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October 20, 2014

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

**VIA ELECTRONIC FILING**

**RE: Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2015 Through May 31, 2017; Docket No. P-2014-2417907**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Motion to Strike on behalf of the PP&L Industrial Customer Alliance ("PPLICA") concerning the above-referenced proceeding.

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

Very truly yours,

McNEES WALLACE & NURICK LLC

By

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

Adeolu A. Bakare

Counsel to PP&L Industrial Customer Alliance

Enclosures

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

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## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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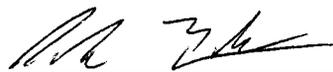
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Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

Dated this 20<sup>th</sup> day of October, 2014, at Harrisburg, Pennsylvania

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :  
for Approval of a Default Service Program and : Docket No. P-2014-2417907  
Procurement Plan for the Period From :  
June 1, 2015 Through May 31, 2017 :

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**MOTION TO STRIKE ON BEHALF OF  
THE PP&L INDUSTRIAL CUSTOMER ALLIANCE**

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TO THE HONORABLE, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code Section 5.103(a), the PP&L Industrial Customer Alliance ("PPLICA") hereby moves to strike the Reply Brief filed by Exelon Generation Company, LLC in the above-captioned proceeding on September 26, 2014. In support thereof, PPLICA states as follows:

**BACKGROUND**

1. On April 18, 2014, PPL Electric Utilities Corporation ("PPL" or "Company") filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") a Petition for Approval of the Company's Third Default Service Program ("DSP III"). *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2015 Through May 31, 2017*; Docket No. P-2014-2417907 (Apr. 18, 2014) (hereinafter, "Petition"). On May 9, 2014, PPLICA filed a Petition to Intervene and Answer to the Company's Petition. A Prehearing Conference was held on June 5, 2014, before Administrative Law Judge ("ALJ") Susan D. Colwell.

2. Pursuant to the procedural schedule, on September 12, 2014, PPLICA filed its Main Brief ("M.B.") and received Main Briefs from the following parties: PPL, the Retail Energy Supply Association ("RESA"), Office of Small Business Advocate ("OSBA"), and Noble Americas Energy Solutions LLC ("Noble").

3. On September 26, 2014, PPLICA filed its Reply Brief ("R.B.") and received Reply Briefs from the following parties: PPL, RESA, OSBA, and Exelon Generation Company, LLC ("ExGen").

4. On or about October 8, 2014, PPLICA contacted counsel for ExGen to informally discuss the procedural impropriety of ExGen's Reply Brief and any potential justification for submission of a Reply Brief in contravention of the Commission's Regulations.

5. In anticipation of the ALJ's Recommended Decision ("R.D.") and a Final Decision from the Commission in this matter, PPLICA hereby files this Motion to Strike.

#### **REPLY BRIEF SUBJECT TO REQUEST**

6. PPLICA requests that the Reply Brief filed by ExGen be stricken from the record in its entirety for failure to comply with 52 Pa. Code § 5.502(c)(1).

#### **BASIS FOR MOTION TO STRIKE**

7. As stated above, parties to this proceeding filed Main Briefs on September 12, 2014. ExGen did not file a Main Brief. On September 26, 2014, ExGen filed a Reply Brief purporting to respond to issues raised by PPLICA with regard to the recovery of certain PJM charges, including Network Integration Transmission Services ("NITS"), Transmission Enhancement Costs ("TEC"), Non-Firm Point-to-Point Transmission Service Credits ("Non-Firm Credits"), Regional Transmission

Enhancement Plan ("RTEP"), Reliability Must Run/Generation Deactivation ("RMR"), and Unaccounted for Energy ("UFE").<sup>1</sup> *See generally* ExGen Reply Brief. ExGen's filing of a Reply Brief supporting implementation of a non-bypassable rider for recovery of certain PJM charges was not filed consistent with Section 5.502(c)(1) of the Commission's Regulations, which require that "an initial brief shall be filed by the party with the burden of proof except as provided by agreement or by direction of the presiding officer." *See* 52 Pa. Code § 5.502(c)(1).

8. Although ExGen's Reply Brief responded to PPLICA's opposition to any implementation of non-bypassable recovery of PJM charges, PPLICA did not bear the burden of proof because its position is consistent with the DSP filed by PPL. As ExGen is the party proposing to modify PPL's proposed DSP by implementing a non-bypassable charge for recovery of certain PJM charges, ExGen bears the burden of proof on this issue. *See* PPLICA M.B., p. 4. Accordingly, under Section 5.502(c)(1), ExGen is not permitted to address the issues related to non-bypassable recovery of PJM charges through a Reply Brief. As ExGen failed to observe the Commission's procedural rules, this Motion to Strike must be granted in order to preserve parties' due process rights in this proceeding and to ensure that parties are appropriately incentivized to comply with the Commission's procedural rules in future proceedings before the Commission.

9. Attempts to resolve this issue through informal discussions with ExGen have proven unsuccessful to date. Additionally, PPLICA is cognizant of the pending October 27 deadline for issuance of the Recommended Decision in this matter. As ExGen was informally notified of PPLICA's intention to pursue a Motion to Strike on or

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<sup>1</sup> Although discussed, ExGen did not propose to recover NITS through a non-bypassable rider. *See* ExGen Reply Brief, pp. 6-7.

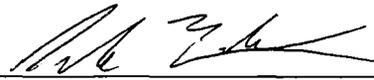
about October 8, 2014, PPLICA respectfully requests that the ALJ direct ExGen to answer this Motion by Noon on October 23, 2014.

**CONCLUSION**

**WHEREFORE**, the PP&L Industrial Customer Alliance respectfully requests that the Commission grant this Motion to Strike the aforementioned Reply Brief of Exelon Generation, LLC.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By  \_\_\_\_\_

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