**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation for : P-2019-3010128

Approval of Tariff Modifications and Waivers of :

Regulations Necessary to Implement its :

Distributed Energy Resources Management Plan :

**INTERIM ORDER**

**HOLDING NRDC AND SUNRUN’S PRELIMINARY OBJECTION AND**

**MOTION FOR LEAVE TO REPLY IN ABEYANCE AND**

**EXTENDING DEADLINE FOR PARTIES TO**

**SUBMIT PROPOSED LITIGATION SCHEDULE**

On May 24, 2019, PPL Electric Utilities Corporation (PPL) filed a Petition for Approval of Tariff Modifications and Waivers of Regulations Necessary to Implement its Distributed Energy Resources Management Plan (Petition) with the Public Utility Commission (Commission). In its Petition, PPL seeks to proactively implement the 2018 revisions to the Institute of Electrical and Electronics Engineers (IEEE) Standard 1547, “Standard for Interconnection and Interoperability of Distributed Energy Resources with Associated Electric Power Systems Interfaces” (IEEE Standard 1547) and the related, forthcoming revisions to Underwriters Laboratories (UL) Standard 1741, “Inverters, Converters and Controllers for use in Independent Power Systems” (UL Standard 1741). Specifically, under Petitioner’s proposal, customers applying to interconnect new Distributed Energy Resources (DERs) with PPL’s distribution system will be required to: (1) use Company-approved smart inverters that are in compliance with IEEE 1547 and forthcoming UL Standard 1741; and (2) install devices that enable PPL to monitor and proactively manage DERs.

On July 30, 2019, the Office of the Consumer Advocate (OCA) filed an Answer to the Petition, averring, *inter alia*, PPL’s proposal is problematic for several reasons. It argues PPL’s Petition is premature because the industry standards necessary to fully implement the technology are incomplete. It also avers PPL’s proposal would provide PPL with substantial control over DERs interconnected to its electric distribution grid that it does not currently have and fails to identify any consumer protections that it would implement as part of its Distributed Energy Resources Management Plan. OCA also argues that the adoption of smart inverters impacts a broad range of stakeholders and the examination of the issues involved in this proceeding may best be served through broad participation of interested parties to develop a standard set of rules, ensuring successful implementation of the new technology, as has occurred in other states.

On July 30, 2019, the Natural Resources Defense Council (NRDC) filed a Petition to Intervene, as well as an Answer to PPL’s Petition. In its Answer, NRDC argues, *inter alia*: (1) PPL’s Petition is premature, given the relatively low levels of DER penetration in Pennsylvania; (2) PPL’s Petition is not ripe for action given that UL Standard 1741 has yet to be updated and, in the meantime, the absence of equipment certified to be compliant with that Standard; (3) PPL’s Petition raises significant policy issues that warrant further consideration by the Commission given the precedential nature of the relief sought by PPL and the potential impact on the nascent DER market in Pennsylvania; and (4) PPL’s Petition raises significant technical issues that warrant a full and complete investigation by the Commission, and broad participation of stakeholders interested in the continued development of the DER market in Pennsylvania.

On July 30, 2019, Sunrun Inc. (Sunrun) filed a Petition to Intervene, as well as an Answer to PPL’s Petition. In its Answer, Sunrun argues, *inter alia*, PPL’s Petition should be denied because: (1) it is unjustified and premature given the low penetration of DERs in PPL’s service territory and Pennsylvania; (2) it raises significant technical question about the implementation of IEEE-1547 and UL 1741 certification standards and is out of sync with other states’ timing for adopting the updated standards; (3) it inappropriately conflates advanced inverter functionalities pursuant to the IEEE-1547 and UL 1741 certification standards with the need for utility control of customer-sited DERs; (4) it is void of critical details and analysis of its impact on customers and implications for advancing DER markets in Pennsylvania; and (5) it raises significant policy issues that should be considered on a statewide basis, not a utility-by-utility basis, through a full and complete investigation by the Commission that includes opportunity for broad stakeholder participation and engagement.

On August 22, 2019, PPL filed correspondence in response to other parties’ arguments that the Petition be denied or that the issues be addressed in a statewide proceeding. PPL argues, *inter alia*, the Commission should review its Petition through the standard administrative litigation process. It argues the issues raised in the Petition are ripe for review, the parties’ questions are best addressed through litigation, litigation would produce a clearer and more thorough record for the Commission to review when rendering its final decision, and a statewide proceeding inaccurately assumes that all Pennsylvania electric distribution companies (EDCs) face the same challenges presented by DERs and need to address them in the same manner. PPL requests that the matter be assigned for hearing and disposition before an administrative law judge without delay.

On August 22, 2019, the undersigned presiding officer issued an Interim Order granting the Petitions to Intervene filed by NRDC and Sunrun.

On August 28, 2019, the Commission issued a Call-In Telephone Prehearing Conference Notice, scheduling a prehearing conference for September 11, 2019, at 2:00 p.m. Later that day, the undersigned presiding officer issued a Prehearing Conference Order directing each party to file a prehearing conference memorandum which addressed, *inter alia*, the party’s position on how this matter should proceed (i.e. mediation, litigation, etc.).

On August 30, 2019, NRDC and Sunrun jointly filed a Preliminary Objection to PPL’s August 22, 2019 correspondence, arguing the August 22, 2019 correspondence is not authorized by the Commission’s rules of procedure and should be stricken from the record pursuant to Pa.Code § 5.101(b).

On August 30, 2019, NRDC and Sunrun also jointly filed a Motion for Leave to Reply and Reply to PPL’s August 22, 2019 correspondence. In their Reply, NRDC and Sunrun request, *inter alia*, that the Commission or the presiding officer issue a “preliminary ruling” addressing whether PPL’s Petition should be denied, and if not, whether the issues raised in the Petition should be addressed in a statewide rulemaking proceeding or proceed pursuant to an administrative litigation process.

On September 3, 2019, the Sustainable Energy Fund (SEF) filed a Petition to Intervene in these proceedings.

On September 9, 2019, PPL filed an Answer to the Preliminary Objection, arguing, *inter alia*, the August 22, 2019 correspondence is not a pleading to which a party can file a preliminary objection under the Commission’s regulations, correspondence such as the August 22, 2019 letter is routinely filed in Commission proceedings, and the filing of the August 22, 2019 letter did not affect any party’s substantive rights in this matter.

On September 9, 2019, PPL filed an Answer to NRDC and Sunrun’s Motion for Leave to Reply and Reply, arguing, *inter alia*, NRDC and Sunrun’s request for a “preliminary ruling” on the merits of PPL’s Petition without an evidentiary hearing is inappropriate and unlawful and that if PPL’s Petition were referred to a statewide proceeding, it would be denied due process.

A prehearing conference was convened on September 11, 2019. PPL, OCA, NRDC, Sunrun, and SEF were present and represented by counsel. The Pennsylvania Solar Energy Association was present and identified itself as a “party of record,” but did not otherwise participate in the conference. The undersigned presiding officer granted SEF’s petition to intervene, without objection from any party.

Then, the parties argued their positions regarding whether the issues raised in the Petition and Answers should proceed through a standard administrative litigation process before an administrative law judge or whether they should be considered by the Commission in a state-wide proceeding. After providing each party an opportunity to state its position and provide its argument, the undersigned presiding officer advised that any party wishing to file a petition for interlocutory review under 52 Pa.Code § 302 must do so by September 20, 2019. The undersigned presiding officer also advised the parties that they were to submit a proposed litigation schedule by September 27, 2019.

On September 20, 2019, NRDC and Sunrun each separately filed a Petition for Interlocutory Review by the Commission under 52 Pa.Code § 302. Pursuant to 52 Pa.Code

§ 302(b), the parties’ briefs directed to the Commission are due within ten days of service of a petition.

Pursuant to 52 Pa.Code § 303(a), the Commission will do one of the following within thirty days of receipt of a petition: (1) continue, revoke, or grant a stay of proceedings; (2) determine that the petition was improper and return the matter to the presiding officer; (3) decline to answer the question; or (4) answer the question. Pursuant to 52 Pa.Code § 5.303(b), a petition is deemed denied if the Commission does not grant the petition within thirty days of its filing.

The undersigned presiding officer has not stayed this matter. The Commission has the authority to do so if it determines a stay is appropriate. Furthermore, the deadline for the parties to provide a litigation schedule to the presiding officer is extended to November 6, 2019.

Finally, since the Preliminary Objection and Motion for Leave to Reply filed by NRDC and Sunrun involve issues directly related to the material questions posed in the Petitions for Interlocutory Review, the Commission’s action (or inaction) on the Petitions for Interlocutory Review may resolve, affect, or render moot the Preliminary Objection and/or the Motion for Leave to Reply. Furthermore, the Commission may choose to rule on the Preliminary Objection and/or Motion for Leave to Reply in conjunction with action it may take under 52 Pa.Code § 303(a).

Therefore, the Preliminary Objection and Motion for Leave to Reply are held in abeyance pending action by the Commission on the Petitions for Interlocutory Review under 52 Pa.Code § 303(a) or a deemed denial of the Petitions under 52 Pa.Code § 303(b).

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection filed by NRDC and Sunrun on August 30, 2019 is held in abeyance.
2. That the Motion for Leave to Reply filed by NRDC and Sunrun on August 20, 2019 is held in abeyance.
3. That the parties shall confer and submit to the undersigned presiding officer a proposed litigation schedule by November 6, 2019.

Date: September 25, 2019 /s/

Emily I. DeVoe

Administrative Law Judge

**P-2019-3010128 - PETITION OF PPL ELECTRIC UTILITIES CORPORATION FOR APPROVAL OF TARIFF MODIFICATIONS AND WAIVERS OF REGULATIONS NECESSARY TO IMPLEMENT ITS DISTRIBUTED ENERGY RESOURCES MANAGEMENT PLAN**

*EDITED 9/25/19*

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