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January 23, 2015

***VIA ELECTRONIC FILING***

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

**Re: PP&L Industrial Customer Alliance v. PPL Electric Utilities Corporation  
Docket No. C-2013-2398440**

**PP&L Industrial Customer Alliance v. PPL Electric Utilities Corporation  
Docket No. C-2013-2398442**

Dear Secretary Chiavetta:

Enclosed for filing is PPL Electric Utilities Corporation's Reply to Exceptions for the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

  
David B. MacGregor

DBM/jl  
Enclosure

cc: Honorable Susan D. Colwell  
Certificate of Service

**CERTIFICATE OF SERVICE**  
**Docket Nos. C-2013-2398440 & C-2013-2398442**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: January 23, 2015

  
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PP&L Industrial Customer Alliance	:	
v.	:	Docket No. C-2013-2398442
PPL Electric Utilities Corporation	:	
PP&L Industrial Customer Alliance	:	
v.	:	Docket No. C-2013-2398440
PPL Electric Utilities Corporation	:	

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**PPL ELECTRIC UTILITIES CORPORATION  
REPLY TO EXCEPTIONS**

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## I. INTRODUCTION

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) herein submits this Reply to the Exceptions of the PP&L Industrial Customer Alliance (“PPLICA”). In its Exceptions, PPLICA argues that the Recommended Decision of Administrative Judge Susan D. Colwell (“ALJ”) erred in recommending that PPLICA’s complaints in the above-referenced matters be dismissed.

This proceeding was initiated on December 27, 2013, when PPL Electric was served with two complaints filed by PPLICA challenging PPL Electric’s Tariff Supplement Nos. 139 and 140. Supplement No. 139 and 140 updated PPL Electric’s Act 129 Energy Efficiency and Conservation Plan (“EE&C Plan”) cost recovery mechanism, the Act 129 Compliance Rider (“ACR”). Specifically, Supplement No. 139 updated the ACR for PPL Electric’s Phase I EE&C Plan (“ACR-1”), which was a four-year program ending May 31, 2013, and Supplement No. 140 updated the ACR for PPL Electric’s Phase II EE&C Plan (“ACR-2”), which is a three-year program ending May 31, 2016.<sup>1</sup> The purpose of Supplement Nos. 139 and 140 is to ensure that the actual costs incurred for the Phase I and Phase II EE&C Plan government/education/non-profit (“GNI”) measures are properly financed by the same customer class that actually received the direct energy and conservation benefits of those Phase I and Phase II EE&C program measures as required by 66 Pa.C.S. § 2806.1(a)(11).

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<sup>1</sup> Pursuant to Section 2806.1(k)(1) of Act 129, 66 Pa.C.S. § 2806.1(k)(1), PPL Electric recovers the costs of its EE&C Plans through a reconcilable automatic adjustment clause under Section 1307 of the Public Utility Code, termed the ACR. Importantly, and unlike other Section 1307 automatic adjustment clauses utilized by the Company, PPL Electric recovers its estimated EE&C Plan costs through the Commission-approved ACR on a levelized basis over the life of the EE&C Plan. The actual costs of the EE&C Plan, however, are not incurred on a levelized basis. Consequently, in addition to approving PPL Electric’s levelized cost recovery plan, the Commission also approved an annual reconciliation process and a final end of Plan reconciliation process. PPL Electric’s Commission-approved levelized ACR rate and reconciliation process are set forth in PPL Electric’s tariff and explained in detail in PPL Electric’s Response Brief. (See PPL Electric Exhibit No. BLJ-1, Phase I ACR-1; PPL Electric Exhibit No. BLJ-2, Phase II ACR-2; PPL Response Brief, pp. 15-21)

As the RD correctly explained, the sole issue to be decided in this case “is whether the Supplements [Nos. 139 and 140], which contain rates that were permitted by Commission staff acting by Secretarial Letter to take effect over a year ago, are consistent with the EE&C Plans and the reconciliation mechanism which were approved by the Commission or if they violate the EE&C Plan or the statutes, regulations, or orders administered by the Commission?” (RD, p. 9) Importantly, the record in this case clearly demonstrates that PPLICA does not dispute that the Large Commercial and Industrial (“Large C&I”) customer class incurred the GNI costs to be recovered by Supplement Nos. 139 and 140. Further, PPLICA does not dispute the reasonableness of the GNI costs incurred or their allocation as set forth in Supplement Nos. 139 and 140. (RD, p. 17; Tr. 19-22, 33) For these reasons alone, the RD correctly concluded that PPLICA failed to meet its burden to demonstrate that Supplement Nos. 139 and 140 are not just, reasonable, and prudent.

Notwithstanding the foregoing, PPLICA argued that the Commission should reject Supplements No. 139 and 140 because, according to PPLICA, PPL Electric failed to comply with its duties to monitor actual and projected GNI costs throughout the Company’s EE&C Plan and to make midcourse adjustments to the GNI allocation factors if the actual costs differed from the projected costs on a customer class level. As explained in the RD, PPLICA seeks to impute obligations on PPL Electric that were not included in the Commission-approved EE&C Plans and, moreover, are entirely inconsistent with the levelized ACR rate and reconciliation processes actually approved by the Commission and set forth in PPL Electric’s tariff. (RD, pp. 22, 25) The RD therefore concluded that the Company carried out the EE&C Plan as it had been approved, and that the Company’s actions were not a violation of the statutes, regulations, or orders administered by the Commission. (RD, p. 25)

PPLICA also argued that Supplement Nos. 139 and 140 are “major changes” to PPL Electric’s EE&C Plans and, therefore, could only be implemented through a petition proposing a Plan Change. The RD correctly rejected this argument finding that the Supplements do not represent a change to the EE&C Plans. (RD, pp. 21, 28) Rather, the RD concluded that the Company’s action in filing Supplement Nos. 139 and 140 was consistent with the applicable law. (RD, p. 28)

PPLICA asserts the following Exceptions to the RD: (1) the RD erred in finding that PPLICA bears the burden of proof in this proceeding; (2) Supplement Nos. 139 and 140 are not consistent with PPL Electric’s tariff; (3) the costs to be recovered through Supplement Nos. 139 and 140 were not prudently incurred; and (4) Supplement Nos. 139 and 140 are major changes to the EE&C Plans that require prior Commission approval. PPLICA’s Exceptions, however, simply summarize its own evidence and arguments, and fail to address the evidence, arguments, and legal precedent presented by the Company and credited by the RD. As explained in the RD and PPL Electric’s Response Brief, PPLICA seeks to impose obligations on PPL Electric that clearly were not included in the Commission-approved EE&C Plans and, moreover, are entirely inconsistent with the levelized ACR rate and reconciliation processes actually approved by the Commission and set forth in PPL Electric’s tariff.

For these reasons, as more fully explained below and in PPL Electric’s Response Brief, which is incorporated herein, the Commission should adopt the recommendation of the RD and dismiss PPLICA’s complaints in their entirety.

## **II. REPLY TO EXCEPTIONS**

Before addressing the specific arguments raised in PPLICA’s Exceptions, it is important to note that Act 129 assures PPL Electric of recovery on a full and current basis of all reasonable costs incurred in the provision and management of its EE&C Plans. *See* 66 Pa.C.S. §

2806.1(k)(1). PPLICA does not dispute that the costs to be recovered in Supplement Nos. 139 and 140 were incurred by PPL Electric to provide energy conservation benefits to the Large C&I customer class. PPLICA also does not challenge the reasonableness of these costs or their allocation to the Large C&I customer class as set forth in Supplement Nos. 139 and 140. Therefore, even if PPLICA's arguments are correct, which they not for the reasons explained below, PPL Electric would still be entitled to full recovery as a matter of law.

In addition, it is important to note that PPLICA has suffered no harm and its members would receive a substantial and totally unjustified windfall if the complaints were sustained. If PPL Electric had adopted PPLICA's proposed approach to EE&C cost recovery, PPL Electric would have recovered the costs at issue from the Large C&I customer class sooner rather than later. Since there is no interest on over and under collections in the ACR, PPLICA's members incurred no harm by paying these costs later rather than sooner. PPLICA's complaints clearly are "much ado about nothing." Moreover, if PPLICA's theory was upheld and cost recovery was denied, PPLICA's members, *i.e.*, Large C&I customers, would receive millions of dollars of EE&C benefits, would pay nothing for them, and the cost of providing these benefits would be absorbed by PPL Electric. Such a result is clearly unreasonable, completely unfair, contrary to well-established cost-causation principles, and would be a clear violation of Act 129.

For these reasons alone, the Commission should deny PPLICA's Exceptions and adopt the recommendation to dismiss PPLICA's Complaints. Notwithstanding the foregoing, PPL Electric will address the specific arguments raised in PPLICA's Exceptions below.

**A. REPLY TO EXCEPTION NO. 1 - The RD Correctly Concluded that PPLICA Had the Burden of Proof with Respect to the Existing Rates in Supplement Nos. 139 and 140**

PPLICA argues that the RD erred in concluding that PPLICA had the burden to prove that Supplement Nos. 139 and 140 were not just, reasonable, and prudent. Notably, PPLICA

does not dispute that Supplement Nos. 139 and 140 were in effect at the time PPLICA filed its two complaints. (PPLICA Exceptions, p. 3) Rather, PPLICA contends that Supplement Nos. 139 and 140 remained “proposed rates” because they were not approved by the Commission. (PPLICA Exceptions, p. 6) As explained in PPL Electric’s Response Brief, the key to determining which party bears the burden of proof is whether the rate is proposed or existing. (PPL Response Brief, pp. 5-6) PPLICA fails to articulate how rates that are currently being charged to customers can be considered “proposed” rates as opposed to “existing” rates.

Supplement Nos. 139 and 140 were filed with the Commission on October 22, 2013. Following a review and audit by the Commission’s Bureau of Audits, Supplement Nos. 139 and 140 were permitted to become effective on November 1, 2013. PPLICA failed to file its Complaints before Supplement Nos. 139 and 140 became effective. Instead, PPLICA waited until December 23, 2013, to file its Complaints, nearly two months after Supplement Nos. 139 and 140 went into effect. Very simply, Supplement Nos. 139 and 140 became effective on November 1, 2013, thereby making them existing rates when PPLICA filed its Complaints on December 23, 2013.

PPLICA argues that Supplement Nos. 139 and 140 are not “existing rates” because the Commission did not approve them. (PPLICA Exceptions, p. 6) According to PPLICA, PPL Electric bears the burden of proof because Supplement Nos. 139 and 140 are not “protected by the Commission-made rates.” (PPLICA Exceptions, p. 4) The basis of PPLICA’s claim is that the Section 1307 review and audit performed by the Commission before Supplement Nos. 139 and 140 became effective did not, according to PPLICA, evaluate whether the rates were just and reasonable and, therefore, Supplement Nos. 139 and 140 are not protected by the “Commission-made rates” doctrine.

Supplement Nos. 139 and 140 updated the ACR, which is reconcilable automatic adjustment clause under Section 1307 of the Public Utility Code. 66 Pa.C.S. § 2806.1(k)(1). PPL Electric agrees that it is well-established that the Commission-made rates doctrine is not applicable to 1307 automatic adjustment clauses. *Pa. PUC v. National Fuel Gas Distribution Corporation*, Docket No. R-00922499, 1993 Pa. PUC LEXIS 95 at \*41-42 (Order Entered July 30, 1993); *Investigation of Gas Cost Rate No. 5*, Docket Nos. M-78050055, et al., 1984 Pa. PUC LEXIS 59 (Order Entered Mar. 16, 1984). However, the fact that 1307 automatic adjustment clauses are not Commission-approved rates does not shift the burden of proof regarding an *existing 1307 rate*.

PPLICA overlooks that the Commission previously approved the levelized rate and annual reconciliation cost recovery mechanisms provided in ACR-1 and ACR-2. *See Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (Order Entered Oct. 26, 2009) (“*Phase I EE&C Order*”); *Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan*, Docket No. M-2012-2334388 (Order Entered Mar. 14, 2013) (“*Phase II EE&C Order*”). Supplement Nos. 139 and 140 did not change or modify in any way the levelized rate or the reconciliation mechanisms previously approved by the Commission. Rather, Supplement Nos. 139 and 140 merely update the math necessary to determine the costs and the allocation of the costs to be recovered through these previously approved ACR-1 and ACR-2 cost recovery mechanisms. (PPL Response Brief, pp. 9-10) Accordingly, Supplement Nos. 139 and 140 did not seek approval of a new rate mechanism but, rather, sought a mathematical check and audit on the total amounts to be recovered through the existing rate mechanism previously approved by the Commission, consistent with the requirements of Section 1307.

Here, the Commission's initial mathematical review and audit of Supplement Nos. 139 and 140 were sufficient to determine whether the rates were just and reasonable. After determining that Supplement Nos. 139 and 140 would recover the actual costs of PPL Electric's Phase I and Phase II EE&C Plans from the correct customer classes, the Commission's Bureau of Audits permitted them to go into effect. As PPLICA concedes, Supplement Nos. 139 and 140 were in effect and costs were being recovered from customers through Supplement Nos. 139 and 140 at the time PPLICA filed its complaints. Thus, the RD correctly concluded that PPLICA bears the burden of proving that the existing rates set forth in Supplement Nos. 139 and 140 are no longer just and reasonable.

Furthermore, even assuming, *arguendo*, that Supplement Nos. 139 and 140 were not existing rates as suggested by PPLICA, the record in this case clearly demonstrate that the amounts and allocation in Supplement Nos. 139 and 140 are correct. The actual final cost data for Phase I revealed that GNI costs were under collected from the Residential customer class by \$2,137,070, over collected from the Small C&I customer class by \$14,878,125, and under collected from the Large C&I customer class by \$12,741,055. *See PPL Electric Utilities Corp. – Act 129 Compliance Rider Supplement No. 139 to Tariff Electric – Pa. P.U.C. No. 201*, Docket No. M-2009-2093216 (Oct. 22, 2013). The three customer classes actually incurred the costs outlined in Supplement No. 139 for Phase I of PPL Electric's EE&C Plan. (PPL Electric Statement No. 2, pp. 11-12) Pursuant to Section 1307, the Commission's Bureau of Audits reviewed the data in support of Supplement No. 139 and permitted the rates to become effective on November 1, 2013. *See* Secretarial Letter dated October 31, 2013, at Docket No. M-2013-2389549.

For Phase II, based upon the actual cost data from Phase I, Supplement No. 140 would reallocate the GNI costs to the customer classes by reducing the Residential customer class's GNI costs by \$3,051,010, reducing the Small C&I class's GNI costs by \$9,458,129, and increasing the Large C&I customer class's GNI costs by \$12,509,140. *See PPL Electric Utilities Corp. – Act 129 Compliance Rider Supplement No. 140 to Tariff Electric – Pa. P.U.C. No. 201, Docket No. M-2012-2334388* (Oct. 22, 2013). Supplement No. 140 more accurately recovers the EE&C costs being incurred by the three customer classes for Phase II of PPL Electric's EE&C Plan. (PPL Electric Statement No. 2, p. 14) Pursuant to Section 1307, the Commission's Bureau of Audits reviewed the data in support of Supplement No. 140 and permitted the rates to become effective on November 1, 2013. *See* Secretarial Letter dated October 31, 2013, at Docket No. M-2013-2389551.

Accordingly, even if PPL Electric had the burden of proof as suggested by PPLICA, the Company did in fact establish a *prima facie* case that Supplement Nos. 139 and 140 are just, reasonable, and prudent. Once a *prima facie* case has been established, if contrary evidence is not presented, there is no requirement that the party seeking a rule or order from the Commission must produce additional evidence to sustain its burden of proof.<sup>2</sup>

Importantly, PPLICA conceded that it does not dispute that the Large C&I customer class incurred the costs to be recovered by Supplement Nos. 139 and 140, and that it does not challenge the reasonableness of the costs or their allocation as set forth in Supplement Nos. 139 and 140. (Tr. 19-22, 33) Thus, PPLICA has, by its own admission, agreed that the amounts and allocation in Supplement Nos. 139 and 140 are just, reasonable, and prudent. Based on the

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<sup>2</sup> *See Replogle v. Pa. Elec. Co.*, 54 Pa. PUC 528, 1980 Pa. PUC LEXIS 20 (Order Entered Oct. 9, 1980); *see also Dist. of Columbia's Appeal*, 343 Pa. 65, 21 A.2d 883 (1941); *Application of Pennsylvania-American Water Company for Approval of the Right To Offer, Render, Furnish or Supply Water Service to the Public in Additional Portions Of Mahoning Township, Lawrence County, Pennsylvania*, Docket No. A-212285F0148, 2008 Pa. PUC LEXIS 874 (Opinion and Order entered Oct. 29, 2008).

foregoing, even if PPL Electric had the burden to prove that Supplement Nos. 139 and 140 are just, reasonable, and prudent, the Company met its burden, which PPLICA failed to refute.

**B. REPLY TO EXCEPTION NO. 2 - Supplement Nos. 139 and 140 are Consistent with PPL Electric's Tariff**

PPLICA argues that Supplement Nos. 139 and 140 are not consistent with PPL Electric's tariff. Specifically, PPLICA asserts that Supplement Nos. 139 and 140 shift costs between customer classes in violation of the tariff language limited interim rate adjustments to intraclass variances. PPLICA also asserts that Supplement Nos. 139 and 140 are inconsistent with the reconciliation provisions of PPL Electric's tariff. PPLICA's arguments are without merit and should be rejected.

**1. Supplement Nos. 139 and 140 do not Shift any Program Funds**

PPL Electric's tariff provides, in pertinent part as follows:

Upon determination that a customer class's ACR-1, if left unchanged, would result in a material over or undercollection of Phase I Act 129 Compliance costs incurred or expected to be incurred during the current 12-month period ending May 31, the Company may file with the Commission for an interim revision of the ACR-1 to become effective ten (10) days from the date of the filing unless otherwise ordered by the Commission.

(PPLICA Stmt. No. 1, Appendix C, p. 46) According to PPLICA, this tariff provision only permits interim rate adjustments for intraclass variances. PPLICA asserts that Supplement Nos. 139 and 140 violate this tariff provisions because they shift costs between customer classes.

(PPLICA Exceptions, p. 8) PPLICA's argument that Supplement Nos. 139 and 140 shift costs between customer classes is premised on PPLICA's failure to acknowledge the difference between the three customer classes and the five EE&C Plan customer sectors.<sup>3</sup>

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<sup>3</sup> Under the Commission-approved Phase I and Phase II EE&C Plans, the Company incurs the costs of the EE&C program measures on behalf of its "customer classes" receiving the EE&C program benefits. (PPL Electric Statement No. 2, pp. 3-4) The term "customer classes" means the Residential Customer Class, Small C&I Customer Class, and Large C&I Customer Class, each of which is comprised of various rate schedules. These three "customer

PPL Electric's EE&C Plan budget was established across five customer sectors, not the three customer classes reflected in the ACR. (PPL Electric Statement No. 1, p. 10) Pertinent to PPLICA's Exceptions, the GNI EE&C Plan measures are available to the Residential Customer Class, Small C&I Customer Class, and Large C&I Customer Class. (PPL Electric Statement No. 1, p. 3) That is, participants in the GNI measures may include all customers from each of the three customer classes. Consequently, the GNI sector budget was set in the aggregate for the three customer classes. (PPL Electric Statement No. 1, p. 10) The Commission did not approve a separate GNI budget for each customer class; it approved one GNI budget for all the customer classes to share. (PPL Electric Statement No. 1, p. 10)

Under Section 2806.1(a)(11) of Act 129, 66 Pa.C.S. § 2806.1(a)(11), each customer class is responsible for the GNI program costs incurred by customers in their respective class. The budgeted GNI program funds were not changed by Supplement Nos. 139 and 140. (PPL Electric Statement No. 1, p. 19) Further, Supplement Nos. 139 and 140 did not shift any program funds. Rather, Supplement Nos. 139 and 140 merely ensured that the actual costs incurred for the GNI measures are financed by the same customer class that received the direct energy and conservation benefits as required by Section 2806.1(a)(11) of Act 129. Thus, these costs are not "shifted" between the customer classes because the customer classes already share these costs in accordance with their respective class participation in the program. (PPL Electric Statement No. 1, pp. 19-20) If anything, Supplement Nos. 139 and 140 prevent cost shifting by properly allocating the actual costs to the customer class that received the benefits. (PPL Electric Statement No. 1, p. 20)

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classes" are different than the five "customer sectors" designated in PPL Electric's EE&C Plans: (i) Residential, (ii) Low-Income, (iii) Small C&I, (iv) Large C&I, and (v) GNI. (PPL Electric Statement No. 1, p. 3)

Based on the foregoing, Supplement Nos. 139 and 140 do not violate the tariff provision identified by PPLICA and, therefore, PPLICA's Exception on this basis should be denied.

**2. Supplement Nos. 139 and 140 are Consistent with the Reconciliation Provisions Approved by the Commission and Reflected in PPL Electric's Tariff**

PPLICA asserts that Supplement Nos. 139 and 140 are inconsistent with the reconciliation provisions of PPL Electric's tariff. PPLICA's Exception is without merit and should be denied.

Under the annual reconciliation process approved by the Commission, PPL Electric separately reconciles the actual revenues collected from each customer class under the cost recovery mechanism with the budget revenues for that year (actual annual revenues v. annual budget revenues). The Company does not reconcile the revenues collected under the cost recovery mechanism to its actual spending levels (actual costs) in each year. This reconciliation of actual revenues and actual costs occurs only at the end of the EE&C Plan, when the Company reconciles total revenue collected to its total actual costs for the entire EE&C Plan period (total revenue v. total costs) for each customer class. (*See* PPL Response Brief, pp. 18-20)

PPLICA argues that PPL Electric failed to reconcile the total revenue collected with the actual costs incurred for each customer class in the final reconciliation of the Phase I EE&C Plan. (PPLICA Exceptions, pp. 9-10) In short, PPLICA criticizes PPL Electric for use of "projected allocations" in the final reconciliation of the Phase I EE&C Plan. PPLICA's concerns regarding the final reconciliation of the Phase I EE&C Plan are flawed for several reasons.

First, PPLICA's argument pertains to Supplement No. 134, the final Phase I reconciliation, not to Supplement Nos. 139 or 140 that are the subject of PPLICA's Complaints. Second, PPL Electric explained that complete actual costs information was not available at the time the Company filed its Phase I June 17 reconciliation report. Third, PPLICA disregards the

unexpected surge in rebates after the final Phase I reconciliation, Supplement No. 134, was performed.<sup>4</sup> Finally, and importantly, PPLICA ignores that Supplement No. 139 replaced Supplement No. 134 to ensure recovery of the proper amounts of GNI costs from the proper customer classes. (PPL Response Brief, pp. 25-27) Notably, PPLICA does not dispute the amount, reasonableness, or the allocation of the costs set forth in Supplement No. 139. (Tr. 19-22, 33)

The record in this case demonstrates that PPL Electric performed its final reconciliation of actual costs and actual revenues based upon the information that it had at the time of the final Phase I reconciliation, Supplement No. 134. PPL Electric filed Supplement No. 139 to update and correct the actual costs and to ensure that the actual costs for the GNI program measures were properly financed by the same customer class that actually received the direct energy and conservation benefits of those GNI program measures.

With respect to Supplement No. 140, PPLICA appears to suggest that it violates the reconciliation provisions because it was an interim rate adjustment that shifted GNI costs between customers. As explained above and in PPL Electric's Response Brief, Supplement No. 140 did not shift GNI costs between the customer classes because the customer classes already share these costs. In any event, Supplement No. 140 did not violate the reconciliation provisions of PPL Electric's tariff because, as PPLICA concedes, it was not an annual or final

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<sup>4</sup> Throughout its Exceptions, PPLICA attempts to downplay the surge in rebates that occurred after the final Phase I reconciliation. However, PPLICA disregards that throughout Phase I, actual GNI sector costs were below the estimated GNI sector costs. In fact, actual total GNI sector costs were approximately \$5.3 million under budget in January 2013 and \$1.6 million under budget on May 31, 2013 – the end of Phase I. (PPL Electric Statement No. 1, p. 14) Therefore, PPL Electric allowed customers to submit rebate applications until August 31, 2013, so long as their measures were installed by May 31, 2013. (PPL Electric Statement No. 1, p. 14; PPL Electric Statement No. 2, p. 13) However, an unexpected surge in rebate applications occurred after May 31, 2013. As a result, total actual GNI sector costs unexpectedly increased over \$8 million after May 2013. Due to this unexpected surge in rebate applications, actual GNI sector costs exceeded the estimated GNI sector costs. (PPL Electric Statement No. 1, p. 14) When PPL Electric needed to close its books for August in September, the Company analyzed the results and recognized the need to make a correction to Supplement No. 134. (PPL Electric Statement No. 2, p. 13)

reconciliation. Rather, Supplement No. 140 was an interim rate adjustment that more accurately recovers the EE&C costs being incurred by the three customer classes for Phase II of PPL Electric's EE&C Plan. Finally, even if Supplement No. 140 were an annual or final reconciliation, which it is not, PPLICA does not dispute the amount or allocation of the costs set forth in Supplement No. 140. (Tr. 19-22, 33)

**C. REPLY TO EXCEPTION NO. 3 - PPLICA Seeks to Impute Obligations on PPL Electric that were Not Included in the Commission-Approved EE&C Plans and are Entirely Inconsistent with the Levelized ACR Rate And Reconciliation Processes**

PPLICA contends that the costs to be recovered under Supplements No. 139 and 140 were not prudently incurred and, therefore, cannot be recovered under Act 129. In support, PPLICA first argues that the Commission approved "customer class GNI budgets" by incorporating the initial estimated allocations of the GNI budget and that PPL Electric cannot recover more than the allocation of the GNI budget from each class. (PPLICA Exceptions, pp. 14, 18) Second, PPLICA repeatedly asserts that PPL Electric had an obligation to monitor actual and projected GNI costs throughout the Company's EE&C Plan and to make midcourse adjustments to the allocation factor if the actual costs differed from the projected costs on a customer class level. (PPLICA Exceptions, pp. 11, 15, 16) PPLICA contends that PPL Electric's failure to do so should result in disallowance of costs. (PPLICA Exceptions, pp. 17-18) For the reasons explained below, PPLICA's arguments are without merit and should be rejected.

**1. There is Nothing in Act 129 or PPL Electric's Commission-approved EE&C Plans that Provide that the Initial Allocation of the Estimated Costs is a Cap on the Total Costs that may be Recovered for EE&C Costs Actually Incurred**

Despite the fact that PPLICA did not dispute the costs and allocation of costs set forth in Supplement Nos. 139 and 140, PPLICA argues that the Commission approved "customer class

GNI budgets” by incorporating the initial estimated allocations of the GNI budget and that PPL Electric cannot recover more than the allocation of the GNI budget from each class. (PPLICA Exceptions, pp. 14, 18) According to PPLICA, under Act 129 PPL Electric was only permitted to recover the GNI costs it had allocated to each customer class at the beginning of the Phase I EE&C Plan. PPLICA’s argument is erroneous for several reasons.

Nothing in Act 129 limits recovery of costs to those initially allocated to each customer class at the beginning of the EE&C Plan. To the contrary, Section 2806.1(a)(11) of Act 129, 66 Pa.C.S. § 2806.1(a)(11), requires that EE&C measures must be paid for by the same customer class that receives the energy and conservation benefits of those measures. No exception to this statutory mandate exists.

Despite PPL Electric repeatedly explaining the difference in testimony and its Response Brief, PPLICA continues to ignore the clear difference between the three customer classes and the five EE&C Plan customer sectors. As explained above, participants in the GNI measures may include all customers from each of the three customer classes. Consequently, the GNI sector budget was set in the aggregate for the three customer classes. (PPL Electric Statement No. 1, p. 10) The GNI sector budget was not broken down by customer class. (PPL Electric Statement No. 1, p. 10) Despite PPLICA’s assertion to the contrary, there was not a Large C&I GNI budget in PPL Electric’s approved EE&C Plan.

For purposes of collecting levelized ACR revenue for GNI programs, the GNI program budget costs were allocated to the customer classes in which those GNI customers are embedded (Residential, Small C&I, and Large C&I). This allocation was based upon a ratio of the actual number of institutional customers in each of the three customer classes to the total number of institutional customers on its system. (PPL Electric Statement No. 2, p. 8)

Phase I was the first EE&C Plan filed by PPL Electric under Act 129. Full implementation of Act 129 clearly would take some time. At the time it filed its Phase I EE&C Plan, PPL Electric did not have any information on the total number of federal, state and local governments, institutions of higher education, and nonprofit entities from each customer class that would participate in the Phase I EE&C programs. As such, PPL Electric used estimates and the tools at hand to estimate the number of GNI program participants in each customer class. (PPL Electric Statement No. 2, pp. 9-10)

As a means to estimate the GNI costs for each customer class in its Phase I ACR, PPL Electric used the ratio of the estimated number of GNI customer accounts that existed for each customer class to the total estimated number of GNI customer accounts on its system at the time it filed its Phase I EE&C Plan. This resulted in an estimated GNI cost allocation of approximately 14% to the Residential Customer Class, 85% to the Small C&I Customer Class, and 1% to the Large C&I Customer Class. PPL Electric's methodology and estimated allocation were approved by the Commission. (PPL Electric Statement No. 2, pp. 8-9) PPLICA never objected to this allocation process during the Phase I EE&C Plan and ACR tariff public comment periods. (PPL Electric Statement No. 1, p. 10)

The 1% allocation factor was used by PPL Electric only to estimate the portion of total estimated GNI costs (all customer classes) that is collected through the ACR from the Large C&I Customer Class on a levelized basis. (PPL Electric Statement No. 2, p. 9) Consistent with the requirements of Section 2806.1(a)(11) and the final reconciliation process approved by the Commission, the total GNI revenue collected from each customer class is to be reconciled with the total actual GNI costs incurred for each customer class at the end of the Plan.

Although the estimated 1% allocation factor did not accurately predict the proportion of actual GNI costs incurred for Large C&I customers (PPLICA Exhibit JP-1), Section 2806.1(a)(11) of Act 129 mandates that the EE&C Plan measures be financed by the same customer class that received the benefits. 66 Pa.C.S. § 2806.1(a)(11). PPL Electric filed Supplement Nos. 139 and 140 to recover the GNI costs from the customer class that actually incurred them.

Finally, if PPL Electric is only entitled to recovery of the costs initially assigned to each customer class, as suggested by PPLICA, this would render the annual reconciliation and the final reconciliation under PPL Electric's Commission-approved EE&C Plans completely meaningless. Indeed, there would be no need for either the annual reconciliation or the final reconciliation because, under PPLICA's theory, PPL Electric would merely recover the costs that were initially assigned to the customer classes, no more and no less. Clearly, the fact that the Commission adopted both an annual reconciliation process (actual annual revenues v. annual budget) and a final reconciliation process (total revenue collected v. total actual costs) demonstrates that recovery of EE&C costs is not limited only to the total costs initially allocated to each customer class.

Based on the foregoing, there is nothing in Act 129 or PPL Electric's Commission-approved EE&C Plans that provide that the initial allocation of the estimated costs is a cap on the total costs that may be recovered for EE&C costs actually incurred for a customer class. Therefore, PPLICA's Exceptions should be denied.

**2. PPLICA's Argument Conflicts with the Commission-Approved Levelized Rate and the Annual and Final Reconciliation Processes.**

In this case, PPLICA conceded that the Commission did not require PPL Electric to annually reconcile the revenues collected under the cost recovery mechanism with the actual

costs incurred each year for each customer class. (PPLICA MB, p. 14) PPLICA also conceded that the ACR approved by the Commission is to be a levelized rate throughout the EE&C Plan period and that total revenue collected is reconciled with the total actual costs only at the end of the EE&C Plan. (PPLICA MB, p. 16) PPLICA, however, ignores these admissions in its Exceptions and asserts that PPL Electric had an obligation to monitor actual and projected GNI costs throughout the Company's EE&C Plan and to make midcourse adjustments to the allocation factor if the actual costs differed from the projected costs on a customer class level. (PPLICA Exceptions, pp. 11, 15, 16) PPLICA's contention that PPL Electric had an obligation to adjust the allocation factor in the ACR during the course of the EE&C Plan is without merit and should be rejected for several reasons.

First, as a preliminary matter, the issue of whether PPL Electric was required to monitor and make "mid-course" adjustments to the ACR, as suggested by PPLICA, has no bearing on whether the costs and allocation of costs set forth in Supplement Nos. 139 and 140 are correct. As explained above, PPLICA does not dispute that the costs and rates set forth in Supplement Nos. 139 and 140 are correct.

Second, PPLICA's argument is based on its incorrect belief that the Company was obligated to continually compare actual costs to projected costs on customer class basis throughout the duration of the Plan. (PPLICA MB, pp. 13-14) As explained in PPL Electric's Response Brief, although PPL Electric monitored actual costs for each of the five customer sectors and three customer classes, it is not required and indeed is not permitted under its tariff to reconcile those actual costs with the revenues collected from each of the three customer classes until the conclusion of an EE&C Phase in the final reconciliation. By design, the final

reconciliation is the first and only time that the Company evaluates the actual costs on a customer class level for rate purposes. (PPL Response Brief, pp. 29-32)

Third, despite PPLICA's assertion to the contrary, nothing in the Commission's orders mentions periodically reviewing and adjusting the allocation and recovery of actual costs by customer class. (PPL Electric Statement No. 3, p. 5) Rather, under the Commission-approved Phase I and Phase II EE&C Plans, PPL Electric is only required to make "mid-course" adjustments to the ACR to reflect "major changes" to any of its EE&C programs. (PPL Response Brief, pp. 33-34)

PPLICA argues that a difference between actual and projected costs on a customer class level is a "major change" and, therefore, PPL Electric was obligated to make a "mid-course" adjustment. However, a difference between actual and projected costs on a customer class level is not a change to an EE&C program because "[t]he EE&C Plan contains no cost estimates, no savings estimates, and no information whatsoever about specific customer classes that participate in GNI programs." (PPL Electric Statement No. 1, p. 13) Further, if PPLICA's theory on major changes were correct, every single difference between the actual costs and the actual revenues would constitute a "major change." Since the actual costs and actual revenues change every month while the programs are open, PPL Electric would be required to request a "major change" every month under PPLICA's theory. Additionally, if every difference between the estimated cost (in the approved EE&C Plan) and the actual costs of a measure, a program, or a customer sector constitutes a "major change," that would also require the filing of countless petitions throughout the EE&C Plan period. (PPL Response Brief, p. 34) Clearly, the Commission did not intend such an absurd and unworkable result.

Fourth, making such an adjustment to the allocation factor would conflict with the Commission-approved levelized rate. The Commission approved the levelized rate to protect against rate volatility, but the position advanced by PPLICA would dismantle any such protection. (PPL Response Brief, pp. 34-35) As PPLICA's own witness admitted, the percentage of GNI costs incurred by a particular customer class and the level of participation can fluctuate from month to month. (Tr. 24-25) If PPL Electric were to adjust the allocations and cost recovery mechanism every time there was a difference in the actual costs and projected costs, as suggested by PPLICA, this would subject PPL Electric's customers to the very same rate volatility that the levelized rate was meant to prevent. Clearly, PPLICA's argument is contrary to the levelized ACR rate approved by the Commission.

Fifth, PPLICA's argument also is contrary to the ACR reconciliation processes actually approved by the Commission. As explained above, the annual reconciliation approved by the Commission required PPL Electric to reconcile actual revenues collected with the budgeted revenues every year, not actual costs and projected costs on a customer class level. Despite PPLICA's assertion to the contrary, nothing in the Commission's orders or PPL Electric's tariff mentions periodically reviewing the allocation and recovery of actual costs by customer class. It is not until the final reconciliation at the end of EE&C Plan that the Company reconciles actual costs and actual revenues. (PPL Response Brief, pp. 35-36)

In addition, if PPL Electric were to adjust the allocations and cost recovery mechanism every time there was a difference in the actual costs and projected costs, as suggested by PPLICA, there would be absolutely no need for the annual or final reconciliation processes approved by the Commission. The fact that the Commission approved these reconciliation processes is, in and of itself, an indication that the Commission did not intend that PPL Electric

should be making adjustments to the allocations and cost recovery mechanism every time there was a difference in the actual costs and projected costs, as suggested by PPLICA. Clearly, PPLICA's argument is contrary to the annual reconciliation and the final reconciliation processes approved by the Commission.

Finally, even if PPL Electric had made mid-course corrections for differences between the actual and projected costs on a customer class level, as suggested by PPLICA, the impact to the Large C&I customer class would have been that they paid the same amount sooner, over the remaining course of the Phase I program, rather than at the end during the final reconciliation of the Phase I program.<sup>5</sup> (PPL Electric Statement No. 2, p. 11)

Based on the foregoing, PPLICA's argument conflicts with the Commission-approved levelized rate and the annual and final reconciliation processes. The record demonstrates that PPL Electric committed to charging actual costs to the customer class that achieved the benefits (savings), tracking the actual costs to the EE&C Plan estimated costs for the five customer sectors, tracking actual revenues compared to budgeted revenues for the three customer classes, and reconciling actual costs to actual revenues for the three customer classes at the conclusion of Phase I. That is precisely what PPL Electric did. Therefore, PPL Electric is entitled to full recovery of the GNI costs from Large C&I customers. To do otherwise would penalize PPL Electric for doing exactly what the Commission required and would be contrary to the cost-causation principles outlined in Section 2806.1(a)(11) of Act 129, 66 Pa.C.S. § 2806.1(a)(11).

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<sup>5</sup> PPLICA submits that Supplement Nos. 139 and 140 will have a significant impact on the business and operating budgets of Large C&I customers, and that Supplement Nos. 139 and 140 deny stakeholders to engage in a meaningful review of these costs. (PPLICA MB, pp. 31-36; PPLICA Exceptions, p. 16) The impact on Large C&I customers cited by PPLICA is grossly overstated. Further, it is clear that PPLICA and its members have, in fact, had more than a meaningful review of Supplement Nos. 139 and 140. (*See* PPL Response Brief, pp. 42-44) Notably, does not dispute that the amounts or allocations set forth in Supplement Nos. 139 and 140 are correct. (Tr. 21-22, 33)

**D. REPLY TO EXCEPTION NO. 4 - Supplement Nos. 139 and 140 did Not Constitute a “Major Change” to an EE&C Plan**

PPLICA argues that Supplement Nos. 139 and 140 are “major changes” to PPL Electric’s EE&C Plans and, therefore, could only be implemented through a petition proposing a Plan Change. PPLICA’s arguments are without merit and should be rejected.

In support of its assertion that Supplement Nos. 139 and 140 are “major changes,” PPLICA relies on the Commission’s order in *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order Entered June 10, 2011) (“*Minor EE&C Plan Change Order*”). (PPLICA Exceptions, 19) In that order, the Commission delegated authority to staff to review “minor EE&C Plan changes,” which it stated were:

- Elimination of a measure that is underperforming or has exhausted its budgeted amount.
- The transfer of funds from one measure to another measure within the same customer class.
- A change in the conditions of a measure, such as the addition of new qualifying equipment or a change in the rebate amount that does not increase the overall costs to that customer class.

*Minor EE&C Plan Change Order*, p. 14. According to PPLICA, the *Minor EE&C Plan Change Order* stands for the proposition 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.

PPL Electric agrees that a “major change” to an EE&C program requires a petition to the Commission for approval. However, PPLICA overlooks a fundamental issue -- Supplement Nos. 139 and 140 make no changes, major or minor, to any EE&C program. Rather, Supplement Nos. 139 and 140 merely ensure that the actual costs for EE&C measures are financed by the same customer class that received the direct energy and conservation benefits as required by

Section 2806.1(a)(11) of Act 129. (PPL Electric Statement No. 1, p. 18; PPL Electric Statement No. 2, pp. 11-12, 14; PPL Electric Statement No. 3, p. 10) Indeed, Supplement Nos. 139 and 140 simply updated the data used to set the levelized rate in the previously approved ACR-1 and ACR-2 cost recovery mechanisms. (PPL Electric Statement No. 2, pp. 11-12, 14)

PPLICA argues that Supplement Nos. 139 and 140 are major changes because, according to PPLICA, they shift costs between customer classes. In support, PPLICA quotes the *Phase I EE&C Order*, wherein the Commission stated that “an EDC cannot shift program funds within a customer class, or between customer classes without prior Commission approval.” *See Phase I EE&C Order*, p. 92. The purpose of this limitation is to ensure that an EDC does not implement changes to its EE&C Plan that shifts estimated program costs from one customer class to another customer class without prior Commission approval, *i.e.*, a “major change” to the EE&C Plan. This also ensures that the actual costs incurred by a customer class are allocated to the same customer class that received the EE&C benefits. (PPL Electric Statement No. 1, p. 19)

Admittedly, shifting program funds between customer classes constitutes a “major change.” However, Supplement Nos. 139 and 140 do not shift any program funds. PPLICA’s theory that Supplement Nos. 139 and 140 are “major changes” is based upon the faulty premise that, under Act 129, PPL Electric was only permitted to recover the GNI costs it had allocated to each customer class at the beginning of the Phase I and Phase II EE&C Plans. As explained above, despite PPLICA’s assertion to the contrary, Commission did not approve a separate GNI budget for each customer class, it approved one GNI budget for all the customer classes to share. The budgeted GNI program funds were not changed by Supplement Nos. 139 and 140. (PPL Electric Statement No. 1, p. 19)

Further, as explained above, the GNI programs are available to all three customer classes and, under Section 2806.1(a)(11) of Act 129, each customer class is responsible for the GNI program costs incurred by customers in their respective class. Thus, the costs are not “shifted” between the customer classes because the customer classes already share these costs in accordance with their respective class participation in the program. (PPL Electric Statement No. 1, pp. 19-20) If anything, Supplement Nos. 139 and 140 prevent cost shifting by properly allocating the actual costs to the customer class that received the benefits. (PPL Electric Statement No. 1, p. 20)

In a further effort to demonstrate that Supplements No. 139 and 140 are “major changes,” PPLICA cites to prior Petitions filed by PPL Electric to modify its EE&C Plans. (PPLICA Exceptions, p. 23) PPLICA’s reliance on these Petitions is flawed for several reasons. First, PPL Electric is required to petition for approval of a major change to its EE&C Plan. In both petitions cited by PPLICA, PPL Electric in fact proposed to make changes to the costs of its EE&C programs, specifically the Efficient Equipment Program and the Direct Load Control Program. *See Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216, p. 7 (Feb. 28, 2011) (“*PPL Electric 2011 Petition*”); *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216, p. 37 (Feb. 2, 2012) (“*PPL Electric 2012 Petition*”). The specific budget for each of these programs was established by customer sector and explicitly spelled out in the Company’s Phase I EE&C Plan. In contrast, no EE&C programs are changed by Supplement Nos. 139 and 140. PPL Electric’s EE&C Plans do not detail the allocation of GNI costs to the three customer classes that participate in and

share in the costs of GNI programs. Therefore, Supplement Nos. 139 and 140 make no changes to the Company's EE&C Plans, let alone major changes.

Second, PPLICA mischaracterizes the petitions and again demonstrates its confusion of the three customer classes and the five customer sectors. PPLICA states that these petitions demonstrate that PPL Electric "understands the importance of monitoring, preserving, and if necessary, adjusting *customer class budgets* for costs incurred on *behalf of a single class*." (PPLICA Exceptions, p. 23 (emphasis added)) However, both of PPL Electric's petitions reallocated costs between customer *sectors*, not customer classes as alleged by PPLICA.

PPL Electric's petition in 2011 actually proposed "to allocate all CFL Program sales, savings, and costs to the residential customer sector, instead of allocating 5% to the Small C&I sector and 17% to the low-income residential customer sector." *PPL Electric 2011 Petition*, Docket No. M-2009-2093216, p. 7 (emphasis added). Likewise, in the PPL Electric's 2012 petition, the Company changed "the projected participation levels between sectors, including no allocation to the Low-income sector . . . , a reduction to the Small C&I sector, and an increase to the Residential sector." *PPL Electric 2012 Petition*, Docket No. M-2009-2093216, p. 37 (emphasis added).

As discussed previously, the EE&C Plan budget is allocated across the five customer sectors, not the three customer classes. An alteration to the total EE&C Plan budget for a customer sector is a major change that requires the filing of a petition to receive Commission approval. (PPL Electric Statement No. 1, p. 20) No change to the total GNI sector budget, however, is made by Supplement Nos. 139 and 140. Supplement Nos. 139 and 140 merely ensure that the EE&C measures are financed by the same customer class that received the direct

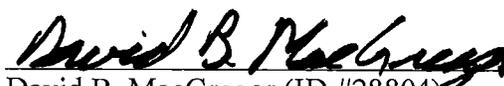
energy and conservation benefits as required by Section 2806.1(a)(11) of Act 129. Therefore, the Petitions cited by PPLICA are irrelevant and inapplicable to Supplement Nos. 139 and 140.

Based on the foregoing, Supplement Nos. 139 and 140 are not “major changes” to PPL Electric’s EE&C Plans. Therefore, PPLICA’s Exceptions should be denied.

### **III. CONCLUSION**

WHEREFORE, for all the foregoing reasons, as well as those more fully explained in its Response Briefs, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny the Exceptions of PP&L Industrial Customer Alliance and adopt the recommendation of Administrative Law Judge Susan D Colwell to dismiss the Complaints at Docket Nos. C-2013-2398440 and C-2013-2398442.

Respectfully submitted,



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