Conference.

 On December 19, 2012, Comverge, Inc. (Comverge) filed a Petition to Intervene in this case.

 On December 27, 2012, a Third Prehearing Order was issued in this case granting the Petition to Intervene of Comverge without objection.

 On January 4, 2013, a Hearing Notice was issued setting January 16, 2013, as the date for the evidentiary hearing in this case.

 On January 9, 2013, I issued the Fourth Prehearing Order in this case explaining my opinion expressed at the Prehearing Conference that “comments” have no place in the evidentiary record in this case, and concluding that I would only consider including “comments” in the certified record if they were introduced at hearing by a party to the proceeding with an authenticating witness made available for cross-examination.

 On January 14, 2013, Comverge filed a Petition for Admission *Nunc Pro Tunc* of the Direct Testimony of Raymond G. Berkebile. That Petition was objected to by PPL on January 15, 2013.[[1]](#footnote-1)

 On January 16, 2013, a hearing was held at the office of the Commission in Harrisburg, Pennsylvania. The hearing was attended by PPL, the OCA, the OSBA, PennFuture, PPLICA, UGI, CAUSE-PA, WalMart, the Sustainable Energy Fund, CEO and Comverge. At the outset of the hearing, I heard oral argument from Comverge and PPL on Comverge’s Petition for Admission of Testimony *nunc pro tunc*, and PPL’s Objection thereto. After consideration of the issue, I issued a Fifth Prehearing Order denying Comverge’s Petition. The parties then moved into evidence the testimony of their respective witnesses and supporting exhibits and conducted limited cross-examination. A 75 page transcript was filed by the court reporter on January 10, 2013.

 Main Briefs were filed on January 28, 2013 by PPL, PPLICA, Comverge, the OCA, CAUSE-PA, CEO, the Sustainable Energy Fund, and UGI. Walmart and the OSBA each filed a letter stating that it would not be filing a brief.

 On February 7, 2013, PPL filed its Reply Comments and the Revised Phase II EE&C Plan.

 Reply Briefs were filed on February 7, 2013, by PPL, PPLICA, Comverge, the OCA, the Sustainable Energy Fund, and UGI.

 THERFORE:

 IT IS ORDERED THAT THE FOLLOWING DOCUMENTS COMPRISE THE EVIDENTIARY RECORD IN THIS CASE:

 1. PPL Electric Utilities Corporation’s Petition for Approval of the Company's Phase II Energy Efficiency and Conservation Plan filed November 15, 2012, at Docket No. M-2012-2334388, and PPL’s Act 129 Phase II Energy Efficiency and Conservation Plan and Appendices A-G (also referred to in ¶17, below, as PPL Exhibit No. 1).

 2. The Hearing Notice issued on November 27, 2012.

 3. The Prehearing Conference Order issued November 28, 2012.

 4. The December 3, 2012 Petition to Intervene of UGI Gas, UGI Penn Natural Gas, and UGI Central Penn Gas.

 5. The December 5, 2012 Notice of Intent to participate in this proceeding and Public Statement of the Office of Small Business Advocate.

 6. The December 6, 2012 Petitions to Intervene of: the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, the Commission on Economic Opportunity, Citizens for Pennsylvania’s Future, the PPL Industrial Consumer Alliance, and Wal-Mart Stores East, L.P. and Sam’s East, Inc.

 7. The December 6, 2012 Notice of Intent to participate in this proceeding and Public Statement of the Office of Consumer Advocate.

 8. The December 7, 2012, Petition to Intervene of the Sustainable Energy Fund of Central Eastern Pennsylvania.

 9. The transcript of the Prehearing Conference held December 10, 2012, consisting of pages 1-27.

 10. The Second Prehearing Order dated December 14, 2012.

 11. The December 19, 2012 Petition to Intervene of Comverge, Inc.

 12. The Third Prehearing Order dated December 27, 2012.

 13. The Hearing Notice issued January 4, 2013.

 14. The Fourth Prehearing Order issued January 9, 2013.

 15. The Petition for Admission *Nunc Pro Tunc* of the Direct Testimony of Raymond G. Berkebile filed by Comverge, Inc., on January 14, 2013.

 16. The transcript of the evidentiary hearing held January 16, 2013, consisting of pages 28 through 84 and the Fifth Prehearing Order issued January 16, 2013.

 17. The submissions of PPL Electric Utilities Corporation, entitled as follows:

PPL Exhibit No. 1 PPL’s Act 129 Phase II Energy Efficiency and Conservation Plan and Appendices A-G

PPL Statement 4R Rebuttal Testimony of Peter Cleff

PPL Statement No. 1 Direct Testimony of Mary Elizabeth Thompson-Grassi

PPL Statement No. 2 Direct Testimony of M. Hossein Haeri

PPL Statement No. 3 Direct Testimony of Joseph M. Kleha and

Exhibit JMK-1 Act 129 Phase II *pro forma* Compliance Rider

PPL Statement 1-R Rebuttal Testimony of Mary Elizabeth Thompson-Grassi and Exhibits METG-1R and METG-2R

PPL Electric Statement 2-R Rebuttal Testimony of Joseph M. Kleha

 18. The submission of the Commission on Economic Opportunity, the Direct Testimony of Eugene M. Brady.

 19. The submissions of the Office of Consumer Advocate, OCA Statement 1, the Direct Testimony of Geoffrey C. Crandall and OCA Exhibits GCC-1 through GCC-10.

 20. The submissions of UGI Distribution Companies, UGI Statement No. 1, the testimony of Paul H. Raab, and UGI Exhibits UGI-1 throughUGI-4.

 21. The submissions of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, CAUSE-PA Statement 1, Direct Testimony of Thu Tran and CAUSE-PA Statement 1-R, the Rebuttal Testimony of Thu Tran.

 22. The submissions of the Sustainable Energy Fund, SEF Statement 1, Direct testimony of John Costlow, and SEF Exhibits SEF-1, SEF-2 and SEF-3.

 23. The hearing exhibits of UGI Distribution Companies marked and received into the record as UGI Hearing Exhibits Nos. 1 and 2.

 24. The hearing exhibit of the PPL Industrial Consumer Alliance marked and received into the record as PPLICA Cross-Examination Exhibit No. 1.

 25. The hearing exhibit of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania marked and received into the record as CAUSE-PA Cross-Examination Exhibit No. 1.

 26. The Main Briefs filed on January 28, 2013, by: PPL Electric Utilities Corporation, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, the Office of Consumer Advocate, the PPL Industrial Consumer Alliance, the Commission on Economic Opportunity, the Sustainable Energy Fund, Comverge, Inc., and UGI Distribution Companies.

 27. The Corrected Table of Contents to the Main Brief of PPL Electric Utilities Corporation filed on January 29, 2013.

 28. The Reply Comments and Revised Phase II Energy Efficiency and Conservation Plan filed on February 7, 2013 by PPL Electric Utilities Corporation.

 29. The Reply Briefs filed on February 7, 2013, by: PPL Electric Utilities Corporation, the Office of Consumer Advocate, the PPL Industrial Consumer Alliance, the Commission on Economic Opportunity, the Sustainable Energy Fund, Comverge, Inc., and UGI Distribution Companies.

Dated: February 13, 2013 /s/

 Dennis J. Buckley

 Administrative Law Judge

**M-2012-2334388 – PETITION OF PPL ELECTRIC UTILITIES CORPORATION FOR APPROVAL OF ITS ACT 129 PHASE II ENERGY EFFICIENCY AND CONSERVATION PLAN.**

***REVISED 12/28/12***

PAUL E RUSSELL ESQUIRE

PPL SERVICES CORPORATION

TWO NORTH NINTH STREET GENTW3

ALLENTOWN PA 18106

**610-774-4254**

***eServe***

DAVID B MACGREGOR ESQUIRE

POST & SCHELL PC

FOUR PENN CENTER

1600 JFK BOULEVARD

PHILADELPHIA PA 19103-2808

**717-731-1970**

ANDREW S TUBBS ESQUIRE

POST & SCHELL PC

17 NORTH SECOND STREET

12TH FLOOR

HARRISBURG PA 17101-1601

**717-612-6057*eServe***

DIANNE E DUSMAN ESQUIREOFFICE OF CONSUMER ADVOCATE5TH FLOOR FORUM PLACE555 WALNUT STREETHARRISBURG PA 17101**717-783-5048*eServe***

ELIZABETH ROSE TRISCARI ESQUIRE

OFFICE OF SMALL BUSINESS ADVOCATESUITE 1102300 NORTH SECOND STREETHARRISBURG PA 17101**717-783-2525**JULIA A CONOVER ESQUIRE

HAWKE MCKEON & SNISCAK100 NORTH TENTH STREETHARRISBURG PA 17101**717-236-1300 EXT 223**

HEATHER M LANGELAND ESQUIREPENNFUTURE200 FIRST STREET SUITE 200PITTSBURGH PA 15222**412-258-6684*eServe***

PATRICK CICERO ESQUIREPA UTILITY LAW PROJECT118 LOCUST STREETHARRISBURG PA 17101**717-236-9486**

***eServe***

CRAIG R BURGRAFF ESQUIREHAWKE MCKEON & SNISCAK LLPO BOX 1778100 N TENTH STREETHARRISBURG PA 17105-1778**717.236.1300**JEFFERY J NORTON ESQUIREECKERT SEAMANS CHERIN & MELLOTT213 MARKET STREET 8TH FLOORHARRISBURG PA 17101**717-237-6000**JOSEPH L VULLO ESQUIRE1460 WYOMING AVENUEFORTY FORT PA 18704**570-288-6441*eServe***

BARRY A NAUM ESQUIRESPILMAN THOMAS & BATTLE PLLCSUITE 1011100 BENT CREEK BLVDMECHANICSBURG PA 17050**717-795-2742**

***eServe***

1. PPL objected in an e-mail directed to myself, Comverge and the other parties. I responded by e-mail asking that counsel for Comverge and PPL discuss the issue to determine whether some mutually satisfactory accommodation could be arrived at. However, I also stated that in the event that the parties did not reach a resolution, we would have oral argument on the Petition and the Objection thereto beginning promptly at 10:00 a.m. on January 16, 2013, before proceeding with the evidentiary hearing in this case. [↑](#footnote-ref-1)