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May 18, 2015

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
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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 the Answer of PPL Electric Utilities Corporation to the Petition for Reconsideration of the PP&L Industrial Customer Alliance in 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: May 18, 2015



David B. MacGregor

**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 :

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO
THE PETITION FOR RECONSIDERATION OF
THE PP&L INDUSTRIAL CUSTOMER ALLIANCE**

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TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION AND BACKGROUND	3
II. LEGAL STANDARD.....	4
III. ARGUMENT.....	5
A. PPLICA’S PETITION FAILS TO SATISFY THE STANDARDS FOR GRANTING RECONSIDERATION	5
B. PPLICA’S ARGUMENTS ARE WITHOUT MERIT AND NOT SUPPORTED BY SUBSTANTIAL EVIDENCE OF RECORD	9
1. PPLICA’s Request that PPL Electric Refund the GNI Sector Revenues Collected in Excess of the Initial 1% Allocated to Large C&I Customers is Without Merit, Contrary to the Record, and Irrelevant	10
2. PPLICA’s Request that PPL Electric Refund the GNI Sector Costs in Excess of the GNI Budget is Without Merit, Contrary to the Record, and Irrelevant.....	13
IV. CONCLUSION.....	16

PPL Electric Utilities Corporation (“PPL Electric”), pursuant to 52 Pa. Code § 5.572, hereby respectfully submits this Answer to the Petition for Reconsideration filed by the PP&L Industrial Customer Alliance (“PPLICA”) on May 8, 2015. In its Petition, PPLICA seeks reconsideration of the Opinion and Order of the Pennsylvania Public Utility Commission (“Commission”) entered April 23, 2015 (“*Opinion and Order*”) dismissing PPLICA’s Complaints concerning PPL Electric’s Tariff Supplement Nos. 139 and 140. In its Petition, PPLICA raises two “key facts” that, according to PPLICA, the Commission purportedly overlooked. (See PPLICA Petition, ¶ 11) As explained below, neither “fact” was overlooked and neither “fact” provides any basis for reconsideration of the Commission’s well-reasoned *Opinion and Order*.

First, PPLICA contends that the Commission overlooked the purported fact that PPL Electric knew that the actual Phase I Energy Efficiency and Conservation Plan (“EE&C Plan”) government/education/non-profit (“GNI”) costs exceeded the initial projected allocation of such costs to Large Commercial and Industrial (“Large C&I”) customers. (See PPLICA Petition, ¶¶ 16-21) PPLICA therefore requests that the Commission order PPL Electric to refund the GNI sector revenues collected in excess of the initial projected GNI costs allocated to Large C&I customers. (See PPLICA Petition, ¶¶ 22-23)

Second, PPLICA contends that PPL Electric failed to disclose that the actual GNI costs incurred were in excess of the GNI budget approved in the Phase I EE&C Plan. (See PPLICA Petition, ¶¶ 24-28) PPLICA therefore requests that the Commission order PPL Electric to refund the GNI sector revenues collected in excess of the total Phase I budget for GNI costs. (See PPLICA Petition, ¶¶ 25-29)

Despite PPLICA's assertion to the contrary, the issues raised in PPLICA's Petition are not new or novel, and were not overlooked by this Commission. It is clear that the Commission fully considered all the evidence of record, including the two "key facts" set forth in PPLICA's Petition. Apparently unhappy with the decision reached by the Commission, PPLICA now seeks to have this Commission reweigh the evidence, accept the evidence that the Commission previously considered and rejected, and find in favor of PPLICA.

Even if the Commission overlooked these two "key facts" as alleged by PPLICA, which it did not, PPLICA's argument is without merit, contrary to the evidence of record, and irrelevant. Importantly, the record in this case clearly demonstrates that 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 the Commission overlooked the two "key facts" as alleged by PPLICA, PPL Electric would still be entitled to full recovery as a matter of law. *See* 66 Pa.C.S. § 2806.1(k)(1).

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 Commission granted the relief requested in the Petition for Reconsideration. If PPL Electric had adopted PPLICA's proposed approach to EE&C cost recovery in this proceeding, 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 requests for relief were granted 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, as more fully explained below, PPL Electric respectfully requests that the Commission deny PPLICA's Petition for Reconsideration.

I. INTRODUCTION AND BACKGROUND

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 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. 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 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.

Following three rounds of written testimony, discovery, and an evidentiary hearing, the Commission issued the Recommended Decision ("RD") of Administrative Law Judge Susan D. Colwell by Secretarial Letter dated December 24, 2014. Therein, the RD concluded that PPLICA's Complaints should be dismissed.

On January 13, 2015, PPLICA filed Exceptions to the RD, and PPL Electric filed Replies to Exceptions on January 23, 2015. On April 23, 2015, the Commission entered its *Opinion and*

Order. Pertinent to PPLICA's Petition for Reconsideration, the Commission: (1) denied all of PPLICA's Exceptions, except to the limited extent that PPL Electric should have sought Commission approval of the increase to the GNI customer sector budget as a whole; (2) adopted the RD, as modified by this Opinion and Order; and (3) dismissed PPLICA's Complaints and requests for refunds of GNI revenues to Large C&I customers.

On May 8, 2015, PPLICA filed the pending Petition for Reconsideration. As explained below, PPLICA's Petition fails to meet the threshold for reconsideration. Further, even if the Commission overlooked these two "key facts" as alleged by PPLICA, PPLICA's argument is without merit, contrary to the substantial evidence of record, and irrelevant. For these reasons as explained below, as well as those more fully explained in the Commission's *Opinion and Order*, PPLICA's Petition for Reconsideration should be denied.

II. LEGAL STANDARD

The Commission's standards for granting reconsideration following final orders are set forth in *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 559 (1982) (emphasis added):

A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was said that "[p]arties ..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them..." What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.

Thus, for a petition to warrant reconsideration by the Commission, it must demonstrate new and novel arguments that were raised below by the petitioner, but not previously considered by the

Commission. The Commission has cautioned that the last portion of the operative language of the *Duick* standard -- “by the Commission” -- focuses on the deliberations of the Commission, not the arguments of the parties. See *Pa. PUC v. PPL Electric Utilities Corporation*, Docket No. R-2012-2290597, p. 3 (May 22, 2014). Therefore, a petition for reconsideration cannot be used to raise new arguments or issues that should have been but were not previously raised.

A petition seeking relief under the *Duick* standard may properly raise any matter designed to convince the Commission that it should exercise its discretion to rescind or amend a prior order in whole or part. Importantly, however, the *Duick* standard does not permit a petitioner to raise issues and arguments considered and decided below such that the petitioner obtains a second opportunity to argue properly resolved matters. *Id.* As explained by the Pennsylvania Supreme Court, petitions for reconsideration of a final agency order may only be granted judiciously and under appropriate circumstances because such action results in the disturbance of final agency orders. *City of Pittsburgh v. Pa. Dep’t of Transp.*, 490 Pa. 264, 416 A.2d 461 (1980).

As explained below, PPLICA’s Petition clearly fails to satisfy the standards for granting reconsideration.

III. ARGUMENT

A. PPLICA’s Petition Fails to Satisfy the Standards for Granting Reconsideration

In its Petition, PPLICA raises two “key facts” that, according to PPLICA, the Commission purportedly overlooked. (See PPLICA Petition, ¶ 11) PPLICA’s Petition for Reconsideration, however, merely re-raises arguments that were previously considered and rejected by the Commission in its *Opinion and Order*. Therefore, for this reason alone, PPLICA’s Petition for Reconsideration should be denied.

First, PPLICA alleges that the Commission overlooked certain facts purporting to demonstrate that PPL Electric was fully aware of the degree to which GNI costs incurred for each customer class exceeded the initial estimated allocation throughout the Phase I EE&C Plan. (See PPLICA Petition, ¶¶ 16-21) PPLICA principally relies on its argument that “PPL incurred approximately 40% of its total monthly GNI costs on behalf of Large C&I customers in every month between October 2010 and August 2013.” (PPLICA Petition, ¶ 19) As a result, PPLICA avers that the Commission should order refunds of the Phase I GNI expenses that were in excess of the initially projected 1% allocation to Large C&I customers. (See PPLICA Petition, ¶¶ 22-23) These are the very same arguments raised in PPLICA’s Exceptions, which previously were considered and rejected by this Commission. (See, e.g., PPLICA Exceptions, pp. 10-11)

Although PPLICA characterizes these arguments as facts that were “overlooked” by the Commission, such characterization is inaccurate. These arguments were fully considered and rejected by the Commission in its *Opinion and Order*, which provides, in pertinent part, as follows:

As previously noted, PPLICA contends that PPL should have tracked its actual GNI costs for each customer class more closely and should have filed a petition for approval to implement mid-course corrections to its EE&C Plan rather than filing tariff supplements to adjust its ACR rates. We agree that PPL’s EE&C Plans include a commitment to make such mid-course corrections to its cost recovery mechanism to reflect major changes to any of its EE&C programs. See *Phase I Plan Order* at 53; *Phase II Plan Order* at 75. However, as we stated above, we do not view the updating of ACR rates to better reflect actual class participation in GNI programs as a change to the EE&C Plan. As we noted, differences between actual and budgeted costs are to be expected throughout the course of an EE&C Plan. While such fluctuations in costs can be tracked, we do not believe it is necessary or appropriate for PPL to petition the Commission for approval of changes to its ACR rates to reflect every observed deviation of actual GNI costs from budgeted costs for each customer class, provided those deviations are not the result of deliberate changes to the GNI programs. As PPL pointed out, if the Company were required to seek permission to account for every change in actual EE&C

costs as compared to budgeted costs for each customer class throughout the course of the EE&C Plan, there would be no need for the final reconciliation process as set forth in the Company's tariff. Moreover, such a continuous realignment of the ACR rates to match actual class participation in GNI programs would defeat the purpose of PPL's leveled cost recovery process, which is meant to minimize rate volatility. *See Phase I Plan Order* at 56.

PPLICA also appears to argue that PPL should have petitioned the Commission for mid-course revisions to the operation of its GNI programs in order to ensure that the costs of these programs to the customer classes would better match PPL's original class cost estimates. PPLICA M.B. at 33-34; PPLICA St. 1 at 17-18; PPLICA St. 3 at 8-9. However, record evidence suggests that PPL intended its GNI programs to be available to all customers that met the eligibility requirements for those programs, without any restrictions as to how program participation should be distributed among the classes. PPL estimated the GNI costs to be assigned to the classes based on a reasonable allocation methodology rather than on a specific determination regarding how customers from each class should participate in the programs. Thus, we do not believe PPL had an obligation to set limits later on customer class participation in the GNI programs where no such limits had originally been imposed or intended.

It is not entirely clear from the record whether PPL was fully aware of the degree to which the actual GNI costs incurred for each customer class were not in alignment with its initial estimated allocation of those costs during the course of its Phase I Plan. Had PPL recognized the potential for significant over- or undercollections before the end of Phase I, it could have made an interim revision to its ACR-1 rates, effective on ten days' notice pursuant to its tariff, as it did in Supplement No. 140 with regard to the ACR-2, as noted above. *See* PPLICA St. 1, Appendix C at 46 (reproducing Second Revised Page No. 19Z.9 of PPL's Tariff – Electric Pa. P.U.C. No. 201). However, we do not believe that PPL's failure to make an earlier interim adjustment renders Supplement No. 139 unjust or unreasonable. While an earlier adjustment to the ACR-1 would have provided customers with more timely information regarding the actual ACR-1 rates they were required to pay, we believe Supplement No. 139 provided a necessary, albeit late, correction to the ACR-1. To suspend the effectiveness of Supplement No. 139 in favor of the previous, less accurate, cost estimates as PPLICA requests would be contrary to 66 Pa. C.S. § 2806.1(a)(11).

Opinion and Order, pp. 39-40 (emphasis added). Clearly, the Commission has already considered and rejected the arguments raised in PPLICA's Petition for Reconsideration

regarding whether PPL Electric was fully aware of the degree to which the Phase I GNI costs incurred for each customer class exceeded the initial estimated allocation of those costs.

Second, PPLICA requests that the Commission reconsider its decision not to order a refund for the GNI sector expenses incurred in excess of the total GNI sector budget. (See PPLICA Petition, ¶¶ 24-28) In support, PPLICA alleges that recovery of GNI expenses should be limited to the total GNI sector budget. (See PPLICA Petition, ¶¶ 24-29) This is the very same alternative request for relief raised in PPLICA's Reply Brief and Exceptions, which were previously considered and rejected by the Commission. (See PPLICA Reply Brief, p. 20 n.8; PPLICA Exceptions, p. 25)

The Commission's *Opinion and Order* provides, in pertinent part, as follows:

Finally, we note that the record indicates that a portion of the GNI-related costs reflected in the updated ACR-1 rates occurred due to the unexpected surge of late rebate applications that the Company received after May 31, 2013, which resulted in the costs for the GNI sector exceeding the Company's GNI sector budget by approximately \$7.7 million over the Phase I Plan's estimated \$21 million for that sector. See PPL Exh. PDC-1. This surge apparently was the result of PPL's decision to extend the rebate submission period until August 31, 2013, provided the GNI measures were installed no later than May 31, 2013.

* * *

However, the record indicates that PPL's total GNI sector costs were still under budget at the end of Phase I on May 31, 2013. See PPL Res. B. at 26; PPL Exh. PDC-1. Thus, there is no indication that PPL expected or intended its decision to extend the rebate submission period to result in an increase in the overall GNI sector budget above that approved in its Phase I Plan. PPL appears to have made this decision in an attempt to ensure that its GNI programs would be fully subscribed in order to better meet its energy consumption and demand reduction targets for both the GNI sector and its Phase I Plan as a whole. The Company apparently was not aware that it had exceeded its GNI budget until it analyzed its books in September 2013. See PPL Res. B at 26-27. Moreover, while the filing of a petition by PPL to seek approval to exceed its original GNI budget would have been appropriate, particularly had PPL been aware that such an eventuality was likely, we find that the instant Complaint proceeding has afforded PPLICA and other parties, as well as this Commission, the

opportunity to address this unintended change in the Phase I Plan. Under the circumstances described, we do not believe it appropriate or necessary to disallow that portion of the ACR-1 rates that relates to the additional GNI expense incurred by PPL in an attempt to maximize the energy savings from the GNI sector.

See Opinion and Order, pp. 40-42 (emphasis added) (footnote omitted). Clearly, the Commission has already considered and rejected the arguments raised in PPLICA's Petition for Reconsideration regarding the recovery of Phase I GNI expenses that were in excess of the total GNI sector budget.

Based on the foregoing, the arguments and issues presented in PPLICA's Petition for Reconsideration were fully presented to, considered by, and rejected by the Commission. Indeed, PPLICA has failed to articulate any new or novel arguments, issues or facts that were not previously considered by the Commission. Although PPLICA is apparently unhappy with the result reached by the Commission, the *Duick* standard prohibits a petitioner from re-raising issues and arguments that were previously considered and decided by the Commission. PPLICA's attempt for a second bite at the proverbial apple is inappropriate and clearly fails to satisfy the *Duick* standards for granting reconsideration. For this reason alone, the Commission should deny PPLICA's request for reconsideration of the *Opinion and Order*.

B. PPLICA's Arguments Are without Merit, Not Supported by Substantial Evidence of Record, and Not Relevant

Even assuming, *arguendo*, that PPLICA's Petition for Reconsideration satisfies the threshold for granting reconsideration under *Duick*, which it does not for the reasons explained above, PPLICA's arguments are without merit, not supported by substantial evidence, and irrelevant. For these reasons, as further explained below, the Commission should deny PPLICA's Petition for Reconsideration.

1. PPLICA's Request that PPL Electric Refund the GNI Sector Revenues Collected in Excess of the Initial 1% Allocated to Large C&I Customers is Without Merit, Contrary to the Record, and Irrelevant

PPLICA alleges that, at all times throughout the Phase I EE&C Plan, PPL Electric knew that it was incurring expenses in excess of the initial 1% allocation of GNI costs to Large C&I customers. (See PPLICA Petition, ¶¶ 20-21) PPLICA therefore requests that the Commission order PPL Electric to refund the GNI sector revenues collected in excess of the initial 1% allocated to Large C&I customers. (See PPLICA Petition, ¶¶ 22-23) PPLICA's argument is misplaced and without merit for several reasons.

First, PPLICA's argument is nothing more than an attempt to re-characterize the argument in its Exceptions 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. (See PPLICA Exceptions, pp. 11, 15-16) The Commission fully considered and rejected this argument. *See Opinion and Order*, p. 39.

Second, the Commission has already considered PPL Electric's knowledge regarding the degree to which the actual GNI costs incurred were not in alignment with the initial allocation and concluded it made no material difference to whether the costs should be recovered through Supplement No. 39. Indeed, the Commission concluded that:

It is not entirely clear from the record whether PPL was fully aware of the degree to which the actual GNI costs incurred for each customer class were not in alignment with its initial estimated allocation of those costs during the course of its Phase I Plan.... While an earlier adjustment to the ACR-1 would have provided customers with more timely information regarding the actual ACR-1 rates they were required to pay, we believe Supplement No. 139 provided a necessary, albeit late, correction to the ACR-1. To suspend the effectiveness of Supplement No. 139 in favor of the

previous, less accurate, cost estimates as PPLICA requests would be contrary to 66 Pa. C.S. § 2806.1(a)(11).

See Opinion and Order, p, 40. If PPL Electric had adopted PPLICA's proposed approach to EE&C cost recovery and made midcourse adjustments, 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' members incurred no harm by paying these costs later rather than sooner.

Third, the initial allocation of the estimated GNI costs is not a cap on the total GNI costs that may be recovered for a customer class as suggested by PPLICA.¹ Although the estimated 1% allocation factor did not accurately predict the proportion of actual GNI costs incurred for Large C&I customers,² 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. If PPLICA's theory was upheld and cost recovery was limited to the initial 1% allocation factor, 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.

¹ *See Opinion and Order*, p, 37 (“we recognize that actual costs are not likely to match initial estimates dollar for dollar, and differences between actual and budgeted costs are to be expected throughout the course of an EE&C Plan”); *see Opinion and Order*, p, 40 (“PPL estimated the GNI costs to be assigned to the classes based on a reasonable allocation methodology rather than on a specific determination regarding how customers from each class should participate in the programs. Thus, we do not believe PPL had an obligation to set limits later on customer class participation in the GNI programs where no such limits had originally been imposed or intended.”).

² This initial estimate was based on the best information available at the time PPL Electric filed the Phase I EE&C Plan. (*See PPL Response Brief*, Section VI.B.2)

Fourth, as explained in PPL Electric's Response Brief, PPLICA's argument conflicts with the Commission-approved levelized rate and annual and final reconciliation processes. (*See* PPL Response Brief, pp. 34-36) Even if PPL Electric was aware that it was incurring expenses in excess of the initial 1% allocation of GNI costs to Large C&I customers as alleged by PPLICA, it was not until the final reconciliation at the end of EE&C Plan that the Company reconciles actual costs and actual revenues.³ Further, if PPL Electric is only entitled to recovery of the costs initially assigned to each customer class, as suggested by PPLICA's argument, this would render the annual reconciliation and the final reconciliation under PPL Electric's Commission-approved EE&C Plans completely meaningless.

Finally, and 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. 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). Therefore, even if PPLICA's arguments are correct, which they not for the reasons explained above, PPL Electric would still be entitled to full recovery as a matter of law.

Based on the foregoing, the Commission should deny PPLICA's Petition for Reconsideration and affirm the well-reasoned findings and conclusions set forth in the *Opinion and Order*.

³ 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)

2. PPLICA’s Request that PPL Electric Refund the GNI Sector Costs in Excess of the GNI Budget is Without Merit, Contrary to the Record, and Irrelevant

In its *Opinion and Order*, the Commission found that “the inclusion of *additional* costs not contained in the original cost estimate for the GNI sector as a whole does appear to be a change for which PPL would have been obliged to seek prior approval.” *Opinion and Order*, p. 41 (emphasis in original). However, the Commission properly concluded that it was not “appropriate or necessary to disallow that portion of the ACR-1 rates that relates to the additional GNI expense incurred by PPL in an attempt to maximize the energy savings from the GNI sector.” *Opinion and Order*, p. 42. PPLICA seeks reconsideration of this Commission finding “in light of PPL’s failure to initially disclose the incurrence of GNI expenses in excess of budget and the adverse rate impacts upon Large C&I customers that do not benefit from GNI sector programs.” (PPLICA Petition, ¶ 24) Specifically, PPLICA requests that the Commission order PPL Electric to refund the GNI sector revenues collected in excess of the total Phase I budget for GNI costs. (See PPLICA Petition, ¶¶ 25-29) PPLICA’s arguments are without merit and should be rejected.

Preliminarily, it should be noted that PPLICA’s argument is nothing more than an attempt to re-characterize its argument that exceeding the initial total Phase I GNI budget is a “major change” and could only be implemented through a petition proposing a Plan Change. The Commission fully considered and rejected this argument. See *Opinion and Order*, p. 42 (“we find that the instant Complaint proceeding has afforded PPLICA and other parties, as well as this Commission, the opportunity to address this unintended change in the Phase I Plan”).

The unrefuted evidence of record clearly established that throughout Phase I, actual GNI sector costs in the aggregate were under budget on May 31, 2013, *i.e.*, the end of Phase I. (PPL Electric Statement No. 1, p. 14) As the Commission recognized, it was not until an unexpected

surge of late rebate applications received after May 31, 2013, that the GNI costs exceeded the aggregate GNI budget. *Opinion and Order*, p. 40.⁴ Upon realizing that the GNI costs exceeded the GNI budget, PPL Electric promptly disclosed this fact by filing Supplement No. 139 to update 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.

PPLICA argues that the Company lacks authority to recover GNI costs in excess of the GNI sector budget because of “the adverse rate impacts upon Large C&I customers that do not benefit from GNI sector programs.” (PPLICA Petition, ¶ 24) Under Section 2806.1(a)(11) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 2806.1(a)(11), PPL Electric must recover the GNI costs at issue from the customer class that received the benefits from the GNI programs, not just the customers in that class that participated in those programs. As explained above, PPLICA does not dispute that the Large C&I customer class incurred the costs to be recovered by Supplement Nos. 139 and 140. (Tr. 19-21) Thus, PPLICA has, by its own admission, agreed that Large C&I customers benefited from the GNI programs. Act 129 mandates that PPL Electric is entitled to recover those costs from the Large C&I customer class. *See* 66 Pa. C.S. § 2806.1(a)(11). No exception to this statutory mandate exists.

PPLICA further contends that “[t]he Commission should order PPL to refund the GNI sector revenues collected in excess of budgeted GNI sector revenues in order to encourage PPL to improve customer disclosures.” (PPLICA Petition, ¶ 25) The essence of PPLICA’s argument is that PPL Electric should be denied recovery because it failed to accurately forecast/estimate certain EE&C costs. This is completely inconsistent with Section 1307 which expressly permits

⁴ In fact, the record demonstrates that it was not until September 2013, when PPL Electric needed to close its books for August, that the Company analyzed the results and became aware that the actual GNI sector costs exceeded the total GNI sector budget due to this surge of late rebate applications. (*See* PPL Electric Statement No. 2, p. 13)

recovery of over- and under-collections caused by differences in actual and estimated costs. PPLICA's arguments essentially read the reconciliation provisions out of Section 1307. PPLICA cites no cases where a utility was denied recovery of prudently incurred costs because actual costs exceeded estimated costs. There are no such cases. PPLICA's unprecedented arguments should be summarily rejected.

The record evidence demonstrates that PPL Electric prudently incurred these costs on behalf of Large C&I customers by providing GNI programs to Large C&I customers.⁵ 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). Therefore, even if PPLICA's arguments are correct, which they are not for the reasons explained above, PPL Electric would still be entitled to full recovery as a matter of law. 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, 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).

Based on the foregoing, the Commission should deny PPLICA's Petition for Reconsideration and affirm the well-reasoned findings and conclusions set forth in the *Opinion and Order*.

⁵ Indeed, as explained above, PPLICA has, by its own admission, agreed that the amounts and allocation in Supplement Nos. 139 and 140 are just, reasonable, and prudent.

IV. CONCLUSION

WHEREFORE, for all the foregoing reasons, as well as those more fully explained in *Opinion and Order* entered on April 23, 2015, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny the Petition for Reconsideration filed by PP&L Industrial Customer Alliance in its entirety.

Respectfully submitted,

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