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September 9, 2014

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA ELECTRONIC FILING**

**RE: PP&L Industrial Customer Alliance v. PPL Electric Utilities Corporation;  
Docket Nos. C-2013-2398440 and C-2013-2398442**

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is the Main Brief of the PP&L Industrial Customer Alliance ("PPLICA") in the above-referenced proceedings.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare', is written over a horizontal line.

Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

c: Administrative Law Judge Susan D. Colwell (via Email and First-Class Mail)  
Certificate of Service

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## CERTIFICATE OF SERVICE

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

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Adeolu A. Bakare

Dated this 9<sup>th</sup> day of September, 2014, in Harrisburg, Pennsylvania.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PP&L Industrial Customer Alliance	:	
	:	
v.	:	C-2013-2398440
PPL Electric Utilities Corporation	:	
PP&L Industrial Customer Alliance	:	
	:	
v.	:	C-2013-2398442
PPL Electric Utilities Corporation	:	

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**MAIN BRIEF OF THE  
PP&L INDUSTRIAL CUSTOMER ALLIANCE**

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Air Products and Chemicals, Inc.  
Armstrong World Industries, Inc.  
General Dynamics-OTS Scranton  
Harristown Enterprises, Inc.  
Hercules Cement Company

Linde LLC  
SAPA Extrusions, Inc.  
The Hershey Company  
TIMET North America  
Wegmans Food Markets, Inc.

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Dated: September 9, 2014

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## I. INTRODUCTION

### A. **Procedural History**

On October 22, 2013, PPL Electric Utilities Corporation ("PPL" or "Company") filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") Supplement No. 139 to PPL Tariff – Electric Pa. P.U.C. No. 201, proposing to update PPL's Phase I Act 129 Rider ("ACR-1"). *PPL Electric Utilities Corporation – Act 129 Compliance Rider Supplement No. 139 to Tariff Electric – Pa. P.U.C. No. 201*, Docket No. M-2009-2093216 (Oct. 22, 2013) (hereinafter, "Supplement No. 139").<sup>1</sup> Also on October 22, 2013, PPL filed Supplement No. 140 to PPL Tariff – Electric Pa. P.U.C. No. 201, proposing to update PPL's Phase II Act 129 Rider ("ACR-2"). *PPL Electric Utilities Corporation – Act 129 Compliance Rider Supplement No. 140 to Tariff Electric – Pa. P.U.C. No. 201*, Docket No. M-2012-2334388 (Oct. 22, 2013) (hereinafter, "Supplement No. 140").<sup>2</sup> Both Supplements contained a proposed effective date of November 1, 2013.

Supplement No. 139 proposed two changes to the ACR-1 on ten days notice. First, Supplement No. 139 proposed to revise PPL's Phase I costs to reflect actual costs incurred for each customer class through the Company's Phase I Energy Efficiency and Conservation ("EE&C") Plan. This revision was caused by PPL's failure to accurately monitor its costs for each customer class, particularly the cost of its Government, Nonprofit, and Institutional ("GNI") programs, during Phase I and through its Phase I end-of-phase reconciliation. Additionally, Supplement No. 139 proposed to correct the billing demands for Large Commercial and Industrial ("C&I") customers, following PPL erroneously calculating the ACR-1 reconciliation

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<sup>1</sup> The Commission's Secretary subsequently assigned Supplement No. 139 to Docket No. M-2013-2389549.

<sup>2</sup> The Commission's Secretary subsequently assigned Supplement No. 140 to Docket No. M-2013-2389551.

charges effective as of June 1, 2013, based on customers' monthly billing demand data instead of the appropriate PJM Peak Load Contribution ("PLC") data.

Supplement No. 140, also on ten days notice, proposed to revise PPL's ACR to reflect a new allocation of the Company's Phase II EE&C Plan cost for GNI programs that was consistent with the actual costs that PPL experienced during the Company's Phase I EE&C Plan. Additionally, Supplement No. 140 proposed to correct the billing demands for Large C&I customers, following PPL erroneously calculating the ACR-2 effective as of June 1, 2013, based on customers' monthly billing demand data instead of the appropriate PLC data.

On November 1, 2013, PPLICA filed a letter with the Commission's Secretary reserving all rights to file a Complaint or take other action following further review of Supplement Nos. 139 and 140.<sup>3</sup>

On October 31, 2013, Secretarial Letters were issued at Docket Nos. M-2013-2389551 and M-2013-2389549, following staff review by the Commission's Bureau of Audits. *PPL Electric Utilities Corporation Act 129 Compliance Rider – Phase I*, Secretarial Letter, M-2013-2389549 (November 1, 2013) ("Supplement No. 139 SL"); *PPL Electric Utilities Corporation Act 129 Compliance Rider – Phase II*, Secretarial Letter, M-2013-2389551 (November 1, 2013) ("Supplement No. 140 SL"). The respective Secretarial Letters permitted Supplement Nos. 139 and 140 to become effective on November 1, 2013, subject to "continuous Commission review and audit, as well as reconciliation reports in accordance with Section 1307(e) of the Public Utility Code." *See* Supplement No. 139 SL; Supplement No. 140 SL.

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<sup>3</sup> PPLICA initially filed letters to Docket Nos. M-2009-2093216 and M-2012-2334388, as reflected on Supplement Nos. 139 and 140, on October 31, 2013. Upon notice that the Commission had reassigned the filings to 2013 Docket Nos., PPLICA refiled the letters to Docket Nos. M-2013-2389549 and M-2013-2389551 on November 1, 2013.

On December 23, 2013, PPLICA<sup>4</sup> filed individual Complaints to Supplement Nos. 139 and 140 requesting that, *inter alia*, the Commission suspend and investigate Supplement Nos. 139 and 140. PPL filed Answers to the Complaints on January 16, 2014. Following the pleadings, a Prehearing Conference was held on March 26, 2014, before Administrative Law Judge ("ALJ") Susan D. Colwell.

On May 23, 2014, PPLICA submitted PPLICA Statement No. 1, Direct Testimony of Jeffry Pollock ("PPLICA Stmt. No. 1") and PPLICA Statement No. 2, Direct Testimony of Michael K. Messer ("PPLICA Stmt. No. 2"). On June 13, 2014, PPLICA received PPL Statement No. 1, Direct Testimony of Peter D. Cleff ("PPL Stmt. No. 1") and PPL Statement No. 2, Direct Testimony of Bethany L. Johnson ("PPL Stmt. No. 2"). On July 1, 2014, PPLICA submitted PPLICA Statement No. 3, Rebuttal Testimony of Jeffry Pollock ("PPLICA Stmt. No. 3"). Finally, on July 15, 2014, PPLICA received PPL Statement No. 3, Surrebuttal Testimony of Peter D. Cleff ("PPL Stmt. No. 3").

An evidentiary hearing was held in this proceeding on August 12, 2014, for the purposes of presenting testimony and performing cross-examination. During this hearing, the parties confirmed the process for submitting Briefs. Pursuant to the procedural schedule, PPLICA submits this Main Brief to address various issues raised in this proceeding.

## **B. Background**

On October 15, 2008, Governor Edward Rendell signed Act 129 of 2008 ("Act 129" or "Act") into law. At the time, Act 129 was a new program imposing obligations on the Commission, the Electric Distribution Companies ("EDCs"), and customers. Under Act 129, the seven largest EDCs, including PPL, were directed to develop EE&C Plans. To establish guidelines for the EE&C Plans, the Commission entered a Final Implementation Order on

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<sup>4</sup> PPLICA's members are listed on the cover page of this Main Brief.

January 16, 2009. *In re: Energy Efficiency and Conservation Program*, Final Implementation Order, Docket No. M-2008-2069887 ("Phase I Implementation Order"). The Phase I Implementation Order addressed various aspects of EE&C Plans, including cost recovery. With regard to cost recovery, the Commission reiterated the statutory provisions permitting EDCs to recover all prudent and reasonable EE&C Plan costs.

Consistent with the Phase I Implementation Order, PPL filed its Phase I EE&C Plan with the Commission on July 1, 2009 at Docket No. M-2009-2093216. The Commission approved PPL's Phase I EE&C Plan on October 26, 2009. *See Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Order, Docket No. M-2009-2093216 (October 26, 2009)("PPL Phase I Order"). The Phase I Order approved PPL's proposed allocation of program costs and the tariff setting forth the Company's cost recovery methodology, including an allocation of program expenses, tariff, and other cost recovery terms specifically applicable to PPL. One of the cost recovery terms approved by the Commission was again, the requirement that costs recovered under PPL's Act 129 Plan must meet the Commission's prudence and reasonableness standards.

More specifically, the PPL Phase I Order recognized that the Company had developed five "sectors" for administration of the Phase I EE&C Plan ("Program Sectors"), but still required the Company to charge and track costs on a customer class basis. Therefore, PPL was permitted to divide the Phase I EE&C program budget among the Residential, Low Income, Small C&I, Large C&I, and GNI Program Sectors, but was obligated to bill and monitor all costs on a customer class basis.

The Commission further addressed cost recovery terms applicable to PPL's Phase I EE&C Plan through an Order entered at Docket No. M-2008-206987 on June 10, 2011. *See*

*Energy Efficiency and Conservation Program*, Docket No. M-2008-206987 (June 10, 2011) ("Minor Plan Change Order"). Here, the Commission developed a process through which EDCs could proceed under an expedited review process for certain proposed EE&C Plan changes. The expedited review process would allow EDCs to obtain staff review of proposed EE&C Plan changes rather than submitting a formal Petition for review by the full Commission. Minor Plan Change Order, p. 20. In permitting the expedited review process for certain defined "minor" changes, the Commission emphasized the importance of preserving the previously approved customer class budgets by expressly prohibiting expedited review for plan changes shifting costs between customer classes. *Id.* Consistent with the statute, any change to a Plan that was not "minor" required PUC approval before implementation. *Id.*

The Commission also developed cost recovery terms for PPL's Phase II EE&C Plan, which commenced on June 1, 2013, immediately following the May 31, 2013, expiration of PPL's Phase I EE&C Plan. The cost recovery terms approved for the Phase II EE&C Plan remained substantively unchanged from the provisions applicable to the Phase I EE&C Plan. *See Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan*, Order, Docket No. M-2012-2334388 (March 14, 2013) ("PPL Phase II Order"). As with the Phase I EE&C Plan, the Commission approved PPL's proposal to assign approximately 1% of GNI costs to Large C&I customers, establishing that PPL would be required to file a Petition to recover additional GNI costs from Large C&I customers. *See PPL Phase II Order*, p. 72; *see also PPLICA Stmt. No. 1, Appendix C.*, p. 56.

On June 17, 2013, PPL filed Supplement No. 134 to PPL Tariff – Electric Pa. P.U.C. No. 201 ("Supplement 134"), establishing ACR-1 and ACR-2 rates for the period June 1, 2013, through May 31, 2014. For Large C&I customers on Rate Schedules LP-4 and LP-5,

Supplement No. 134 implemented a refund of \$0.021/kW as the reconciliation charge for PPL's recently expired Phase I EE&C Plan and a program charge of \$0.533/kW for the newly commenced Phase II EE&C Plan.

Finally, as referenced above, PPL filed Supplement Nos. 139 and 140 on October 22, 2013. As shown in table below, Supplement No. 139 reallocated \$12.2 million to the Large C&I ACR-1 while Supplement No. 140 reallocated \$12.5 million to the Large C&I ACR-2, generating a combined increase of 162% from the prior rates. PPLICA Stmt. No. 1, pp. 7, 9.

**Rate Effects of Supplement Nos. 139 and 140<sup>5</sup>**

<b>Supplement No. 139 ACR-1 Reconciliation Charges</b>			
<b>Description</b>	<b>Residential (\$/MWh)</b>	<b>Small C&amp;I (\$/MWh)</b>	<b>Large C&amp;I (\$/kW)</b>
<b>Supplement No. 134</b>	\$ (0.54)	\$ 0.76	\$ (0.021)
<b>Supplement No. 139</b>	\$ (0.50)	\$ (2.24)	\$ 0.416
<b>Change</b>	\$ 0.04	\$ (3.00)	\$ 0.437

<b>Supplement No. 140 ACR-2 Charges</b>			
<b>Description</b>	<b>Residential (\$/MWh)</b>	<b>Small C&amp;I (\$/MWh)</b>	<b>Large C&amp;I (\$/kW)</b>
<b>Supplement No. 134</b>	\$ 2.09	\$ 2.29	\$ 0.533
<b>Supplement No. 140</b>	\$ 2.03	\$ 2.00	\$ 0.927
<b>Percent Change</b>	-3%	-13%	74%

**II. STATEMENT OF QUESTIONS**

1. Does PPL bear the burden of proving that the revenues collected pursuant to Supplement Nos. 139 and 140 are just and reasonable under the Public Utility Code?

Suggested Answer – Yes.

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<sup>5</sup> PPLICA Stmt. No. 1, pp. 8-9.

2. Did PPL have a legal obligation to, throughout the Phase I EE&C Plan, compare projected costs to actual costs on a customer class basis?

Suggested Answer – Yes.

3. Did PPL compare projected costs to actual costs on a customer class basis throughout the Phase I EE&C Plan?

Suggested Answer – No.

4. Did PPL have a legal obligation to reconcile Phase I EE&C Plan revenues to actual costs at the end of the Plan?

Suggested Answer – Yes.

5. Did PPL reconcile the Phase I EE&C revenues to actual costs at the end of the Plan?

Suggested Answer – No.

6. Did PPL have a legal obligation to file a Petition with the Commission prior to implementing a change shifting costs between customer classes such as the effect of Supplement Nos. 139 or 140?

Suggested Answer – Yes.

7. Should the Commission approve Supplement No. 139 and allow PPL to recover expenses through the ACR-1 which were incurred in a manner violating Commission Orders and the Public Utility Code?

Suggested Answer – No.

8. Should the Commission approve Supplement No. 140 and allow PPL to modify its Phase II cost allocation without submitting a Petition for Commission review?

Suggested Answer – No.

### **III. SUMMARY OF ARGUMENT**

Supplement Nos. 139 and 140 attempt to correct PPL's erroneous administration of its Phase I EE&C Plan. While the Company alleges that Supplement Nos. 139 and 140 are mere corrections to reflect actual cost information that was not available when the Company completed its final reconciliation of Phase I EE&C Plan projected costs and actual costs on June 17, 2013, the record shows that the relevant data was always available, but simply never reviewed by the Company. Moreover, the magnitude of the interclass cost shifting that has occurred through Supplement Nos. 139 and 140 required Commission substantive review, through the plan change process, prior to implementation.

Contrary to the Commission's Orders and the ratemaking provisions of the Public Utility Code, PPL charged Act 129 rates based on projected customer class costs for almost four years before comparing the projected costs to actual costs on a customer class basis. The Company also failed to accurately compare actual Act 129 funding distributed to the classes against the projected disbursements. This errors occurred only for the Company's GNI Program Sector costs, as only GNI Program Sector; however, other measures that also were available to multiple customer classes were properly monitored and allocations were adjusted through the plan change process. Although actual GNI cost information for each customer class was available, the Company limited its efforts to comparing actual costs to projected costs for the total GNI Program Sector, rather than for each customer class, and omitted any process for comparing the actual and projected GNI costs on a customer class basis until long after the conclusion of its Phase I EE&C Plan. By failing to compare projected GNI costs to actual GNI costs on a customer class basis, the Company also ignored protections put in place by the Commission to avoid rate volatility.

Second, the Company violated its tariff by failing to reconcile actual costs at the conclusion of its Phase I EE&C Plan. The reconciliation calculation filed by the Company on May 20, 2013, claimed that all data reported as of April 30, 2013, included actual costs, but this information still reported only the budgeted costs for GNI programs instead of the actual costs. Of course, the stakeholders and Commission were unaware of this until October 23, 2013.

Third, the Company violated the PPL Phase I Plan Order, PPL Phase II Plan Order, and the Minor Plan Change Order by filing Supplement Nos. 139 and 140, both of which shifted costs between customer classes without submission of a Petition to the Commission and following the appropriate procedures. The Company thus deprived customers of an opportunity to appropriately review and challenge the Tariff Supplements. This flagrant and substantial omission should not be permitted to stand.

PPL's failure to comply with Commission Orders frustrated the customer protections set forth in the Phase I Implementation Order, the PPL Phase I Order, the Minor Plan Change Order, and the PPL Phase II Order. As a result, Large C&I customers subject to PPL's ACR-1 and ACR-2 riders were deprived of any opportunity to accurately monitor program costs and consequently subjected to a completely unexpected 162% to the combined ACR-1 and ACR-2 rates on 10 days notice. More importantly, it deprived PPLICA of the opportunity to evaluate whether the transfer of almost \$25 million of subsidies to the GNI customers in the Large C&I class is appropriate.

Large C&I customers should not bear the burden of PPL's failure to administer its EE&C Plans in accordance with Commission Orders. Therefore PPLICA requests that the Commission find that the rate increases for the Large C&I class made effective through Supplement Nos. 139 and 140 were not just and reasonable, would allow recovery for imprudently incurred expenses,

and would violate Act 129, the PPL Phase I Order, the Minor Plan Change Order, and the PPL Phase II Order. Further, PPLICA requests that the Commission direct PPL to issue full refunds for all revenues collected from the Large C&I Class pursuant to Supplement Nos. 139 and 140, excepting only revenues associated with the billing demand errors, consistent with PPLICA's non-opposition of the Company's proposal to correct self-reported billing errors.<sup>6</sup>

#### IV. ARGUMENT

##### A. **Because Supplement Nos. 139 and 140 are not Commission-Approved Rates, PPL Retains the Burden of Proving that the Rates at Issue in this Docket are Just and Reasonable.**

ALJ Susan D. Colwell preliminarily addressed the burden of proof at the evidentiary hearing held on August 14, 2014. Evidentiary Hearing Transcript on August 12, 2014 (hereinafter, "Tr."), 14. ALJ Colwell made a preliminary determination that that PPLICA carries the burden of proving that the Company failed to comply with the terms of its EE&C Plans. *Id.* As set forth below, the preliminary determination should be reversed, as PPL properly bears the burden of proving that the rates implemented by Supplement Nos. 139 and 140 are just and reasonable.

Section 332(a) of the Public Utility Code states: "[e]xcept as may be otherwise provided in Section 315 (relating to burden of proof) or other provisions of this part or other relevant statute, the proponent of a rule or order has the burden of proof." 66 Pa. C.S. § 332(a). With regard to Complaints against proposed rates, Section 315 provides that, "[i]n any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the utility." *Id.* § 315(a).

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<sup>6</sup> The Residential and Small C&I refunds for Supplement 139 should stand because reflect those classes' actual costs and other customers should not be forced to carry the burden of PPL's imprudent monitoring of its ACR-1. *See* PPLICA Stmt. No. 1, p. 6.

Commission-approved rates carry the rebuttable presumption of justness and reasonableness. *Cheltenham & Abington Sewerage Co. v. Pennsylvania Public Utility Comm'n*, 25 A.2d 334, 336 (Pa.Cmwlt.1942) (stating that "[t]he rates prescribed by the commission in 1931 after hearing were 'commission-made' rates as that term is used in utility law). This presumption is appropriate when, as in *Cheltenham*, the rates at issue have been established pursuant to a general rate proceeding under Section 1308 of the Public Utility Code. *Id.* By contrast, however, the initial review performed by the Commission prior to the implementation of changes to a surcharge such as the ACR-1 and ACR-2 involves "at most a preliminary and cursory review". *See Popowsky v. Pennsylvania Public Utility Com'n*, 869 A.2d 1144, 1156 (Pa.Cmwlt.. 2005).; *see also* Tr. 13-14. This "cursory" review is "not a substitute for the review undertaken in a base rate case to determine whether a rate is just and reasonable". *See id.* The Commonwealth Court described the "after the fact audit" as merely requiring the Utility to show that it "did in actuality, spend the funds for the intended purpose." *Pennsylvania Indus. Energy Coalition v. Pennsylvania Public Utility Com'n*, 653 A.2d 1336, 1347 (Pa.Cmwlt.1995).

It is clear that an analysis of whether a proposed surcharge change is just and reasonable is not undertaken by the Bureau of Audits during its initial review. Instead, the Commonwealth Court has found the initial review to be "essentially a mathematical review of the projections provided by the public utility", and as such, the review does not determine the appropriateness or necessity of a rate request. *See Masthope Rapids Property Owners Council v. Pennsylvania Public Utility Comm'n*, 135 Pa.Cmwlt. 437, 581 A.2d 994 (Pa.Cmwlt.1990) (stating "[i]ndeed, the very function of the typical automatic adjustment clause is to permit rapid recovery of a specific, identifiable expense item, with a more comprehensive analysis upon reconciliation of actual costs with previously projected costs used to establish the effective rate. The initial

process is essentially a mathematical review of the projections provided by the public utility. Therefore, there is no initial review to determine the appropriateness or necessity of the rate request").

To the contrary, the Commonwealth Court case cited by PPL in support of its allegation that PPLICA bears the burden of proof involved a Tariff Supplement implementing a base rate increase pursuant to Section 1308 of the Public Utility Code. *See* Tr. 10, *citing Schellhammer v. Pennsylvania Public Utility Com'n*, 629 A.2d 189, 191 (Pa.Cmwlt.1993). In *Schellhammer*, the complainants filed a Complaint after the PUC approved the requested rate increase at a Public Meeting held on June 28, 1990. *Id.* Here, the court properly found that the complainants bore the burden of proof because the Complaint challenged Commission-made rates. *Id.*

In the case of Supplement Nos. 139 and 140, the Commission did not approve rates set by Section 1308 of the Public Utility Code. Rather the Commission's Bureau of Audits reviewed the Company's calculations of rates to be recovered through a Section 1307 automatic adjustment clause or "rider" and determined that "it appears" that the rates are consistent with the Company's tariff, but specifically noted that the riders are subject to "continuous Commission review and audit, as well as reconciliation reports in accordance with Section 1307(e) of the Public Utility Code." *See* Supplement 139 SL; Supplement 140 SL.<sup>7</sup>

Because rates set pursuant to Section 1307 automatic adjustment clauses are not "Commission-made" rates, the burden of proof should not shift to a party challenging the collection of rates recovered through an automatic adjustment. *See Re North Penn Gas Co.*,

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<sup>7</sup> Although the Commission may delegate authority to staff pursuant to Section 5.44 of its Regulations, the Commission did not empower the Bureau of Audits to act on its behalf in this capacity. *See* 52 Pa. Code § 5.44. Under Section 5.44, delegation of Commission authority must be explicit. *Id.* For example, in the Phase I Implementation Order, the Commission explicitly delegated its authority to review CSP contracts to staff pursuant to Section 5.44 of its Regulations. Phase I Implementation Order, p. 40. No such delegation was made with regard to staff review of Supplement Nos. 139 and 140.

1986 WL 1300941 (Pa.P.U.C. Jan. 29, 1986) (referencing 1307(e) automatic adjustment clauses and stating "rates set pursuant to such clauses are not "commission made" rates"). Further, as discussed in Section IV.D. *infra* PPL failed to comply with Commission requirements prohibiting shifting EE&C costs between customer class without submitting a Petition for full Commission review. Minor Plan Change Order, p. 20. The Commission should not permit an EDC to circumvent the burden of proof by ignoring PUC directives and filing an interim rate adjustment without first obtaining approval for the major change.

For the reasons set forth above, PPLICA respectfully requests that the ALJ and the Commission assign the burden of proof in this proceeding to PPL. As set forth below, PPL has failed to show that the changes in Supplement Nos. 139 and 140 are just and reasonable.

**B. PPL Had an Obligation To Monitor, on a Customer Class Basis, the Actual Costs Compared to Projected Costs Throughout Its Phase I EE&C Plan And Reconcile the Customer Class Revenues To Actual Costs At The End Of The Plan.**

PPL's posture in this proceeding is that its Commission-approved Phase I EE&C Plan required the Company to compare actual costs to projected costs for each customer class when conducting the final Plan reconciliation, but did not obligate the Company to compare actual costs to projected costs on a customer class basis throughout the duration of its Phase I EE&C Plan. In support of this view, PPL points to the Commission's approval of levelized recovery for the Company's Phase I EE&C Plan. PPL Stmt. No. 1, p. 9. However, PPL mistakenly assumed that the relief of an obligation to conduct an annual reconciliation constitutes a license to recover levelized costs for almost four years while remaining completely ignorant of the relationship between projected costs and actual costs. This understanding conflicts with various Commission Orders establishing that the Company cannot fulfill its obligations under the Phase I EE&C Plan without continually comparing actual costs to projected costs on customer class

basis throughout the duration of the Plan, particularly for a situation where GNI program costs are recovered from all customer classes based on cost projections.

PPL has operated its Phase I EE&C Plan with the understanding that the Company is only required to monitor actual Program Sector costs, with any actual customer class costs remaining irrelevant until commencing the reconciliation process at the end of the EE&C Plan. In doing so, the Company misconstrues its responsibilities under Act 129 and the Phase Order. PPL submits that its obligations at the customer class level are limited to activities necessary to complete the reconciliation processes required by the Commission and set forth in the Company's Direct Testimony:

Under the Commission-approved EE&C Plan, PPL Electric reconciles the actual revenues collected for each of the three customer classes through the ACR with the adjusted budget amounts for that year, where the term "adjusted budget amounts" means the revenues that PPL Electric planned to collect from each of the three customer classes through the ACR. PPL reconciles actual costs incurred for each of the three customer sectors with the actual revenues collected from each of the three customer sectors only at the conclusion of each EE&C Plan.

*Id.* According to the Company, its obligations at the customer class level, throughout the duration of the Phase I Plan, were limited to comparing actual revenues to projected costs, since that is all that is required to complete the annual reconciliation. As stated by PPL Witness Bethany Johnson:

It was not PPL Electric's intent to modify the [Phase I GNI] allocation during the Program period. Such an approach would have been inconsistent with the levelized rate methodology supported by the Parties and approved by the Commission.

PPL Stmt. No. 2, p. 10. However, while the Commission did not require PPL to annually reconcile revenues to actual customer class costs, the Commission also recognized the reality that EE&C Plan costs are ultimately paid according to customer class, meaning that the financial impact of PPL's Phase I EE&C Plan upon customers can only be measured by

comparing the projected costs built into customer class rates to the actual costs incurred by each customer class. Accordingly, the various Orders setting forth the Commission guidelines for PPL's Phase I EE&C Plan established customer safeguards predicated on PPL continually measuring actual EE&C Plan costs against projected costs.

Both the Phase I Implementation Order and the PPL Phase I Order addressed the necessity to compare EE&C Plan actual costs to initial projections on a customer class basis. Through the Phase I Implementation Order, the Commission outlined the following cost recovery procedures to be followed by all EDCs:

We will require each subject EDC to develop a reconcilable adjustment clause tariff mechanism in accordance with 66 Pa. C.S. § 1307 and include this mechanism in its EE&C Plan. Such a mechanism shall be designed to recover, on a full and current basis from each customer class, all prudent and reasonable EE&C costs that have been assigned to each class as directed above.

Phase I Implementation Order, p. 38. As set forth in the Phase I Implementation Order, the Commission anticipated a transparent cost recovery process where costs would be assigned on a customer class basis and then recovered on a customer class basis.

With regard to PPL's Phase I EE&C Plan, the Commission approved PPL's proposal to allocate costs across the five Program Sectors, including the GNI program cost allocation, but indicated that the Company would remain responsible for comparing its projected costs to actual costs on a customer class basis. *See* PPL Phase I Order, p. 56. This requirement is straightforward for most Program Sectors, as both the Residential and Low-Income Program Sector expenditures benefit only Residential customers, Small C&I Program sector expenditures benefit Small C&I customers, and Large C&I Program Sector expenditures benefit Large C&I customers. However, the responsibility to measure projected and actual costs on a customer class basis created an additional obligation for GNI Program Sector costs and for other

measures that were available to multiple customer classes, because these measures are applicable to all three customer classes and billed based on a Commission-approved cost projections for all three customer classes.

Therefore, monitoring the "actual" aggregate GNI Program Sector expenditures provides no information as to which customer class is incurring the costs and cannot satisfy the obligation to monitor customer class costs. While the Commission supported PPL's proposal to charge levelized rates throughout the Phase I EE&C Plan and reconcile expenses to actual costs only at the end of the Plan, the Commission based its support on an expectation that PPL would remain cognizant of any divergence between revenues and actual costs on a customer class basis. Specifically, the Commission determined that:

... we will require PPL to reconcile total actual revenues collected to its total actual program expenditures at the conclusion of its EE&C Program, as the Company proposes. ***We also support PPL's proposal to make mid-course corrections to its cost recovery mechanism, and we encourage the use of a stakeholder process to consider the need for such correction as the OCA recommends.***

PPL Phase I Order, p. 56. ("Emphasis added"). The Commission's reference to use of the stakeholder process to make mid-course cost recovery corrections sheds light on the importance of comparing projected costs to actual costs at the customer class level. If PPL only compares revenues to budgeted costs for the five Program Sectors instead of actual customer class costs, then the Company cannot effectively utilize the stakeholder process to consider the need for adjustments to its cost recovery mechanism because, unlike the class-specific Program Sectors, the GNI Program Sector budget does not indicate which customer class is actually incurring the costs. *Id.*

Additionally, PPL's obligation to compare projected costs to actual costs on a customer class basis is embedded in its statutory obligation to ensure that rates charged to customers are

just and reasonable, which is preserved in Act 129. *See* PPLICA Stmt. No. 1, p. 9. As observed by PPLICA Witness Jeffrey Pollock:

PPL is entitled to full recovery if it prudently managed its EE&C programs. Any costs deemed to be imprudent should not be recovered from customers. This is consistent with Act-129 which states:

(H) The plan shall include a proposed cost-recovery tariff mechanism in accordance with section 1307 (relating to sliding scale of rates; adjustments), to fund the energy efficiency and conservation measures ***and to ensure full and current recovery of the prudent and reasonable costs of the plan***, including administrative costs, as approved by the commission.

*Id.* at 13 *citing* 66 Pa. C.S. § 2806.1(b)(1)(i)(H). (Emphasis added). By limiting cost recovery to prudent and reasonable costs, Act 129 explicitly preserves the Commission's obligation to ensure that any rates recovered by an EDC through an Act 129 automatic adjustment clause are just and reasonable, as required by Sections 1301 and 1307 of the Public Utility Code. *See id.*; *cf.* 66 Pa. C.S. §§ 1301, 1307. Expenditures that were not approved in the Plan, including expenditures that exceed the approved class budgets, are not just and reasonable costs. As further stated by Mr. Pollock, collecting levelized rates without comparing the actual costs incurred by each customer class to the projected costs that were used to develop the rate runs contrary to generally accepted ratemaking practices.

When a rate is known to be significantly over(or under)-collecting, the appropriate step would be to either revise the rate or change the program such that the costs were more in line with the rate so that when the rate is eventually reconciled, it will not have a significant undue impact on customers. This can be done with a rate that has been structured to provide levelized recovery when the utility monitors its cost assumptions and realizes that a significant amount of additional costs will be shifted from one class to another, as has been proposed here. Thus, even if Mr. Cleff's contention was correct, PPL's administration of the ACR-1 rider was contrary to accepted ratemaking practices.

PPLICA Stmt. No. 1, p. 10. As correctly observed by Mr. Pollock, the Commission's approval of levelized EE&C rates without an annual reconciliation requirement was not an endorsement of "head in the sand" ratemaking, under which, as suggested by PPL, the Company could collect revenues for years without comparing the actual costs to projected costs. *Id.* The Company was still obligated to compare actual costs to projected costs in order to know when interim changes may be justified and to meet the general prudence and reasonableness standards expected of a regulated public utility.

**C. PPL Failed To Properly Compare Projected Customer Class Costs to Actual Costs Both Throughout Its Phase I Plan and In Calculating the End-Of-Phase Reconciliation.**

Supplement No. 139 suggests that the Large C&I undercollections reported in Supplement No. 139 occurred primarily due to data that was unavailable prior to June 17, 2013. The record in this proceeding confirms otherwise, as PPL had access to the actual customer class cost data throughout its Phase I EE&C Plan and simply declined to review the actual customer class cost data in comparison to the projected costs built into the rates. PPL's failure to compare projected customer class costs to actual customer class costs throughout the length of its Phase I EE&C Plan, and including the Phase I reconciliation, resulted in unjust, unreasonable, and imprudent expenses, as the Company continually paid rebates many times in excess of its Commission-approved allocations while taking no steps to address the divergence between projected customer class costs and actual customer class costs, or even to notify customers and stakeholders that such divergence existed.

**1. Contrary to the Company's Representations, PPL Always Had Access to Actual GNI Cost Data on A Customer Class Level.**

PPL's claims that Supplement No. 139 was filed to reflect previously unavailable actual cost data is not supported by the record. Numerous subsequent statements confirm that the

primary driver of Supplement No. 139 came not from unavailable actual GNI costs, but from a failure to compare the available actual costs to projected costs for each customer class.

When filing Supplement No. 139, PPL included the following explanation of the cost variance to be addressed by the filing:

The Company did not update these allocations in its June 17, 2013 ACR-1 reconciliation filing *because updated actual cost information was not available at that time*. A subsequent review of updated Phase I cost data revealed that Phase I costs incurred for each customer class under the Company's Phase I EE&C Plan were substantially different than the costs estimated for each customer class in the original ACR-1 filing. Supplement No. 139 updates the Company's ACR-1 to reflect now available actual Phase I EE&C Plan costs.

See PPLICA Stmt. No. 1, pp. 11-12. (Emphasis added). In truth, the Company was in possession of actual customer class cost data throughout the Phase I EE&C Plan, but declined compare actual cost data to projected costs. The below excerpt from cross-examination of PPL Witness Peter D. Cleff confirms the Company's maintenance of actual cost data and its decision to refrain from comparing the actual customer class costs to projected costs built into rate rates collected from such customers.

Q. So... [text omitted] you may not have compared the large C and I GNI program costs to the residential and small C and I program costs[?]

A. We were managing the GNI budget in aggregate. So, we knew how much authorized GNI expenditures we had in the EE and C plan for each program, and we were looking at actual costs compared to our GNI budget. *We were tracking the GNI costs to a customer class level, but we were not comparing them to any revenue collected for those customer classes within GNI, because that is something we only do at the end of the phase.*

Q. Can you please explain the distinction between "tracking" and "comparing"?

A. By tracking, I mean we are collecting the cost information and assigning it to a proper account, which is by program and also by rate class, customer class. We're tracking those transactions by putting them in the right customer account or classification of account.

Tr. 111-112. So while PPL "tracked" actual GNI costs by customer class, the Company never determined the reasonableness of its original PUC-approved GNI cost allocations by comparing the actual GNI costs to the projected costs (based on the approved allocation) used to develop rates. However, such data apparently was available throughout the Company's Phase I EE&C Plan, including when it submitted Supplement No. 134. The only data that was not available to the Company when Supplement No. 134 was filed on June 17, 2013, was the "surge" data, *i.e.* GNI costs incurred due to a "surge" of applications received after May 31, 2013. *See* PPL Stmt. No. 1, pp. 14-15. However, while PPL suggests that the "surge" was the primary driver behind Supplement No. 139, a review of Exhibit JP-1 to PPLICA Stmt. No. 1 confirms that the surge had no meaningful effect on the cost allocation issues arising from PPL's failure to compare actual GNI costs to revenues at any point during Phase I. *See* Tr. 150; *cf.* PPLICA Stmt. No. 1, Exhibit JP-1. Although the surge increased the total GNI expenses, the relative percentage of Large C&I to Small C&I rebates remained at approximately the same 40% rate that had been maintained throughout PPL's Phase I EE&C Plan. PPLICA Stmt. No. 1, Exhibit JP-1.

Therefore, while some of the incentives paid during the surge would be implicated in PPLICA's ensuing recommendation that PPL refund revenues collected pursuant to Supplement Nos. 139 and 140, the majority of the imprudently incurred expenses were incurred between the January 2010 and May 31, 2013. *See id.* PPL's failure to compare the actual GNI costs to projected GNI costs, regardless of the necessity to actually reconcile such costs, reflects an unfortunately persistent lack of attention to important ratemaking issues affecting customers.

**2. PPL's Treatment of the GNI Costs Differed from Its Treatment of Other Joint Measures Available to Multiple Customer Classes.**

PPL's failure to compare GNI projected customer class costs to actual customer class costs contrasts with the Company's more prudent management of other components of its EE&C

Plans. Contrary to its disinterested management of actual customer class GNI costs, PPL actively monitors and adjusts the budgets and participation levels for other program measures. Although PPL would likely argue that program measures (*i.e.* Direct Load Control) available to multiple customer classes are managed differently from Program Sectors (*i.e.* GNI) applicable to more than one customer classes, PPLICA submits that such reasoning amounts to distinction without a difference from a customer cost perspective.

PPL's management of various program measures indicates a sensitivity to budgeting and costs wholly absent from the Company's management of GNI costs. PPL has demonstrated a willingness to adjust oversubscribed programs, including slowing down rebates for Compact Fluorescent Light bulbs ("CFLs") and various Residential measures in the Efficient Equipment Program. *See* PPLICA Stmt. No. 1, p. 18. PPL has also formally requested Commission approval to reallocate costs for certain program measures. For example, PPL filed a 2011 Petition proposing to eliminate the allocation of CFL costs to Small C&I customers and allocate such costs exclusively to Residential customers. *See Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (February 28, 2011), p. 7 ("2011 Plan Change Petition"). PPL also filed a 2012 Petition including a proposal shift Direct Load Control Program costs from the Small C&I class to the Residential class. *See Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (February 2, 2012), p. 37 ("2012 Plan Change Petition").

In sharp contrast to the Company's prior practice of filing Petitions requesting authority to modify program measure costs, PPL proposed a combined \$25 million reallocation of GNI costs through Supplement Nos. 139 and 140 on days notice. There is no justifiable reason for

PPL to exercise a higher degree of diligence for program measure available to multiple customer classes than that applied to the GNI Program Sector, where the effects on customer bills are identical.

**3. PPL Failed To Reconcile End-Of-Phase Revenues To Actual Costs As Required By Act 129.**

In addition to neglecting to compare projected customer class costs to actual customer class costs throughout the duration of the Phase I EE&C Plan, PPL further failed to comply with its duty to reconcile Phase I revenues to actual customer class costs effective June 1, 2013. As previously discussed, the Commission approved PPL's proposal to recover Act 129 expenses on a levelized basis, but directed the Company to reconcile the revenues collected throughout the Plan to the actual costs incurred on behalf of each customer class. PPL Phase I Order, p. 64. PPL's tariff reflects the same language, stating that "[a]t the conclusion of the Phase I EE&C Plan on May 31, 2013, collections for each customer class will be reconciled to the total cost of the EE&C Plan allowed by the Commission for that customer class." *See* PPLICA Stmt. No. 1, Appendix C, p. 46.

PPL initially appeared to comply with this directive, as the Phase I ACR calculation filed with the Commission on May 20, 2013, clearly stated that all revenue and expense data, reported on a customer class basis, included actual data as of April 30, 2013. *See* May 20 ACR-1 Calculation. Incidentally, the May 20 Calculation showed an overcollection from the Large C&I class, projecting a reconciliation refund of \$(0.021)/kW. *Id.* at Schedule 1. Supplement No. 134, which implemented the rates initially set forth in the May 20 Calculation, adjusted the Large C&I ACR to reflect the \$(0.021)/kW refund. At this point, customers certainly had no reason to believe that PPL had still not compared actual GNI revenues to actual costs on a customer class basis.

However, on cross-examination, PPL Witness Bethany Johnson confirmed that even that data reported as "actual expenses" in the May 20 Calculation still included projected GNI allocations for each customer class instead of actual GNI costs for each customer class. *See Id.* at Schedule 3; *see also* Tr. 142-143, 150. The following transcript excerpt confirms the error in the May 20 Calculation:

Q. In your limited experience, is it generally typical for an actual cost to include projected allocations?

A. No. An actual cost would not have projected allocations. [text omitted].

Q. I understand. But isn't that the case here, where I'll refer you back to the reconciliation report, as I understand it, as of April 30<sup>th</sup> 2013, PPL reported actual costs that included allocations of GNI program expenses?

A. PPL, at the time, did not have any better information. The company was not – was not comparing actual GNI costs by customer class to anything.

Q. So, you would agree that what was reported as actual costs did include projected allocations?

A. Yes.

Tr. 142-143; *see also* Tr. 150. So the failure to review actual customer class costs extended throughout the entire Phase I EE&C Plan and even into the reconciliation of the Phase I EE&C Plan, despite clear and unassailable statutory and tariff language requiring the Company to reconcile all EE&C Plan revenues for each customer class to the actual costs for each customer class.

**4. The Legal Obligation to Properly Reconcile the Phase I Costs Does Not Create a Legal Entitlement for PPL to Recover the Costs That Were Disbursed in Violation of the Phase I Plan.**

Although the language in PPL's ACR-1 and ACR-2 tariff provisions requires a reconciliation of EE&C Plan costs, this obligation does not automatically entitle PPL to cost recovery where the Company failed to comply with applicable PUC directives and statutory

obligations. *See* PPLICA Stmt. No. 1, Appendix C, pp. 46, 49; *but see* 66 Pa. C.S. § 2806.1(b)(1)(i)(H). PPL may only recover EE&C Plan costs that have been prudently incurred, and are just and reasonable. 66 Pa. C.S. § 2806.1(b)(1)(i)(H); *see also* Phase I Implementation Order, p. 38. The fact that PPL had access to actual GNI costs on a customer class level and yet failed to compare such costs to the projections used to develop rates speaks directly to the prudence of the Company's EE&C Plan management.

## 5. Conclusion

Coupled with the Company's omission of any effort to compare projected customer class costs to actual customer class costs during Phase I, PPL's failure to reconcile revenues to actual customer class costs at the end of Phase I demonstrates an alarming apathy towards the effects of the Company's EE&C rates upon Large C&I customers, particularly with regard to GNI program costs. Unfortunately, the Company's attempt to address these errors through Supplement Nos. 139 and 140 only exacerbates these concerns.

### **D. PPL Compounded Its Prior Errors By Filing Supplement Nos. 139 And 140 Rather Than Asking The Commission To Approve A Major Allocation Change To Its EE&C Plans.**

The Commission has steadfastly established that customer class allocations approved for EE&C Plans cannot be changed without Commission approval. The Phase I Implementation Order set forth both cost allocation and cost recovery guidelines affirming that each customer class should only be responsible for Commission-approved costs assigned to such customer class, as previously approved by the Commission. PPL's argument that costs can be shifted between Program Sectors, without regard for any customer class effects, cannot be reconciled with the Phase I Implementation Order, the PPL Phase I Plan Order, the PPL Phase II Plan Order, or the Minor Plan Change Order.

**1. PPL's Assignment of GNI Costs Across Each Customer Class Constituted a Commission-Approved Allocation That Cannot be Exceeded Without Commission Approval.**

Prior Commission decisions confirm that cost allocations are part of each EDCs EE&C Plan and cannot be changed in any manner that would shift costs to another customer class without submission of a Petition and Commission approval.

First, the Commission determined that "in order to ensure that all approved EE&C measures are financed by the customer classes that receive the benefit of such measures, it will be necessary to first assign the costs relating to each measure to those classes to whom it benefits." Phase I Implementation Order, p. 36. Second, the Commission added that "[t]hose costs that relate to measures that are applicable to more than one class, or that can be shown to provide system-wide benefits, must be allocated using reasonable and generally acceptable cost of service principles as are commonly utilized in base rate proceedings." *Id.* at 36-37. Further, the Commission confirmed that the cost recovery mechanism "shall be designed to recover, on a full and current basis from each customer class, all prudent and reasonable EE&C costs *that have been assigned to each class* as directed above." *Id.* at 38. (Emphasis added). Finally, the Commission informed all EDCs that the only way to implement a change shifting costs between customer classes is to file a Petition with the Commission proposing a Plan change. Minor Plan Change Order, p. 4.

PPL argues that its allocation of GNI costs across each customer class was not part of its Commission-approved EE&C Plans, but rather a completely separate assumption, with no operational impact on the Phase I EE&C Plan. In PPL's view:

All GNI cost (and savings) estimates in the approved EE&C Plan are an aggregate for all customer classes who met GNI eligibility requirements. [text omitted] Any differences between the actual costs for customer classes (for GNI and all other programs) and the actual ACR revenues collected from customer classes (for GNI and all other programs) cannot possible be defined as a "major EE&C Plan

change," as PPLICA contends for several reasons. First, the EE&C Plan does not address customer classes within GNI. Therefore, no reason exists for PPL Electric to request a change to the EE&C Plan, especially since nothing in the EE&C Plan, such as estimated costs, estimated savings, program eligibility requirements, program design, etc. relates to customer classes within GNI. Second, differences between actual costs for customer classes and the actual ACR revenues collected from customer classes are an end-of-Phase tariff reconciliation issue as stipulated in the approved EE&C Plan.

PPL Stmt. No. 1, p. 13. PPL's argument that the EE&C Plans do not include estimated costs for customer classes within the GNI programs conflicts with the Commission's reliance on customer class budgets in approving PPL's Phase I allocation of program costs. *See* PPL Phase I Order, p. 17. PPL's Phase I EE&C Plan included a budget and parity analysis comparing the budgeted EE&C costs on a Program Sector basis. *See* PPL Phase I EE&C Plan, Table 7. However, in reviewing the reasonableness of its program budgets, the Commission relied solely on a modified version of PPL's budget and parity analysis prepared by the OCA, which compared the budgeted EE&C costs on a customer class basis, including the GNI budget allocations. *See* PPL Phase I Order, p. 17.

Further, the allocation of GNI costs to the three customer classes was not only included in PPL's proposed EE&C Plan, but challenged on the record, as OSBA opposed the allocation of GNI costs across the existing customer classes and argued that PPL should be directed to add a separate GNI class to its tariff for cost recovery purposes. PPL Phase I Order, p. 62-63. Although the Commission denied OSBA's recommendation, the Commission confirmed that PPL's assignment of GNI costs on a customer class basis is part of the EE&C Plan, stating that:

... the cost of measures benefitting governments, school districts, institutions of higher education and non-profit entities must be assigned in a reasonable manner to the rate class(es) in which those customers are embedded. We find that the Company has done so by basing its allocation on a ratio of the actual number of Government/Non-Profit customers in each of its three customer classes to the total number Government/Non-Profit customers on its system, as set forth above.

PPL Phase I Order, p. 64. Read in conjunction with the Phase I Implementation Order, which authorized EDCs to recover all EE&C costs that have been "assigned" to a customer class, the Commission's approval of PPL's methodology of assigning GNI costs means that PPL was only permitted to recover the GNI costs it had "assigned" to each customer class based on the number of GNI customers. *Id.*; *see also* Phase I Implementation Order, p. 38. To collect GNI costs from any customer class in excess of the assigned costs, *i.e.* shift costs between customer classes, PPL was obligated to request a modification to its Commission-approved allocation of GNI costs across the customer classes.

PPL disputes that the assignment of GNI costs created a customer class budget for GNI costs. According to PPL, the fact that "Act 129 requires EE&C measures to be financed by the same customer class that receives the direct energy and conservation benefits of those measures" authorizes the Company to pay any amount of GNI rebates to any customer class and reconcile the difference at the end of the EE&C Plan, regardless of the assignment of GNI costs previously approved by the Commission. *See* PPL Stmt. No. 2, p. 10; *see also* PPL Stmt. No. 1 (stating that each customer class is responsible for the GNI program costs incurred by customers in their respective class). PPL altogether ignores its responsibility to assign costs to customers and the Act's limitation of its cost recovery power to costs that were previously assigned to each customer class. *See* PPL Phase I Order, p. 64.

As confirmed by PPL, the initial Phase I EE&C Plan assigned GNI costs as follows: 84.79% Small C&I, 1.16% Large C&I, and 14.05% Residential. *See* PPLICA Stmt. No. 1, Appendix C, p. 55.<sup>8</sup> Applied to the total GNI program budget, these percentages represent the maximum amount that PPL was authorized to recover from each rate class under its

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<sup>8</sup> The Phase II EE&C Plan adopted a similar assignment of GNI program costs across customer classes. *See* PPLICA Stmt. No. 1, Appendix C, p. 58.

Commission-approved EE&C Plan. Based on the total GNI budget of approximately \$27 million, PPL was authorized to recover \$22.9 million from Small C&I customers, \$3.8 million from Residential customers, and \$300,000 from Large C&I customers. *Id.* at Appendix C, p. 56.

**2. Any Modification of PPL's Commission-Approved GNI Cost Assignments That Shift Costs To Another Customer Class Constitutes A Major Plan Change.**

Because PPL denies that the assignment of GNI costs was a part of its Commission-approved Plan, the Company does not regard the divergence between projected GNI costs for each customer class and actual GNI costs for each customer class basis as a material issue. PPL readily acknowledges that "actual GNI costs for the Large C&I customer class were significantly greater than the 1% initially estimated in the ACR-1 to collect estimated GNI costs from the Large C&I customer class (the actual proportion was approximately 43%)." PPL Stmt. No. 2, p. 11. However, PPL claims that "Supplement Nos. 139 and 140 make no changes, major or minor, to any EE&C program." PPL Stmt. No. 1, p. 18.

A review of the applicable Commission Orders suggests otherwise. In approving PPL's Phase I EE&C Plan, the Commission set the following guidelines for changes to EE&C Plans:

With respect to changes to the plan, we find that an EDC cannot shift program funds within a customer class, or between customer classes, without prior Commission approval. Doing so would constitute a modification of the EDC's approved plan. The General Assembly authorized the Commission, not the EDC, to make decisions in regard to modifying an approved Act 129 Plan.

PPL Phase I Order, p. 92. Under this standard, PPL has no authority to incur GNI program costs on behalf of Large C&I customers in excess of the 1.16% GNI cost assignment approved by the Commission. *Id.* The Commission also set forth the specific procedures for implementing modifications to EE&C Plans as follows:

Because the EDCs' Act 129 Plan will be approved by Commission Order, procedures for rescission and amendment of Commission Orders must be followed to amend that Order and to assure due process for all affected Parties.

[cite omitted]. Accordingly, if the EDC believes that it is necessary to modify its Act 129 Plan, the EDC may file a petition requesting that the Commission rescind and amend its prior Order approving the plan.

The EDC's petition should explain the specific reasons supporting its requested modifications to its approved plan, *i.e.* the shifting of funds between programs or customer classes, the discontinuation of a program, *etc.* The petition should also contain a request to modify its cost recovery mechanism.

*Id.* at 93. Therefore, under the PPL Phase I Order, PPL was obligated to submit a Petition to the Commission if the Company intended to modify its approved GNI cost assignments.<sup>9</sup>

The Commission again clarified that EE&C Plan changes shifting revenues between customer classes require Commission approval in its Minor Plan Change Order. Here, the Commission "established an expedited process for the review of changes that would have little or no impact on the substantive rights of interested parties, which included an Electric Distribution Company's (EDC) customers and other stakeholders." PPLICA Stmt. No. 1, p. 14. The Commission specifically delegated authority to approve minor changes to staff. *Id.* Importantly, the Commission also defined minor changes exclusively, meaning that any change other than those specifically identified as "minor" is a "major" change necessitating a full Petition and formal Commission review. *Id.* at 15. The changes identified as minor were:

1. The elimination of a measure that is underperforming, no longer viable for reasons of cost-effectiveness, savings or market penetration or has met its approved budgeted funding, participation level or amount of savings;
2. The transfer of funds from one measure or program to another measure or program *within the same customer class*; and
3. Adding a measure or changing the conditions of a measure, such as its eligibility requirements, technical description, rebate structure or amount, projected savings, estimated incremental costs, projected number of participants, or other conditions so long as the change does not increase the overall costs to that customer class.

Minor Plan Change Order, p. 20; *See* PPLICA Stmt. No. 1, p. 14. (Emphasis added).

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<sup>9</sup> This process was not modified by the Order approving PPL's Phase II EE&C Plan. *See generally* Phase II EE&C Plan Order.

PPL unpersuasively contends that shifting GNI costs between customer classes is not a major change. The Company avers that "to determine whether a change (major or minor) has occurred, the key is whether PPL Electric is adding a measure or changing the conditions of a measure." PPL Stmt. No. 3, p. 7. This was not the finding in the Minor Plan Change Order. The Minor Plan Change Order established that any change to a Commission approved EE&C Plan other than the three categories of changes specifically identified in the Order is a major change necessitating a Petition to the Commission. *See* Minor Plan Change Order, p. 20.

PPL also argues that the difference between assigned GNI revenues and actual GNI costs cannot constitute a major change because such a result would require PPL to file a Petition every time the monthly GNI costs diverged from the Company's projections. *See* PPL Stmt. No. 1, p. 18. This argument ignores the fact that PPL's EE&C budgets are set on a total Plan basis, reflecting the duration of the Plan, and not a monthly basis. A "major change" would only occur when the Company incurs or transfers cost responsibility for GNI expenses in excess of the Commission-approved cost assignment for a particular customer class. For example, by July of 2010, the Company had incurred \$225,000 of GNI costs on behalf of Large C&I customers, which amounts to 75% of the total \$300,000 of GNI costs assigned to Large C&I customers for the entire Plan. *See* PPLICA Stmt. No. 1, Exhibit JP-1. At that point, PPL should have realized that the Company's initial assignment of GNI costs was insufficient and filed a Petition proposing to adjust the Large C&I customer class assignment of GNI costs by transferring some of the cost responsibility initially assigned to the Small C&I and/or Residential classes over to the Large C&I class.<sup>10</sup>

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<sup>10</sup> As discussed in Section IV.C.3 *supra*, PPL has demonstrated a ability to submit Petitions proposing other changes that would shift costs between customer classes. The same standard must be applied to any attempt to modify Commission-approved GNI cost allocations.

### 3. Conclusion

Contrary to Company's assertions, the Commission did not intend for the GNI plan to operate as a "wildcard" program, where the approved cost assignments become meaningless because PPL intended to incur GNI expense with no consideration for any differences between projected cost responsibility assigned to customer classes and the actual cost incurred by each customer class. The statutory requirement that the customers incurring the costs must pay the costs does not absolve PPL from the necessity to comply with the appropriate procedural rules required to modify customer cost responsibility. To the contrary, the Phase I Implementation Order, PPL Phase I Order, PPL Phase II Order, and Minor Plan Change Order individually and collectively confirm that PPL cannot shift costs between customer classes without filing a Petition and obtaining approval from the Commission.

#### **E. PPL's Multiple Failures To Comply With Commission Approved-Procedures Deprived Customers of Any Meaningful Opportunity to Monitor GNI Program Costs and Imposed Unjust and Unreasonable Rate Increases Upon PPL's Large C&I Customers.**

PPL's failure to administer its EE&C Plans consistent with Commission Orders, including the filing of Supplement Nos. 139 and 140, has adversely affected Large C&I customers. As discussed above, PPL: (1) neglected to compare GNI projected costs to actual GNI costs on a customer class basis throughout the entire Phase I EE&C Plan; (2) reconciled Phase I GNI revenues to projected GNI costs, despite clear authority mandating reconciliation to actual GNI costs; and (3) bypassed Commission procedures requiring a formal Petition for any Plan change shifting costs between customer classes by filing Supplement Nos. 139 and 140 on ten days notice. PPL's disregard for the customer protections established by prior Commission Orders deprived customers of any ability to meaningfully monitor EE&C costs throughout PPL's

Phase I EE&C Plan and subjected customers to volatile rates caused by significant and completely unexpected cost shifts from Supplement Nos. 139 and 140.

As previously referenced, the Commission predicated its approval of PPL's proposal to charge levelized rates throughout its Phase I EE&C Plan on the Company's commitment to conduct regular stakeholder meetings and propose interim Plan changes when necessary. *See* PPLICA Stmt. No. 1, p. 16. To that end, the Commission issued the following guidelines:

... we encourage the use of a stakeholder process to consider the need for corrections to make mid-course corrections to PPL Electric Utilities Corporation's cost recovery mechanisms; however, we require PPL Electric Utilities Corporation to seek Commission approval of any mid-course changes to the Plan that it intends to make.

PPL Phase I Order, p. 114; *See* PPLICA Stmt. No. 1, pp. 16- 17. Although PPL conducted semi-annual stakeholder meetings throughout its Phase I EE&C Plan, PPL does not dispute that the Company never notified Large C&I customers that actual GNI costs had exceeded the Company's projections almost from the very outset of the Plan. *See Id.* at 17. As documented by both PPL and PPLICA, PPL spent at least 36% of monthly GNI expenses on Large C&I customers in every single month of the Phase I EE&C Plan between October 2010 through August 2013. *See* PPLICA Stmt. No. 1, Exhibit JP-1; *see also* PPL Stmt. No. 1, Exhibit PDC-1. In 25 of the 31 months between October 2010 and August 2013, PPL spent at least 40% of monthly GNI expenses on Large C&I customers. *See id.* Despite assigning only 1% (\$300,000) of total Plan GNI expense to Large C&I customers, PPL continually paid GNI incentives to Large C&I customers eligible for GNI programs in much higher amounts, as illustrated below:

**PPL Phase I Large C&I GNI Expenses:<sup>11</sup>**

<b>Year</b>	<b>All</b>	<b>Classes</b>	<b>Large</b>	<b>C&amp;I</b>	<b>Large C&amp;I</b>	<b>% of</b>
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<sup>11</sup> *See* PPLICA Stmt. No. 1, Exhibit JP-1.

	<b>(Cumulative)</b>	<b>(Cumulative)</b>	<b>Total</b>
2010	\$2,894,373	\$1,335,718	46.1%
2011	\$10,963,888	\$4,347,938	39.7%
2012	\$17,114,804	\$7,187,739	42.0%
2013	\$22,007,626	\$9,367,774	42.6%

The Commission's Phase I EE&C Order undoubtedly anticipated that such stark divergence from the approved cost assignments: (1) would not occur absent PPL submitting a Petition proposing to modify its GNI cost assignments and (2) would be communicated to stakeholders during the stakeholder meetings. PPL Phase I Order, p. 114; *See* PPLICA Stmt. No. 1, p. 17.

Although PPL dismisses its failure to notify customers of the unexpected demand for GNI programs amongst the eligible Large C&I customers, the Company's lack of disclosure foreclosed any ability for stakeholders to address or at least anticipate the consequences of these developments. PPL views the collection of its GNI expenses from Large C&I customers as a foregone conclusion, stating that the only purpose of a mid-course correction of the ACR-1 for Large C&I customers "would have been that they paid the same approximately \$12.7 million sooner, over the remaining course of the Phase I program, rather than at the end during the final reconciliation of the Phase I program." PPL Stmt No. 2, p. 11.

PPL's perspective ignores the fact that alerting stakeholders to the inaccuracy of PPL's initial assignment of GNI costs could have generated discussions and potential program modifications that might have improved the penetration of the Small C&I GNI market or at least provided Large C&I customers with an opportunity to prepare for increasing GNI costs. In addition, this new information highlights an important policy decision that faces the Commission regarding the extent that the non-GNI customers within the Large C&I class should have to subsidize EE&C measures for which they are not eligible. *See* PPLICA Stmt. No. 2, p. 6 As stated by PPLICA Witness Jeffrey Pollock:

Had PPL properly monitored the cost recovery mechanism, as it committed to do, it could have brought the cost shifting issue to the attention of the Stakeholders and the Commission. Through the stakeholder process, remedies could have been proposed and eventually implemented that could have mitigated the cost shift thereby eliminating the need to now make substantial changes in the cost recovery mechanism.

For example, applications from Large C&I accounts for the oversubscribed GNI measures could have been rejected or waitlisted, just like any measure that had reached its projected participation or budget limits that were stated in the Plans. Alternatively, an adjustment could have been made to the ACR-1 surcharge so such a significant under collection did not occur and customers were seeing the true costs of Phase I on their bills.

PPLICA Stmt. No. 1, p. 17. Instead, PPL kept stakeholders, particularly Large C&I customers, completely in the dark as to clear futility of the Company's customer class GNI cost assignments.

PPL's attempt to cure its prior deficiencies by filing Supplement Nos. 139 and 140 is untenable. The Company has abused its Act 129 authority and, through Supplement Nos. 139 and 140, seeks to recover almost \$25 million in revenue from Large C&I customers despite ignoring basic customer protections enshrined in Act 129 and the Public Utility Code. PPLICA Stmt. No. 1, pp. 12-13, 16-17. PPLICA Witness Jeffrey Pollock summarizes the impropriety of the Company's actions in the below testimony excerpt:

PPL has clearly violated the Commission's Phase I Order by not bringing to the attention of stakeholders and the Commission the significant cost shifting that occurred under its Phase I EE&C Plan. PPL is now proposing to compensate for its failure to properly monitor the cost recovery mechanism by implementing huge changes in the applicable ACR-1 and ACR-2 charges for Large C&I customers on ten days notice.

PPLICA Stmt. No. 1, p. 19. As recounted by Mr. Pollock, PPL's filing of Supplement Nos. 139 and 140 imposed simultaneous and completely unanticipated multimillion rate increases on Large C&I customers.

The rate effects of Supplement Nos. 139 and 140 on PPL's largest customers is highly significant and inconsistent with Commission's expressed interest in limiting rate volatility for

EE&C rates. *See* PPL Phase I Order, p. 56. Mike Messer, Regulatory Affairs Manager for Linde, LLC, testified as to the rate impact of Supplement Nos. 139 and 140. Mr. Messer summarized the rate impacts of both filings as such:

For Large C&I customers, Tariff Supplement No. 139 reallocated approximately \$12.3 million from Residential and Small C&I customers to Large C&I customers. This reallocation increased the Large C&I ACR-1 from \$(0.021)/kW-mo to \$0.416/kW-mo, effective November 1, 2013. Tariff Supplement No. 140 revised the Phase II budgeted expenses to incorporate the same percentage allocation implemented through Tariff Supplement No. 139 for the ACR-1, into the Phase II Act 129 Compliance Rider ("ACR-2"). Tariff Supplement No. 140 increased the Large C&I ACR-2 from \$0.512/kW-mo to \$0.927/kW-mo, effective November 1, 2013. ***Combined, Tariff Supplement Nos. 139 and 140 increased the total ACR expense for Large C&I customers from \$0.512/kW-mo to \$1.343/kW-mo, a 162% increase.***

PPLICA Stmt. No. 2, p. 3. (Emphasis added). Mr. Messer further described the total dollar impact on similarly situated Large C&I customers, stating that the increase imposed by Supplement Nos. 139 and 140 would increase annual EE&C rates by \$250,000 for a single LP-5 customer with a PLC of 25,000 kW.<sup>12</sup> *Id.* at 4. Additionally, Mr. Messer described the shock of Supplement Nos. 139 and 140 after receiving prior notice that PPL had set its Phase I and Phase II rates for the period June 1, 2013 through May 31, 2014. *See id.* As with Mr. Pollock, Mr. Messer expressed frustration with the lack of customer notice and opportunity to be heard, noting that "the magnitude of the rate increase from Tariff Supplement Nos. 139 and 140 (21x the LP-5 tariff rate of \$994/month) occurs outside the traditional base rate process, where all parties are given an opportunity to evaluate and present their respective arguments." *See id.* at 5.

While PPL is not required to submit a base rate case to address EE&C matters, Mr. Messer's frustrations with a lack of customer notice relate directly to PPL's failure to address the

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<sup>12</sup> PPL criticizes Mr. Messer's representative example of an LP-5 customer with a PLC of 25,000 kW as an "extreme example," noting that the average LP-5 customer with a PLC of 6,000 kW would see an annual increase of \$60,000. Notwithstanding the fact that a per-customer annual rate increase of \$60,000 remains substantial, it bears noting that PPLICA is a coalition of the many of the largest customers in PPL's service territory. *See* PPL Stmt. No. 2, p. 16.

divergence between GNI revenues and actual GNI costs. The Commission designed the Act 129 cost recovery measures to avoid rate volatility, not generate 162% rate increases filed on ten days notice without prior Commission review. *See* PPL Phase I Order, p. 56. Indeed, in requiring PPL to bill non-Residential ACR charges as a separate line item, the Commission previously recognized the importance of rate transparency to all commercial customers, stating that:

We are persuaded by the OSBA and the reasoning of PPLICA that because of the potentially sizable increases associated with the ACR for these customer classes, a separate line delineation of these charges will provide transparency and clarity. In the current economic environment, the itemization and identification of costs is increasingly critical for businesses.

PPL Phase I Order, p. 52. Rate transparency remains critical to Large C&I customers in Pennsylvania. Despite the Commission's repeated prohibition on interclass cost shifting and strong emphasis on customer engagement and transparency, PPL failed to prudently and diligently administer the GNI component of its Commission-approved EE&C Plan, and should not be permitted to simply cast the consequences onto customers without regard for the Company's past errors and omissions.

**F. Because PPL Failed to Properly Administer the Phase I GNI Program, PPL Should not be Permitted to Recover the Rate Increases Implemented by Supplement Nos. 139 And 140.**

PPLICA concurs fully with the recommendation of Witness Jeffrey Pollock, which is recounted below in full:

Accordingly, until PPLICA has complied with the terms of the Order approving its Phase I Plan and has followed the Commission's requirements for implementing a major change, cost recovery must cease and be denied. This is the appropriate remedy to ensure that similar actions do not occur in the future. PPL's continued acceptance of and approval of the Large C&I GNI applications during Phase I was not consistent with its approved plan once the costs exceeded the 1% stated in the Phase I Plan. PPL violated its Phase I Plan and should not be entitled to recovery of these costs from Large C&I customers through Supplement No. 139. The changes to Supplement No. 140 must be filed as a major change pursuant to the Commission's established processes.

PPLICA Stmt. No. 1, p. 20. As recounted by Mr. Pollock, PPL has mishandled its Phase I GNI expenses and attempted to shift costs between customer classes in a manner falling far short of the prudence and reasonableness requirements for cost recovery under Act 129 and the Public Utility Code. *See* PPLICA Stmt. No. 1, Appendix C, p. 46. (establishing that "collections for each customer class will be reconciled to the total cost of the EE&C Plan allowed by the Commission for that customer class"). PPL's persistent refusal to compare projected customer class costs to actual customer class costs throughout its entire Phase I EE&C Plan, in conjunction with its failure to reconcile the total Plan costs to actual costs for each customer class as of June 1, 2013, renders its actions unjust and unreasonable and must further render the expense unrecoverable. *See* 66 Pa. C.S. § 2806.1(b)(1)(i)(H) (allowing for full and current recovery of "prudent and reasonable" plan costs). Similarly, the Company's attempts to retroactively modify its Phase I GNI cost allocations and revise its Phase II GNI allocation fail to comply with the Commission's procedures for EE&C Plan changes that involve interclass cost shifts. *See* Minor Plan Change Order, p. 20.

**V. CONCLUSION**

**WHEREFORE**, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission:

- (1) Enter an Order confirming that PPL failed to conform to the Commission Order approving PPL's Phase I EE&C Plan, Act 129, and Sections 1301 and 1307 of the Public Utility Code by recovering budgeted GNI program costs from customers, but declining to monitor actual per-customer class GNI program costs;
- (2) Enter an Order confirming that PPL failed to conform to the Commission Order approving PPL's Phase I EE&C Plan, the Commission Order approving PPL's Phase II EE&C Plan, Act 129, and the Minor Plan Change Order by modifying GNI rate allocations without filing a Petition with the Commission;
- (3) Enter an Order partially denying Supplement No. 139 and enjoining PPL from collecting revenues from Large C&I customers attributable to any divergence from its original GNI customer class cost assignments for the Phase I Plan;

- (4) Enter an Order partially denying Supplement No. 140 and enjoining PPL from collecting revenues from Large C&I customers attributable to any divergence from its original GNI customer class cost assignments for the Phase II Plan;
- (5) Enter an Order directing PPL to implement refunds of all revenues collected from Large C&I customers pursuant to the shift of GNI program revenue from Supplement Nos. 139 and 140, but excluding revenues associated with correcting the billing demand errors reported in Supplement Nos. 139 and 140;
- (6) Enter an Order directing PPL to submit a Compliance Filing proposing the methodology for issuing refunds and showing the calculation of refunds of all revenues collected from Large C&I customers pursuant to the shift of GNI program revenue from Supplement Nos. 139 and 140, but excluding revenues associated with correcting the billing demand errors reported in Supplement Nos. 139 and 140; and
- (7) Provide any other relief deemed necessary and reasonable.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

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Dated: September 9, 2014

Appendix A

Summary of  
2011 PPL Petition to Modify Phase I EE&C Plan

	Proposed Plan Change - 2011 Petition (Phase I) <sup>1</sup>	Commission's Disposition of the Request <sup>2</sup>
Changes that impact total approved costs or savings for the EE&C Plan (entire EE&C portfolio), for any program, or for any customer sector.		
1.	Proposed increase by 50MW for Large C&I Load Curtailment Program.	Approved PPL's proposal to expand its Load Curtailment program by 50MW.
Changes that shift costs between customer sectors but have no impact on total savings or total costs for the EE&C Plan (portfolio level).		
2.	CFL Program – change allocation of costs and savings for CFLs. All costs and savings will be allocated to residential sector instead of residential, low-income, and small C&I sectors. Residential, low-income, and small C&I customers will continue to be eligible to purchase discounted CFLs from retail stores under this program.	Approved by the Commission in its Opinion and Order entered January 28, 2011.
3.	Change in classification of direct program costs and common costs.	Approved by the Commission in its Opinion and Order entered January 28, 2011.
<b>Fine-Tuning of Rebates, Measure Descriptions, and Eligibility Requirements. These changes have no impact on the cost or savings of a program, customer sector, or the EE&amp;C Plan.</b>		
4.	Rebate for programmable thermostats in the Efficient Equipment Program changed from \$50 to "up to \$50" because the price of many thermostats is less than \$50 and PPL electric will not reimburse participants for more than their total cost. Also added eligibility for 5 + 1 + 1 thermostats (5 weekdays plus Saturday and Sunday settings).	Approved

<sup>1</sup> See *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (February 28, 2011).

<sup>2</sup> See *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Opinion and Order Docket No. M-2009-2093216 (May 6, 2011).

	<b>Proposed Plan Change - 2011 Petition (Phase I)<sup>1</sup></b>	<b>Commission's Disposition of the Request<sup>2</sup></b>
5.	Rebates for motors in the Efficient Equipment Program changed from 50% of incremental cost to a flat rebate amount by type/HP per a table. "Incremental cost" is difficult to define, document, and for customers to understand.	Approved
6.	Rebate for insulation in the Efficient Equipment Program changed from 70% of installed cost to \$0.30/sq ft. up to 70% of installed cost. Expanded the eligibility to include bringing insulation up to code levels for existing space. Added a requirement for a minimum amount of additional insulation to prevent gaming.	Approved
7.	Added a per project rebate cap for renewable energy (PV and ground source heat pumps). The project size and number of projects were greater than expected and the installed cost of PV has decreased recently. The cap allows more projects to receive incentives.	Approved
8.	Changed consumer eligibility requirements for PV so applicants after 1/29/10 could not receive a PPL Electric rebate if they also received a Pa DEP rebate.	Approved
9.	Closed the PV portion of the Renewable Energy Program in March 2010 because it was fully subscribed.	Approved
10.	Changed the rebate for fluorescent high bay fixtures in the Efficient Equipment Program to a flat amount per lamp and to permit 2 to 10 lamps per fixture. The original description was limited to 4-lamp fixtures.	Approved
11.	Increased the rebate for a comprehensive audit in the Energy Assessment & Weatherization Program from \$100 to \$150 for participants who have air conditioning or electric heat.	Approved
12.	Changed the minimum efficiency rating (EER) and the rebates for DX packaged air conditioners in the Efficient Equipment Program to reflect changes in code requirements after 12/31/2009. Minimum EER increased from 11 to 11.5. Rebate for EER 11.5 changed from \$80/ton to \$55/ton (consistent with the previous rebate for minimum EER 11). Rebate for EER12 changed from \$105/ton to \$80/ton. Added eligibility and a \$105/ton rebate for EER 12.5 and greater.	Approved
13.	Added "Energy Star" as a requirement for commercial ice makers in the Efficient Equipment Program.	Approved

	<b>Proposed Plan Change - 2011 Petition (Phase I)<sup>1</sup></b>	<b>Commission's Disposition of the Request<sup>2</sup></b>
14.	Changed the eligible wattages for high pressure sodium lights in the Efficient Equipment Program from "70 watt exterior" to "between 65 watts and 300 watts."	Approved
15.	Changed the eligibility rating of LED exit lighting in the Efficient Equipment Program from "5 watts" to "5 watts or less."	Approved
16.	Simplified T8 lighting eligibility to include any length bulb.	Approved
17.	Modified the eligibility for lighting occupancy sensors to allow fixture-mounted sensors. Deleted the requirement for hard wiring of sensors.	Approved
18.	Clarified Custom Incentive Program rebate caps and explained that the caps are per calendar year and provided definitions of "parent" and "site." Corrected some references to the cap for the parent (it was \$1 million in some text and \$2 million in others; it should be \$2 million). Added a requirement that incentives may not cover more than 50% of incremental costs.	Approved
19.	Changed the rebates for office equipment (computers, printers, copiers) in the Efficient Equipment Program from a "% of incremental cost" to fixed dollar amounts.	Approved
20.	PPL's Residential Thermal Storage (RTS) rate required customers to install a meter controlled thermal storage system with sufficient storage capacity to heat the home for 10 hours during the day. Proposed amendment clarifies that high efficiency furnaces for RTS customers' fuel switching incentive includes gas, oil and propane.	Approved
21.	Changed the description of a measure in the Efficient Equipment Program from "HE Fixture/Design" to "Lighting Power Density Reduction" (LPD). Clarified that LPD reduction applies to new construction, major renovation, and change in space use. Changed the rebate from 50% of incremental cost to \$0.35/watt reduced. Deleted "integrated lighting, classrooms, and other buildings" as a unique measure since it is covered by LPD Reduction.	Approved

	<b>Proposed Plan Change - 2011 Petition (Phase I)<sup>1</sup></b>	<b>Commission's Disposition of the Request<sup>2</sup></b>
22.	<p>Changed eligibility for CFL rebates in the Efficient Equipment Program so they are limited to C&amp;I customers who purchase CFLs from sources other than retail stores participating in the CFL Program. Residential customers are no longer eligible for CFL rebates in the Efficient Equipment Program because discounted CFLs are available to residential customers in the CFL program. Including residential CFL rebates in the Efficient Equipment Program would have resulted in double incentives – customer buys a discounted CFL from a participating retailer under the CFL program and also submits a rebate application under the Efficient Equipment Program. Since many C&amp;I customers buy CFLs from sources other than retail stores, a rebate-based incentive is appropriate under the Efficient Equipment Program.</p>	Approved
23.	<p>Clarified the measure description for high bay lighting in the Efficient Equipment Program. The "HO" was dropped from "T8 HO." High bay T8 HO are only 8-foot tubes and the program will accept 4-foot tubes.</p>	Approved
24.	<p>Clarified residential customers are eligible for the Custom Incentive Program even though that is not specifically stated in the EE&amp;C Plan. PPL Electric expects almost all residential type measures to be covered in the Efficient Equipment Program and other programs, thereby leaving very few that must be addressed in the Customer Program. However, some farms have a residential rate schedule and, therefore, may have more custom measures than a typical residential customer.</p>	Approved
<b>Measures Added to the Efficient Equipment Program. These changes have no impact on the cost or savings of a program, customer sector, or the EE&amp;C Plan.</b>		
25.	Air cooled chillers added as a program measure.	Approved
26.	Amended to clarify that Energy Star lighting incentive (from the original plan) also applies to ceiling fans with Energy Star ® light fixtures.	Approved
27.	Added T-5 and Super T-8 lighting to the original list of measures because they are very common and more energy efficient than T-8.	Approved

	<b>Proposed Plan Change - 2011 Petition (Phase I)<sup>1</sup></b>	<b>Commission's Disposition of the Request<sup>2</sup></b>
28.	LED retrofit kits and cold cathode lighting were added to the list of measures because they are emerging lighting technologies and are desired by customers.	Approved
<b>Measures Deleted from the Efficient Equipment Program. These changes have no impact on the cost or savings of a program, customer sector, or the EE&amp;C Plan.</b>		
29.	Water heater setback deleted from the Efficient Equipment Program because savings and sustainability cannot be reasonably verified.	Approved
<b>Measures Moved from the Efficient Program to the Custom Incentive Program. These changes have no impact on the cost or savings of a program, customer sector, or the EE&amp;C Plan. These measures have highly variable or uncertain savings and cost-effectiveness. Therefore, they are more appropriately addressed in a custom program than a prescriptive rebate program.</b>		
30.	Strip curtains – moved from Efficient Equipment Program to the Custom Incentive Program.	Approved
31.	Refrigeration night covers – moved from Efficient Equipment Program to the Custom Incentive Program.	Approved
32.	Decrease cooling tower approach temperature – moved from Efficient Equipment Program to the Custom Incentive Program.	Approved
33.	The projected peak load reductions in the Load Curtailment Program have increased from 100 MW to 150 MW based on bids from CSPs. These increased peak load reductions can be achieved within the original budget of this program, will provide more benefits to customers, and will provide more margin for compliance if other programs do not achieve their projected peak load reductions.	Approved

	<b>Proposed Plan Change - 2011 Petition (Phase I)<sup>1</sup></b>	<b>Commission's Disposition of the Request<sup>2</sup></b>
34.	<p>Deferred launching the Direct Load Control Program from January 2010 to late 2010/early 2011. There is no benefit to launching this as originally scheduled. The CSP bidding process and contract award is taking much longer than expected, partly because of changes to the Technical Reference manual and the protocols for determining load reductions. Regardless, load reductions are not required before June 2012, there is no benefit to pay incentives before the summer of 2012 although the CSP may choose to do so within the firm price of the contract, and the CSP will have sufficient time to recruit customers and implement load reductions by the summer of 2012 if the contract is awarded by January 2011.</p> <p>Deleted projected load reductions from the EE&amp;C Plan in Program Years 1, 2, and 3. Even though the CSP will enroll customers and have some load reductions in the summer of 2011 (Program Year 3), those reductions will not count toward the compliance target. Only reductions in the summer of 2012 (Program Year 4) count.</p>	Approved
35.	<p>Deferred launching the Load Curtailment Program from January 2010 to late 2010/early 2011. There is no benefit to launching this as originally scheduled. The CSP bidding process and contract award is taking much longer than expected, partly because of changes to the Technical Reference Manual and the protocols for determining load reductions. Regardless, the original schedule was too early. Load reductions are not required before June 2012, there is no benefit to pay incentives before the summer of 2012, and the CSP will have sufficient time to recruit customers and implement load reductions by the summer of 2012 if the contract is awarded by January 2011.</p> <p>Deleted projected load reductions from the EE&amp;C Plan in Program Years 1, 2, and 3. Even though the CSP will enroll customers and may have some load reductions in the summer of 2011 (Program Year 3), those reductions will not count toward the compliance target. Only reductions in the summer of 2012 (Program Year 4) count.</p>	Approved

	<b>Proposed Plan Change - 2011 Petition (Phase I)<sup>1</sup></b>	<b>Commission's Disposition of the Request<sup>2</sup></b>
36.	Changed the low-income proportion of measures to conform to the Commission's Low-Income Working Group Report dated April 27, 2010. See sections 1.1.2 and 9.1.3.	Approved

**Summary of  
2012 PPL Petition to Modify Phase I EE&C Plan**

Proposed Plan Change - 2012 Petition <sup>3</sup>	Commission's Disposition of the Request <sup>4</sup>
<b>MINOR MODIFICATIONS</b>	
<b>Elimination of a Measure</b>	
1. Discontinue rebate for dehumidifiers in the Efficient Equipment Incentive Program.	Approved
2. Discontinue rebate for Energy Star Light Fixtures in the Efficient Equipment Incentive Program.	Approved
3. Discontinue rebate for scanners, printers, and all other office equipment in the Efficient Equipment Incentive Program.	Approved
4. Close residential photovoltaic ("PV") and residential ground source heat pump ("GSHP") portions of the Renewable Energy Program earlier than expected as each is fully subscribed.	Approved
5. Close the Government, Non-profit, Institutional ("GNI") portion of renewable energy program earlier than expected as program is fully subscribed and has reached its budget limit.	Approved
6. Discontinue rebate for dishwashers and clothes washers in the Efficient Equipment Incentive Program.	Approved
7. Discontinue time clocks as an eligible measure in the Efficient Equipment Incentive Program.	Approved
8. Discontinue rebate for Seasonal Energy-Efficiency Rating ("SEER") 14.5 heat pumps and SEER 12 and 15 central air conditioning in the Efficient Equipment Incentive Program.	Approved
9. Discontinue demand control defrost (commercial refrigeration) as an eligible measure in the Efficient Equipment Incentive Program.	Approved
10. Discontinue the rebate for chiller pipe insulation in the Efficient Equipment Incentive Program.	Approved

<sup>3</sup> See *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (February 2, 2012).

<sup>4</sup> See *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Order, Docket No. M-2009-2093216 (May 25, 2012).

	<b>Proposed Plan Change - 2012 Petition<sup>3</sup></b>	<b>Commission's Disposition of the Request<sup>4</sup></b>
11.	Discontinue the rebate for Cooling Tower Two-Speed Fan Motor in the Efficient Equipment Incentive Program.	Approved
12.	Discontinue rebate for residential and commercial programmable thermostats in the Efficient Equipment Incentive Program.	Approved
13.	Discontinue the rebate (up to \$100) for air infiltration sealing in the Energy Assessment and Weatherization program.	Approved
<b>Transfers of Funds</b>		
14.	Consolidate the CSP cost estimate breakdown in the EE&C Plan from two (2) items (CSP Labor; CSP Material/Supplies) to one (1) item (CSP Costs) because PPL Electric manages each CSP budget at the aggregate level, not at the labor and material component level.	Approved
15.	Reallocate approximately \$10 million of Large C&I direct program costs from the Efficient Equipment Incentive Program to the Custom Incentive Program.	Approved
16.	Reallocate approximately \$13 million Small C&I program costs from the C&I Custom Incentive Program to the Efficient Equipment Incentive Program.	Approved
<b>Adding a Measure or Changing the Conditions of a Measure</b>		
17.	Reduce the projected participation and savings for the Small C&I sector for most measures in the Efficient Equipment Incentive Program and the C&I Custom Incentive Program.	Approved
18.	Decrease the projected cost of the Large C&I Load Curtailment Program from approximately \$15 million to approximately \$11 million.	Approved
19.	Adjust savings and cost assumptions between program years for the HVAC Tune-Up Program to reflect actual experience and reduce the projected total savings and costs of this program.	Approved with amendments: "PPL may continue to allow HVAC contractors to provide measures to customers and to receive rebates. However PPL electric has agreed to no longer promote the HVAC Tune-Up Program to end-use customers and that it will close the program once the Commission-approved budget for the program has been exhausted."

	Proposed Plan Change - 2012 Petition <sup>3</sup>	Commission's Disposition of the Request <sup>4</sup>
20.	Increase the participation levels and savings for the behavior program with no additional cost.	Approved
21.	Change projected participation and savings for appliance recycling program. Revise the projected number of recycled refrigerators, freezers, and window air conditioners in the Appliance Recycling Program to reflect more realistic targets.	Approved
22.	Add residential and commercial ductless heat pumps as an eligible measure in the Efficient Equipment Incentive Program because they were approved by the Commission in the 2011 TRM (residential) and approved by the SWE in an interim TRM (commercial) that was also approved in the 2012 TRM.	Approved
23.	Expand the eligible products in the Compact Fluorescent Lighting Campaign program to include residential light-emitting diodes (LEDs) and other efficient lighting technologies to stimulate their use and to expose customers to those technologies.	Approved
24.	Add LED lighting to the Efficient Equipment Incentive Program. Savings will be determined in accordance with the TRM, <i>i.e.</i> , retrofit or new construction lighting and rebates will be \$0.10 kWh/yr processed through PPL Electric's C&I Custom Incentive Program or as a new prescriptive rebate at the same rate through the Efficient Equipment Incentive Program.	Approved
25.	Add packaged terminal air conditioners and packaged terminal heat pumps as eligible measures in the Efficient Equipment Incentive Program because these were added to the TRM.	Approved
26.	Add heat pump water heaters as an eligible measure for low-income WRAP.	Approved
27.	Adjust projected peak load reduction from energy efficiency measures/programs to reflect current results, trends, and challenges to the TRM. As a result, the Compact Fluorescent Lighting Campaign program's peak load reduction decreases, the Efficient Equipment Incentive Program's peak load reduction decreases, and the Appliance Recycling Program increases its peak load reduction slightly.	Approved

Proposed Plan Change - 2012 Petition <sup>3</sup>	Commission's Disposition of the Request <sup>4</sup>
28. Reduce the rebate from \$50 to \$25 and increase the expected number of units in the Efficient Equipment Incentive Program from 21,860 to approximately 56,000.	Approved
29. Streamline rebates and change the eligibility requirements for LED traffic lights in the Efficient Equipment Incentive Program. Red and green lights will have the same rebate for the same size light; rebates for yellow LED traffic lights are discontinued because they have no savings; and eligibility is limited to replacements of incandescent traffic lights (i.e. no rebates where one LED light/bulb replaces another LED light/bulb).	Approved
30. Change the minimum required lighting power density ("LPD") reduction versus code from 15% to 5% in the Efficient Equipment Incentive Program.	Approved
31. Reduce the expected number of rebates for room air conditioners in the Efficient Equipment Incentive Program from approximately 38,000 to approximately 9,000 to reflect current performance.	Approved
32. Increase the minimum motor efficiencies in the Efficient Equipment Incentive Program to align to revised industry standards that became effective December 2010 and were updated in the TRM.	Approved
33. Clarify that the prescriptive rebate for LED fixtures or retrofit kits in the Efficient Equipment Incentive Program applies to residential use only. C&I LED lighting will be covered in the Company's C&I Custom Incentive Program or through C&I lighting rebates at \$0.10 kWh/year in the Efficient Equipment Incentive Program. Moreover, a specific TRM protocol was developed for the residential fixture so a residential customer does not have to complete the complex Pennsylvania Lighting Spreadsheet for an LED fixture.	Approved
34. Proposes a general clarification for all programs and measures, except for the C&I Custom Incentive Program. PPL clarifies, specifically, that rebates paid cannot exceed the cost of the measure. This limitation was implied, but not specifically mentioned, in the EE&C plan.	Approved

Proposed Plan Change - 2012 Petition <sup>3</sup>	Commission's Disposition of the Request <sup>4</sup>
<p>35. Increase projected number of rebates for heat pump water heaters from 230 to 3,200 in the Efficient Equipment Incentive Program because actual participation has exceeded expectations. Furthermore, PPL proposes to restrict heat pump water heater rebates to residential use and certain types of commercial use as recently specified in the TRM.</p>	<p>Approved as amended: "PPL is permitted to [do this] but PPL will add a solar thermal domestic hot water pilot program for up to fifty Residential Thermal Storage ("RTS") customers. PPL agrees to conduct outreach to inform RTS and solar installers of the program. The Settlement also provides that RTS customers that installed solar thermal domestic hot water heaters after July 1, 2009 will be eligible for the program."</p>
<p>36. Change the rebate and eligibility requirements for C&amp;I Custom Incentive Program technical studies. Rebates for technical studies will be calculated at the lesser of the following values: (1) If the study is a comprehensive audit of an entire facility, the reimbursement is \$0.10/sq. ft.; (2) For a feasibility study that addresses specific equipment or system, the reimbursement will be calculated as \$0.50 per kWh/yr; (3) Studies will be capped at 25% of the potential custom incentive, 100% of determining the rebate cap for custom projects, the incremental cost of such projects only includes the customer's external costs.</p>	<p>Approved as amended: "PPL [must] discuss with representatives of PPLICA potential modifications to rebate and eligibility requirements to reflect the costs incurred by a participating customer when in-house personnel are used to study and develop a project." PPL must also add expiration dates to ensure customers can implement the project by May 2013.</p>
<p>37. PPL proposes to change the rebate structure in the Efficient Equipment Incentive Program for lighting retrofits that include de-lamping. Instead of one de-lamping measure, the Company proposes five.</p>	<p>Approved</p>
<p>38. Increase the maximum number of recycled air conditioners per customer from two to four in the Appliance Recycling Program. In select situations, such as multi-family housing units with master metering, the Company will allow more than four room air conditioners.</p>	<p>Approved</p>
<p>39. Increase projected Large C&amp;I savings (by approximately 91,000 MWh/yr) within the current budget to reflect actual participation and anticipated projects as of June 1, 2011.</p>	<p>Approved</p>

Proposed Plan Change - 2012 Petition <sup>3</sup>	Commission's Disposition of the Request <sup>4</sup>
40. Increase projected savings in the Compact Fluorescent Lighting Campaign program by approximately 100,000 MWh/yr within the current budget. Decrease projected cost of this program by about \$2.5 million.	Approved
41. Change the rebate structure from per fixture to per lamp for T5, T8, and high performance T8 lighting in the Efficient Equipment Incentive Program.	Approved
42. Change the rebate for an occupancy sensor ("OS") from "up to \$45" to "up to \$45 or up to \$25 if coupled with daylighting controls" in the Efficient Equipment Incentive Program.	Approved
43. Change the eligibility requirement in the Efficient Equipment Incentive Program for C&I Wall and Ceiling Insulation for existing structures from "current ASHRAE standard + R11" to "a minimum of R11 and must meet or exceed ASHRAE." PPL also proposes to revise eligible space conditioning types in the Efficient Equipment Incentive Program and the Audit & Weatherization Program to align with the HVAC baseline efficiencies in Table 3-21 of the 201 TRM.	Approved
44. Change the eligibility requirement in the Efficient Equipment Incentive Program for T5 and T8 light fixtures from "Must replace T12 (lamp & electronic ballast)" to "Replace fixture with T5 or T8 lamps and ballast."	Approved
45. Clarify the eligibility requirement for Display Cases in the Efficient Equipment Incentive Program. Proposed modification includes changing "Energy Star" on the rebate chart to "See incentive application for details" and updating the application to align with requirements of 2011 TRM. PPL also proposes to add "open air units" to the list of case types that do not qualify for an incentive in the Efficient Equipment Incentive Program.	Approved
46. Clarify eligibility for Residential Energy Assessment & Weatherization Program. Changing language for the audit rebate eligibility requirement from "air conditioning or electric heat" to "central air conditioning or main source electric heat."	Approved

Proposed Plan Change - 2012 Petition <sup>3</sup>	Commission's Disposition of the Request <sup>4</sup>
47. Change classification of WRAP and E-Power Wise measure costs and incentives. Now they are classified as "CSP Direct Program costs" not "incentives."	Approved
48. PPL plans to update the text throughout the EE&C Plan to reflect current conditions.	Approved
49. Change efficiency requirements for chillers in the C&I Custom Incentive Program to conform to revised Table 3-25 in the 2011 TRM.	Approved
50. The Company proposes to change eligibility requirements in the Efficient Equipment Incentive Program for T5 and T8 high bay fixtures. Modifications include changing ">125 watts" to "> 100 watts" and deleting the requirement to install fixtures in an area with ceiling height greater than 15 feet.	Approved
51. Proposes to delete the requirement that commercial CFLs must be purchased after July 1, 2010 to be eligible for a rebate in the Efficient Equipment Incentive Program.	Approved
52. PPL proposes to change the rebate for pin-based CFLs from \$30 per fixture to \$30 per fixture for commercial customers and \$5 per fixture for residential customers in the Efficient Equipment Incentive Program.	Approved
53. Increase estimated participation for air source heat pumps, dishwashers, clothes washers, and residential lighting retrofits.	Approved
54. Decrease estimated participation levels for central air conditioners, Energy Star light fixtures, programmable thermostats, and high efficiency furnaces.	Approved

Proposed Plan Change - 2012 Petition <sup>3</sup>	Commission's Disposition of the Request <sup>4</sup>
<p>55. Add a direct install option for customers, called Direct Discount Services ("DDS"), which uses PPL's network of authorized contractors to market, propose, and install lighting and refrigeration measures for Small C&amp;I customers. Incentives are based on kWh/yr saved for each measure and are paid to the installation contractor. The authorized contractor completes and processes all required paperwork including the complex PA Lighting Spreadsheet. The DDS option will accelerate participation by Small C&amp;I customers who are having problems identifying efficiency improvements, funding the full cost of the measures, finding contractors, and filling-out rebate forms and other documentation.</p>	Approved
<p>56. Add a direct mail option for E-PowerWise kits. PPL will mail, directly to qualified customers, energy conservation educational material and a card which the customer would return to receive an energy savings kit. Customers will have to complete a survey that documents their actions.</p>	Approved
<b>NON-MINOR MODIFICATIONS</b>	
<p>57. Elimination of the TOU Program from the EE&amp;C Plan. Company will delete TOU from its Act 129 EE&amp;C Plan. However as part of its Default Service requirements, PPL will continue to offer time-of-use rates to all customers who have been provided with a smart meter.</p>	Approved
<p>58. Elimination of the New Home Program. The New Home Program budget of \$2.7 million will be reallocated to the residential portion of the Efficient Equipment Incentive Program.</p>	Approved as amended: "PPL's proposal to eliminate the New Home Program will be adopted. However, PPL has agreed to undertake educational outreach efforts to inform local builders and contractors of the existing programs and measures available to assist them and their customers. [Moreover,] local builders and contractors may continue to implement measures through the Efficient Equipment Incentive Program while allowing the PPL to avoid the additional administrative costs to implement the New Home Program."

	Proposed Plan Change - 2012 Petition <sup>3</sup>	Commission's Disposition of the Request <sup>4</sup>
59.	Addition of a CSP for the C&I and Institutional Portions of Efficient Equipment Incentive and Custom Incentive Programs.	Approved
60.	Adjust estimated common costs to reflect current projections. Common costs are applicable to more than one customer class or apply system-wide. Common costs include tracking systems, EM&V, overarching advertising and marketing, EE&C Plan developments and revisions, and general management. Common costs are allocated to customer sectors based on an allocation factor equal to the percentage of the EE&C costs directly assigned to each customer class to the total of EE&C costs directly assigned to all customer sectors. Specific revised projections are included in the Petition on pages 36 to 37.	Approved
61.	Increase the projected cost of the Direct Load Control Program from approximately \$11 million to approximately \$12 million. In addition, there are changes to the projected participation levels between sectors, including no allocation to the Low-income sector since PPL will not income-qualify participants, a reduction to the Small C&I sector, and an increase in the Residential sector.	Approved
62.	PPL proposes to increase the number of units and total costs for residential PV and GSHP due to the large number of applications when the program opened. This increased the cost of the residential portion of the program, prompting reallocation of costs among different customer classes within the existing budget's confines.	Approved

## APPENDIX B

### PROPOSED FINDINGS OF FACT

1. On July 1, 2009, PPL filed an EE&C Plan proposing to allocate approximately 1% of total GNI budget to Large C&I customers, with 85% allocated to Small C&I customers and 14% allocated to Residential customers. *See* PPLICA Stmt. No. 1, Appendix C, p. 55.
2. 1% of PPL's Phase I GNI budget is equal to approximately \$300,000. *See* PPLICA Stmt. No. 1, Appendix C, p. 55.
3. In 2010, PPL's total cumulative GNI expenses for Large C&I customers totaled \$1.3 million or 46.1% of total GNI expenses. *See* PPLICA Stmt. No. 1, Exhibit JP-1.
4. In 2011, PPL's total cumulative GNI expenses for Large C&I customers totaled \$4.3 million or 39.7% of total GNI expenses. *See* PPLICA Stmt. No. 1, Exhibit JP-1.
5. In 2012, PPL's total cumulative GNI expenses for Large C&I customers totaled \$7.1 million or 42.0% of total GNI expenses. *See* PPLICA Stmt. No. 1, Exhibit JP-1.
6. In 2013, PPL's total cumulative GNI expenses for Large C&I customers totaled \$9.3 million, or 42.6% of total GNI expenses. *See* PPLICA Stmt. No. 1, Exhibit JP-1.
7. Throughout the entire Phase I Plan, from April 2010 – May 2013, PPL did not compare the GNI projected costs to actual GNI costs on a customer class basis.
8. Throughout the entire Phase I Plan, from April 2010 - May 2013, PPL did not disclose the divergence from the 1% GNI cost allocation to stakeholders. PPLICA Stmt. No. 1, p. 17.
8. On June 17, 2013, PPL filed Supplement No. 134, which included a reconciliation of PPL's Phase I EE&C Plan showing an overcollection from the Large C&I customer class and a refund rate of \$(0.021)/kW. PPLICA Stmt. No. 1, p. 8.
9. Supplement No. 134 did not reconcile end-of-phase ACR-1 GNI revenues to actual costs, but instead reconciled Phase I GNI revenues to GNI budget estimates. Tr. 150.
10. Supplement No. 134 also included a Phase II EE&C rate of \$0.533/kW. PPLICA Stmt. No. 1, p. 9.
11. The combined Large C&I ACR rate (ACR-1 + ACR-2) for the period June 1, 2013 through October 31, 2013 was \$0.512/kW. *See* PPLICA Stmt. No. 1, pp. 8-9.
12. PPL filed Supplement Nos. 139 and 140 on October 22, 2013. PPLICA Stmt. No. 1, pp. 7-8.

13. Supplement Nos. 139 and 140 combined to increase Large C&I ACR rate (ACR-1 + ACR-2) effective November 1, 2013, by 162% above prior rates. *See* PPLICA Stmt. No. 2, p. 3.
14. The combined Large C&I ACR rate (ACR-1 + ACR-2) for the period November 1, 2013 through May 31, 2014, was \$1.343/kW. *See* PPLICA Stmt. No. 1, pp. 8-9.

## APPENDIX C

### PROPOSED CONCLUSIONS OF LAW

1. The initial review performed prior to the implementation of a surcharge involves "at most a preliminary and cursory review." *See Popowsky v. Pennsylvania Public Utility Com'n*, 869 A.2d 1144, 1156 (Pa. Commw. 2005).; *see also* Tr. 13-14. This "cursory" review is "not a substitute for the review undertaken in a base rate case to determine whether a rate is just and reasonable." *See id.*
2. Because PPL's ACR-1 and ACR-2 are not Commission-made rates, PPL bears the burden of proving that the rates are just and reasonable. *See Re North Penn Gas Co.*, 73 P.U.R.4th 63, 64 (Jan. 29, 1986); *see* 66 Pa. C.S. § 315(a).
3. PPL's ACR-1 and ACR-2 must "be designed to recover, on a full and current basis from each customer class, all prudent and reasonable EE&C costs that have been assigned to each class as directed above." *In re: Energy Efficiency and Conservation Program*, Final Implementation Order, Docket No. M-2008-2069887 (Jan. 16, 2009) ("Phase I Implementation Order"), p. 38.
4. PPL's practice of collecting levelized rates without comparing the actual costs incurred by each customer class to the projected costs that were used to develop the rate runs contrary to generally accepted ratemaking practices; *See* 66 Pa. C.S. §§ 1301, 1307.
5. PPL is not entitled to full recovery of the GNI component of its Phase I EE&C Plan because the Company never compared its projected GNI program costs to actually incurred GNI program costs, and therefore failed to prudently manage its EE&C programs. 66 Pa. C.S. § 2806.1(b)(1)(i)(H).
6. Any change to a Commission-approved EE&C Plan that shifts costs between customer classes is a major change that must be submitted to the Commission for review in the form of a Petition and formally approved by the Commission before implementation. *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (June 10, 2011), p. 20 ("Minor Plan Change Order").
7. By filing Supplement No. 139, which allocated \$12.2 million from Residential and Small C&I customers to Large C&I customers, PPL violated the Minor Plan Change Order.
8. By filing Supplement No. 140, which allocated \$12.5 million from Residential and Small C&I customers to Large C&I customers, PPL violated the Minor Plan Change Order.

## **APPENDIX D**

### **PROPOSED ORDERING PARAGRAPHS**

- (1) The Complaint filed by the PP&L Industrial Customer Alliance ("PPLICA") on December 23, 2013, at Docket C-2013-2398440, is hereby granted;
- (2) The Complaint filed by the PP&L Industrial Customer Alliance ("PPLICA") on December 23, 2013, at Docket C-2013-2398442, is hereby granted;
- (3) PPL Electric Utilities Corporation ("PPL") is hereby enjoined from collecting revenues from Large C&I customers attributable to any divergence from its original GNI customer class cost assignment for the Phase I Plan;
- (4) PPL is hereby enjoined from collecting revenues from Large C&I customers attributable to any divergence from its original GNI customer class cost assignment for the Phase I Plan;
- (5) PPL is hereby directed to implement refunds of all revenues collected from Large C&I customers pursuant to the shift of GNI program revenue from Supplement Nos. 139 and 140, but excluding revenues associated with correcting the billing demand errors reported in Supplement Nos. 139 and 140;
- (6) PPL is hereby directed to submit a Compliance Filing within 60 days, proposing the methodology for issuing refunds and showing the calculation of refunds of all revenues collected from Large C&I customers pursuant to the shift of GNI program revenue from Supplement Nos. 139 and 140, but excluding revenues associated with correcting the billing demand errors reported in Supplement Nos. 139 and 140; and
- (7) PPL is prohibited from recovering any amounts refunded to Large C&I customers from customers in other rate classes pursuant to this Order.