

COMMONWEALTH OF PENNSYLVANIA



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September 30, 2019

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

Re: Petition of PPL Electric Utilities Corporation for
Approval of Tariff Modifications and Waivers of
Regulations Necessary to Implement its
Distributed Energy Resources Management Plan
Docket No. P-2019-3010128

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Brief in Support of Petition for Interlocutory Review in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Phillip D. Demanchick".

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Enclosure:

cc: The Honorable Emily I. DeVoe, ALJ
Certificate of Service

*279098

CERTIFICATE OF SERVICE

Petition of PPL Electric Utilities Corporation for :
Approval of Tariff Modifications and Waivers : Docket No. P-2019-3010128
of Regulations Necessary to Implement its :
Distributed Energy Resources Management Plan :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Brief in Support of Petition for Interlocutory Review, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 30th day of September 2019.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PPL ELECTRIC UTILITIES :
CORPORATION FOR APPROVAL OF :
TARIFF MODIFICATIONS AND WAIVERS :
OF REGULATIONS NECESSARY TO : DOCKET NO. P-2019-3010128
IMPLEMENT ITS DISTRIBUTED ENERGY :
RESOURCES MANAGEMENT PLAN :

THE OFFICE OF CONSUMER ADVOCATE'S BRIEF IN SUPPORT OF THE PETITIONS
OF SUNRUN INC. AND NATIONAL RESOURCE DEFENSE COUNCIL FOR
INTERLOCUTORY COMMISSION REVIEW AND ANSWERS TO MATERIAL
QUESTIONS

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TABLE OF CONTENTS

I. INTRODUCTION 1

II. BACKGROUND 2

III. LEGAL STANDARD..... 5

IV. DISCUSSION 5

 A. PPL’s Petition raises technical and public policy issues that are of statewide concern..... 6

 B. The Commission should deny PPL’s Petition at this time and address these issues on a statewide basis..... 10

 C. The Commission should initiate a statewide stakeholder process allowing for Commonwealth-wide input on whether current circumstances warrant addressing any or all of the issues raised in PPL’s Petition at the present time. 11

V. CONCLUSION..... 13

TABLE OF AUTHORITIES

Page(s)

Administrative Decisions

Application of Pennsylvania Electric Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code,
R-00974009, 1998 Pa. PUC LEXIS 162 (Pa. PUC Jun. 30, 1998)11

Department Investigation on Distributed Generation Interconnection,
Docket No. 11-75, Proposed Changes to the Uniform Standards for Interconnecting Distributed Generation (Ma. DPU Sept. 14, 2012).....10

Final Rulemaking Re Interconnection Standards for Customer-generators pursuant to Section 5 of the Alternative Energy Portfolio Standards Act,
Docket No. L-00050175, 2006 Pa. PUC LEXIS 86 (Pa. PUC Aug. 22, 2006)..... 6-7

In the Matter of Establishing Generic Standards for Utility Tariffs for Interconnection and Operation of Distributed Generation Facilities under Minnesota Laws 2001, Chapter 212, et al.,
Docket Nos. CI-01-1023, et al., Order Establishing Workgroup and Process to Update and Improve State Interconnection Standards (Mn. PUC Jan. 24, 2017)8

In the Matter of Public Utilities Commission Instituting a Proceeding to Investigate Distributed Energy Resource Policies,
Docket No. 2014-0192, Order No. 33760: Approving the Hawaiian Electric Companies’ Advanced Inverter Test Plan with Conditions (Hi. PUC Jun. 15, 2016)10

In the Matter of Updating the Generic Standards for the Interconnection and Operation of Distributed Generation Facilities Established under Minn. Stat. §216B.1611,
Docket Nos. CI-16-521, et al., Notice of Comment Period (Mn. PUC Aug. 23, 2019) 8-9

Order Instituting Rulemaking on the Commission’s Own Motion to Improve Distribution Level Interconnection Rules and Regulations for Certain Classes of Electric Generators and Electric Storage Resources,
Rulemaking 11-09-011, Interim Decision Adopting Revisions to Electric Tariff Rule 21 for Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company to Require “Smart” Inverters (CPUC Dec. 18, 2014).....9

Petition of Energy Cooperative Association of Pa. to Enforce Settlement Order,
Docket No. P-00021980, 2003 Pa. PUC LEXIS 43 (Pa. PUC Aug. 7, 2003)5

<u>Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing,</u> Docket No. P-2019-257249, 2018 Pa. PUC LEXIS 20 (Pa. PUC Jan. 18, 2018)	10
---	----

<u>Petition of West Penn Power Company for Waiver of Standard Interconnection Application and Agreement Forms,</u> Docket No. P-2018-3000113, et al., 2018 Pa. PUC LEXIS 168 (Pa. PUC May 3, 2018)	11
---	----

Statutes

73 P.S. § 1648.5	6
Alternative Energy Portfolio Standards Act, 2004 Pa. Laws 213.....	1, 6, 9
Minn. Stat. § 216B.1611	8

Regulations

52 Pa. Code § 5.302	4
52 Pa. Code § 5.302(a).....	5
52 Pa. Code § 5.302(b)	1, 4, 5
52 Pa. Code § 5.303(a).....	5
52 Pa. Code §§ 75.21, <i>et seq.</i>	7
52 Pa. Code § 75.22	7
52 Pa. Code § 75.34	7
52 Pa. Code § 75.35	7
52 Pa. Code § 75.37	7
52 Pa. Code § 75.38	7
52 Pa. Code § 75.39	7
52 Pa. Code § 75.40	7

Other Authorities

BRIAN LYDIC & SARA BALDWIN, INTERSTATE RENEWABLE ENERGY COUNCIL, MAKING THE GRID SMARTER: PRIMER ON ADOPTING THE NEW IEEE 1547- 2018 STANDARD FOR DISTRIBUTED ENERGY RESOURCES (2019)	7-8
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California Public Utilities Commission, *Smart Inverter Working Group*,
<https://www.cpuc.ca.gov/General.aspx?id=4154> (last visited Sept. 30, 2019)9

I. INTRODUCTION

Pursuant to Section 5.302(b) of the Pennsylvania Public Utility Commission's (Commission) regulations regarding interlocutory review, 52 Pa. Code Section 5.302(b), the Office of Consumer Advocate (OCA) provides the following Brief in Support of the Petitions of Sunrun Inc. (Sunrun) and National Resource Defense Council (NRDC) for Interlocutory Commission Review and Answers to Material Questions (individually, Sunrun's Petition and NRDC's Petition, collectively, Petitions) in the above-captioned proceeding.

On September 20, 2019, Sunrun and NRDC each filed the Petitions seeking review of the following material questions regarding PPL Electric Utilities Corporation's (PPL) Petition for Approval of Tariff Modifications and Waivers of Regulations Necessary to Implement its Distributed Energy Resources Management Plan (PPL's Petition):

- A. Does PPL's Petition implicate technical and public policy issues of statewide concern?
- B. Should PPL's Petition be denied in favor of addressing such issues on a statewide basis at a time deemed appropriate by the Commission?
- C. Should the Commission initiate a statewide stakeholder process allowing for Commonwealth-wide input on whether current circumstances warrant addressing any or all of the issues raised in PPL's Petition at the present time?

Sunrun's Petition at ¶ 4; NRDC's Petition at ¶ 5.

The OCA submits that the Commission should answer the material questions in the affirmative. PPL's Petition seeks to waive nine Commission regulations regulating the interconnection of distributed energy resources (DERs), which were developed on a statewide basis as part of a stakeholder collaborative pursuant to the Alternative Energy Portfolio Standards Act (AEPS Act). 2004 Pa. Laws 213. Effectively, PPL has identified that the current interconnection standards that were developed in the mid-2000's may no longer be appropriately designed considering recent trends in technology.

Other states have recognized this issue and begun to address outdated interconnection standards and the adoption of smart inverters within the context of statewide proceedings. This includes, but is not limited to, states such as Minnesota, California, Hawaii, and Massachusetts. Likewise, the concerns raised by PPL's Petition implicate technical and policy issues of statewide concern. Accordingly, a statewide stakeholder process is the more appropriate forum to address these issues.

There are advantages with updating the interconnection standards on a statewide basis, rather than through the standard administrative litigation process as requested by PPL. It will prevent repeated litigation before the Commission regarding interconnection standards and it will ensure uniform interconnection rules remain amongst the Commonwealth and its electric distribution utilities, thereby providing fair access for all current and potential DER operators. This approach will also remain consistent with past implementation of electric operability standards.

The OCA submits, however, that if the Commission initiates a statewide stakeholder collaborative, it should ensure that the collaborative proceeds expeditiously to avoid undue delay. It is imperative that DER operators begin installing industry compliant inverters as quickly as possible to protect and benefit the system and save ratepayers additional costs that would otherwise be incurred from older equipment.

II. BACKGROUND

On May 24, 2019, PPL filed its Petition seeking to waive several Commission regulations and modify its tariff to add Rule 12, entitled Distributed Energy Resource Interconnection Service (DERIS). PPL Petition, App. A. As drafted, DERIS would require applicants seeking approval to interconnect DERs with PPL's distribution grid to install smart inverters and a DER management

device. PPL Petition at ¶ 36; see also OCA Answer at 3-5. With this technology, the Company would be able to monitor and manage the customer's DER remotely. PPL Petition at ¶ 37.

On July 30, 2019, the OCA filed an Answer to PPL's Petition requesting that the Commission deny PPL's Petition at this time and, in the alternative, establish a statewide stakeholder collaborative to address the broad technical and policy issues raised by PPL's Petition. OCA Answer at 14. As stated in its Answer, the OCA noted several concerns with PPL's Petition, including the lack of complete industry standards and rollout of advanced inverters, the broad nature of the Company's proposal, and the complete lack of consumer protections. OCA Answer at 6-13.

Petitions to Intervene and Answers were also filed by NRDC and Sunrun. Comments were also filed by the Sustainable Energy Fund (SEF). The three parties requested that the Commission deny PPL's Petition or, in the alternative, suspend the tariff revisions and establish a stakeholder proceeding to thoroughly examine the major policy and technical issues.

On August 22, 2019, PPL submitted a letter to the Commission's Secretary further explaining its position and requesting that the matter be assigned for hearing and disposition before an Administrative Law Judge (ALJ). Specifically, PPL stated:

Contrary to the beliefs of certain parties and commenters, the issues raised by PPL Electric's Petition are ripe for review through the standard administrative litigation process. Although there may be fewer DERs deployed in Pennsylvania compared to other states, this is not a sufficient reason to deny the Company's Petition or delay addressing these issues until there is a statewide proceeding. The Commission should provide PPL Electric with the opportunity to present evidence supporting its proposal, explaining how the Company is well-positioned to address the challenges presented by the increased deployment of DERs, and establishing how its proposal will promote the installation of DERs and provide substantial benefits to the Company and its customers

PPL Letter at 2.

Subsequently, on August 30, 2019, Sunrun and NRDC jointly filed a Motion for Leave to Reply and Reply to PPL's Letter Response and Request for Hearing. The parties stated in relevant part:

Resolution of the fundamental technical and policy issues raised in PPL's Petition will have far reaching statewide implications for DER markets in Pennsylvania. Addressing these issues in a rulemaking proceeding applicable to all utilities in the Commonwealth would allow the Commission to investigate the issues raised in PPL's Petition, and additional issues implicated in the adoption of advanced inverter standards, through a transparent and deliberative process. A statewide rulemaking process can facilitate the robust stakeholder engagement that these issues warrant and will ensure statewide consistency in the timing and implementation of advanced inverter standards.

Sunrun and NRDC's Reply to PPL Electric Utilities Corporation Letter Response and Request for Hearing at 5-6. Accordingly, Sunrun and NRDC requested that the ALJ assigned to the matter, Emily DeVoe (ALJ DeVoe), issue a preliminary ruling addressing whether to deny PPL's Petition and, if not denied, whether a statewide stakeholder proceeding should be implemented to address the issues raised by PPL. *Id.*, at 6-7.

On September 11, 2019, a prehearing conference was held where, amongst other things, the parties addressed the matters raised in Sunrun and NRDC's Motion for Leave to Reply and Reply. After a brief discussion before the Presiding Officer, ALJ DeVoe granted leave for the parties to file a Petition for Interlocutory Review pursuant to Section 5.302 of the Commission's regulations, 52 Pa. Code Section 5.302, by September 20, 2019. In accordance with the Presiding Officer's directions, Sunrun and NRDC separately filed their Petitions for consideration before this Commission. In accordance with Section 5.302(b) of the Commission's regulations, 52 Pa. Code Section 5.302(b), the OCA now submits this Brief in Support of Sunrun and NRDC's Petitions.

III. LEGAL STANDARD

Pursuant to Commission regulations, a party may timely petition the Commission for interlocutory review and answer to a material question, providing “the question to be answered and the compelling reasons why interlocutory review will prevent substantial prejudice or expedite the conduct of the proceeding.” 52 Pa. Code § 5.302(a). The regulations also permit other parties, within 10 days of service of the petition, to submit briefs to the Commission in support of, or opposing, the petition. 52 Pa. Code § 5.302(b). Within 30 days of receiving the petition, the Commission will take one of four actions:

- (1) Continue, revoke or grant a stay of proceedings if necessary to protect the substantial rights of the parties.
- (2) Determine that the petition was improper and return the matter to the presiding officer.
- (3) Decline to answer the question.
- (4) Answer the question.

52 Pa. Code § 5.303(a). The Commission has stated that, with respect to such petitions, its “principal concern is whether interlocutory review is necessary in order to prevent substantial prejudice.” Petition of Energy Cooperative Association of Pa. to Enforce Settlement Order, Docket No. P-00021980, 2003 Pa. PUC LEXIS 43 at *4 (Pa. PUC Aug. 7, 2003).

IV. DISCUSSION

As stated in the Petitions, the Commission has three material questions to consider: whether PPL’s Petition raises technical and public policy issues of statewide concern, whether it should deny PPL’s Petition in favor of addressing such issues on a statewide basis, and whether the Commission should initiate a statewide stakeholder process allowing for Commonwealth-wide input on whether current circumstances warrant addressing any or all of the issues raised in PPL’s

Petition at the present time. The OCA submits that the Commission answer each material question in the affirmative.

A. PPL's Petition raises technical and public policy issues that are of statewide concern.

The OCA submits that PPL's Petition does raise technical and public policy issues that are of statewide concern. As the OCA will explain, PPL's Petition seeks to waive several regulations that were developed on a statewide basis through stakeholder collaboration. The basis for PPL's request suggests that those interconnection regulations are no longer appropriately designed considering the recent trends in technology. Recognizing this issue, other states have begun to discuss, revise, and implement updated interconnection rules through statewide collaborative meetings. The Commission should follow a similar approach.

The AEPS Act, enacted into law in 2004, established a statutory framework for the development of policies and regulations that promote increasing the mix of alternative electricity generation in Pennsylvania. Within this framework, the Commission was given statutory authorization to develop regulations concerning technical and net metering interconnection rules.

73 P.S. Section 1648.5. The statute states in relevant part:

The commission shall develop technical and net metering interconnection rules for customer-generators intending to operate renewable onsite generators in parallel with the electric utility grid, consistent with rules defined in other states within the service region of the regional transmission organization that manages the transmission system in any part of this Commonwealth. **The commission shall convene a stakeholder process to develop Statewide technical and net metering rules for customer-generators.** The commission shall develop these rules within nine months of the effective date of this act.

73 P.S. § 1648.5 (emphasis added).

Subsequently, the Commission established a working group that was solely focused on the development of interconnection standards, which consisted of the following entities: Commission

Staff, the Department of Environmental Protection (DEP), the Energy Association of Pennsylvania (EAPA) and several of its member companies, the Pennsylvania Farm Bureau, the OCA, the Office of Small Business Advocate (OSBA), Citizens for Pennsylvania's Future (Penn Future), the Small Generator Coalition (SGC) with the Solar Energy Industries Association and several similar entities. Final Rulemaking Re Interconnection Standards for Customer-generators pursuant to Section 5 of the Alternative Energy Portfolio Standards Act, Docket No. L-00050175, 2006 Pa. PUC LEXIS 86 at *2-3 (Pa. PUC Aug. 22, 2006). Based upon the collaborative process, and in coordination with a stakeholder group at the regional-Independent System Operator level, the Commission initiated a formal rulemaking to establish statewide regulations concerning net-metering and interconnection. Id., at *3-6. After soliciting comments from interested parties, the Commission formally adopted the current interconnection rules. Id., at *59-60; see also 52 Pa. Code §§ 75.21, *et seq.*

Through PPL's Petition, PPL now seeks to permanently waive several of the regulations adopted through this process, specifically 52 Pa. Code Sections 75.22, 75.34, 75.35, 75.37, 75.38, 75.39, and 75.40. PPL's Petition at ¶ 70. In other words, PPL is suggesting that the interconnection rules that were established in 2006 may no longer be appropriately designed given recent industry changes. Indeed, IEEE Std. 1547-2018 represents one area where fundamental changes are taking place. As stated by the Interstate Renewable Energy Council:

Rather than a single package of default settings that work in all instances and for all technologies, IEEE Std 1547-2018 adds new features and requirements and includes more flexibility and options. Utilities and state regulatory commissions will need to evaluate, select and assign different "performance categories" for different DERs. In addition, as applicable, states and utilities will need to consult and coordinate with the Regional Reliability Coordinator and Regional Transmission Organization (RTO), Independent System Operator (ISO), or other transmission operator on certain issues within IEEE Std 1547-2018 relating to reliability and performance.

BRIAN LYDIC & SARA BALDWIN, INTERSTATE RENEWABLE ENERGY COUNCIL, MAKING THE GRID SMARTER: PRIMER ON ADOPTING THE NEW IEEE 1547-2018 STANDARD FOR DISTRIBUTED ENERGY RESOURCES 9 (2019), *available at* <https://irecusa.org/publications/making-the-grid-smarter-state-primer-on-adopting-the-new-ieee-standard-1547-2018-for-distributed-energy-resources/>.

Several other states have begun to review their interconnection rules and procedures in a statewide proceeding to account for the changing standards and the adoption of advanced inverters. Minnesota's approach is particularly relevant considering the Minnesota Public Utility Commission (Minnesota Commission) was in a similar position as Pennsylvania is currently. In 2001, the Minnesota Legislature enacted Minn. Stat. Section 216B.1611, which required the Minnesota Commission to initiate a proceeding to establish generic standards for interconnection and operation of DERs. Minn. Stat. § 216B.1611. Due to changes in distributed generation and interconnection standards, two entities petitioned the Minnesota Commission in 2016 to update their interconnection and distributed generation standards. In the Matter of Establishing Generic Standards for Utility Tariffs for Interconnection and Operation of Distributed Generation Facilities under Minnesota Laws 2001, Chapter 212, et al., Docket Nos. CI-01-1023, et al., Order Establishing Workgroup and Process to Update and Improve State Interconnection Standards at 1 (Mn. PUC Jan. 24, 2017). After initiating a proceeding to address these issues, the Minnesota Commission convened a technical subgroup composed of representatives of utility companies, solar companies, and government agencies. In the Matter of Updating the Generic Standards for the Interconnection and Operation of Distributed Generation Facilities Established under Minn. Stat. §216B.1611, Docket Nos. CI-16-521, et al., Notice of Comment Period at 2 (Mn. PUC Aug. 23, 2019). Together the group, among other things, incorporated feedback to develop updated interconnection rules to comply with the new IEEE Std. 1547-2018. Id., at 2-3. The Minnesota

Commission is currently considering the proposed Technical Interconnection and Interoperability Requirements (TIIR) and is accepting comments. Id., at 1.

As another example, California convened a Smart Inverter Working Group in 2014 to address the same issues raised by PPL in this proceeding. See e.g. Order Instituting Rulemaking on the Commission's Own Motion to Improve Distribution Level Interconnection Rules and Regulations for Certain Classes of Electric Generators and Electric Storage Resources, Rulemaking 11-09-011, Interim Decision Adopting Revisions to Electric Tariff Rule 21 for Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company to Require "Smart" Inverters at 4 (CPUC Dec. 18, 2014) (California Interim Decision). Composed of a broad group of stakeholders, the Smart Inverter Working Group addressed the adoption of advanced inverters in three phases, with the first phase addressing autonomous functions, the second phase addressing communications protocols, and the third phase addressing advanced functions. California Public Utilities Commission, *Smart Inverter Working Group*, <https://www.cpuc.ca.gov/General.aspx?id=4154> (last visited Sept. 30, 2019). California is currently in the third phase. Id.

Accordingly, the OCA submits that the issues raised by PPL's Petition identify concerns with Pennsylvania's current interconnection rules and procedures that affect a broad group of stakeholders. As stated above, development of Pennsylvania interconnection rules has historically been dealt with in a statewide manner. See pg. 6-7, supra. For that reason, while the updated technical operability requirements present additional technical and policy decisions that must be made, the Commission must ensure that it is undertaken in an appropriate manner. Pennsylvania should follow the approach consistent with the AEPS Act and that of the other states, many, if not

all, of which have approached this issue through a stakeholder collaborative process, including Minnesota, California, Hawaii, and Massachusetts.¹

B. The Commission should deny PPL's Petition at this time and address these issues on a statewide basis.

The Commission should deny PPL's Petition at this time or, alternatively, hold the Petition in abeyance to allow for consideration of these issues in a statewide stakeholder collaborative. The Commission has the authority to deny a Petition without an evidentiary hearing if its decision is based on legal and policy reasons. See e.g. Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing, Docket No. P-2019-257249, 2018 Pa. PUC LEXIS 20 at *37 (Pa. PUC Jan. 18, 2018) (Petition of NRG). In Petition of NRG, the Commission denied NRG Energy Inc.'s (NRG) Petition without an evidentiary hearing because NRG's Petition lacked sufficient detail to substantiate a definitive determination on both policy prudence and legality of numerous pivotal issues regarding supplier consolidated billing. Id., at *111-12. Even though disputed issues of fact existed, the Commission reasoned it appropriately denied the Petition without an evidentiary hearing because its decision was based on legal and policy concerns that failed to be remedied by the Petition. Id., at *37. Likewise, PPL's Petition raises concerns with the Commission's current interconnection regulations, but raises legal and policy issues that will not be fully addressed by the consideration of PPL's Petition.

¹ See pgs. 7-9, supra; see also In the Matter of Public Utilities Commission Instituting a Proceeding to Investigate Distributed Energy Resource Policies, Docket No. 2014-0192, Order No. 33760: Approving the Hawaiian Electric Companies' Advanced Inverter Test Plan with Conditions at 12-13 (Hi. PUC Jun. 15, 2016) (setting forth detailed requirements to implement an advanced inverter test plan that includes stakeholder collaboration), Department Investigation on Distributed Generation Interconnection, Docket No. 11-75, Proposed Changes to the Uniform Standards for Interconnecting Distributed Generation at 30 (Ma. DPU Sept. 14, 2012) (report from the Massachusetts Distributed Generation Interconnection Working Group recommending the creation of a Technical Standards Review Group to identify areas of commonality between Massachusetts utilities' interconnecting standards and address impediments to developing common technical standards).

Furthermore, as stated by the Commission, it generally seeks to standardize operations of public utilities where possible:

The Commission has exclusive regulatory jurisdiction over the implementation of public utilities and seeks, where possible, to establish state wide standardization of all facets of operation of public utilities.

Petition of West Penn Power Company for Waiver of Standard Interconnection Application and Agreement Forms, Docket No. P-2018-3000113, et al., 2018 Pa. PUC LEXIS 168 at *3 (Pa. PUC May 3, 2018) (allowing a limited waiver of the standard interconnection agreement to allow a government agency to avoid execution of the indemnification and limitation of liability clauses). There is precedent for the Commission denying consideration of service reliability issues regarding net metering and interconnection in a utility-specific setting, where the Commission stated:

We agree with the ALJ that much of the Cooperatives' position must be addressed in the context of a more generic proceeding such as our rulemaking at L-00970120. Accordingly, we agree with the ALJ's recommendation to refrain from addressing the Cooperatives' arguments regarding net metering and interconnection standards at this docket, noting that they may be resolved in a more appropriate proceeding.

Application of Pennsylvania Electric Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code, R-00974009, 1998 Pa. PUC LEXIS 162 at *335-36 (Pa. PUC Jun. 30, 1998). For these reasons, the OCA submits that it is appropriate for the Commission to deny PPL's Petition or, alternatively, hold it in abeyance while a collaborative discussion is held to develop stakeholder feedback on what should be done.

C. The Commission should initiate a statewide stakeholder process allowing for Commonwealth-wide input on whether current circumstances warrant addressing any or all of the issues raised in PPL's Petition at the present time.

The OCA has demonstrated that PPL's Petition suggests that the current interconnection standards need to be updated to match recent trends in technology. Pennsylvania, however, has historically addressed interconnection issues on a statewide basis to allow for uniformity among the Commonwealth and its electric distribution companies. In fact, other states have successfully

convened stakeholder collaborative sessions and formal rulemakings to accommodate the adoption of advanced inverters and the updated industry standards. Pennsylvania should take the same approach here.

There are numerous benefits to pursuing the issues raised by PPL in a statewide setting. Doing so prevents repeated litigation before the Commission and adopting technical operability requirements in a piecemeal manner. Furthermore, uniform regulations provide clear procedures and processes that DER operators can follow regardless of location. Lastly, establishing a statewide process for adoption of IEEE Std. 1547-2018 ensures that all interested stakeholders can participate together to develop a fair, consistent policy.

The OCA, however, would urge the Commission to proceed expeditiously if it decides to initiate a statewide collaborative. The OCA recognizes that complying with recent industry standards as quickly and prudently as possible will protect and benefit the reliability of the electric system and benefit ratepayers by preventing costly upgrades that would otherwise occur under current interconnection requirements. Therefore, the OCA submits that any collaborative convened under this process be required to comply with a timely schedule to ensure an efficient transition. The OCA would also note that other states may serve as a model to guide our discussions in an efficient manner.

V. CONCLUSION

The OCA requests that the Commission answer the material questions in the affirmative. PPL's Petition raises technical and policy concerns that have traditionally been addressed in a statewide stakeholder collaborative. The OCA respectfully requests that that Commission continue to follow that approach, which has been successfully adopted in other states. Furthermore, if the Commission were to initiate a collaborative to address these issues, it should ensure that the collaborative proceeds in an expeditious manner.

Respectfully Submitted,



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Dated: September 30, 2019
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