



January 6, 2021

**VIA E-File**

Honorable Mark A. Hoyer  
Deputy Chief Administrative Law Judge  
Pennsylvania Public Utility Commission  
Piatt Place, Suite 220  
301 5th Avenue  
Pittsburgh, PA 15222  
[mhoyer@pa.gov](mailto:mhoyer@pa.gov)

**Re: Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase IV  
Energy Efficiency and Conservation Plan**

Docket No. M-2020-3020824

Dear Judge Hoyer,

Please find the attached **Prehearing Conference Memorandum of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** in the above-referenced matter.

Pursuant to the Commission's Emergency Order issued on March 20, 2020, and as indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully Submitted,

  
Elizabeth R. Marx, Esq.  
*Counsel for CAUSE-PA*

CC: Rosemary Chiavetta, Secretary  
Certificate of Service

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation for :  
Approval of its Act 129 Phase IV Energy : Docket No. M-2020-3020824  
Efficiency and Conservation Plan :

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**PREHEARING CONFERENCE MEMORANDUM OF THE COALITION FOR  
AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY IN  
PENNSYLVANIA**

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**PENNSYLVANIA UTILITY LAW PROJECT**

*Counsel for CAUSE-PA*

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**January 6, 2021**

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## **I. INTRODUCTION**

On December 30, 2020, a Prehearing Conference Order was issued by Deputy Chief Administrative Law Judge Mark A. Hoyer, setting a call-in prehearing conference for Thursday, January 7, 2021 at 10:00 a.m. and requiring the parties to file Prehearing Conference Memoranda no later than Wednesday, January 6, 2021 at 2:00 p.m. In response, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, hereby files this Prehearing Conference Memorandum in the above-captioned matter.

## **II. HISTORY OF PROCEEDING**

Act 129 of 2008 (Act 129) charged the Commission with the task of developing an energy efficiency and conservations program (EE&C Program). The Act also established energy efficiency (EE) and peak demand reduction (PDR or DR) targets that each electric distribution company (EDC) with at least 100,000 customers must meet. Pursuant to Section 2806.1(C)(3) of Act 129, the Commission was charged with evaluating the costs and benefits of the EE&C Program by November 30, 2013 and every five years thereafter.

On June 18, 2020, after receiving comments and reply comments from the Companies and other interested parties, the Commission issued its Energy Efficiency and Conservation Phase IV Implementation Order (Implementation Order), setting consumption reduction and demand reduction targets for each EDC with at least 100,000 customers.

On November 30, 2020, PPL Electric Utilities Corporation (PPL or the Company) filed a Petition for Approval of Its Act 129 Phase IV Energy Efficiency and Conservation Plan at the above-captioned docket.

On December 11, 2020, CAUSE-PA filed a Petition to Intervene and Answer in the above-captioned matter. In its Petition to Intervene and Answer, CAUSE-PA requested that it be granted full status as an intervener with active party status in the above-captioned matter and identified a number of issues present in PPL's filing that required further investigation and hearings. Such issues are discussed in further detail below.

On December 30, 2020, a Prehearing Conference Order was issued by Deputy Chief Administrative Law Judge (Deputy Chief ALJ) Mark A. Hoyer, setting a call-in prehearing conference for Thursday, January 7, 2021 at 10:00 a.m. and requiring the parties to file Prehearing Conference Memoranda no later than Wednesday, January 6, 2021 at 2:00 p.m. CAUSE-PA submits the instant Prehearing Conference Memorandum in compliance with said Order.

On January 2, 2021, formal notice of PPL's Petition was published in the Pennsylvania Bulletin, establishing a 20-day timeframe for interested parties and stakeholders to submit a formal Answer and/or Comments in response to PPL's proposed Phase IV Plan. Formal Answers and Comments are due Friday, January 22, 2021.

### **III. REPRESENTATION OF CAUSE-PA AND SERVICE**

CAUSE-PA is represented in this proceeding by counsel at the Pennsylvania Utility Law Project, and requests consolidated service as follows:

Elizabeth R. Marx, Esq  
Ria Pereira, Esq.  
John W. Sweet, Esq.  
**PENNSYLVANIA UTILITY LAW PROJECT**  
118 Locust Street  
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The primary speaker for the purposes of the Prehearing Conference in this matter will be Elizabeth Marx, Esq.

Pursuant to the Commission's Emergency Order issued on March 20, 2020, CAUSE-PA requests service by email only during the pendency of the Proclamation of Disaster Emergency in Pennsylvania. After the Proclamation of Disaster Emergency is lifted, CAUSE-PA requests that parties serve both an electronic and a single hard copy of all documents served in this proceeding on the Pennsylvania Utility Law Project, as listed above.

#### **IV. ISSUES TO BE PRESENTED**

While additional issues may arise as a more comprehensive review of PPL's filing takes place, on preliminary review of PPL's filing, CAUSE-PA has identified the following issues present in PPL's filings that require further investigation and hearing:

- a. Whether the Company's proposed programs and identified measures within those programs satisfy the requirements of Act 129 and Commission's Orders, including but not limited to the requirement that low-income households are provided with proportionate measures and low-income savings carve-out;
- b. Whether the proposed programs and measures are appropriately designed to produce projected savings for participants in multifamily housing programs, and whether the Company's multi-family housing programs are sufficiently designed to reach and impact low-income households regardless of whether they reside in multifamily buildings that are individually-metered/tenant-paid or master-metered/owner-paid;

- c. Whether the proposed plan will achieve the most lifetime energy savings per expenditure;
- d. Whether the proposed plan properly focuses on direct-install measure for low-income customers;
- e. Whether the proposed plan adequately provides comprehensive measure for low-income households;
- f. Whether the delivery of measures to low-income households is appropriately coordinated with other low-income bill assistance and energy efficiency and conservation programs operating within the Company' service territory; and
- g. Whether the delivery of plan measures is appropriately coordinated between Conservation Service Providers (CSPs) and Community Based Organizations serving low-income populations.

CAUSE-PA asserts that the issues identified above, along with any future issues identified by interested parties, must be thoroughly reviewed to resolve potential negative aspects of PPL's EE&C Plan and to ensure that the positive aspects of the Plan are not changed. Without investigation of the above-stated issues, PPL's filing could result in unjust and unreasonable terms and conditions and impose inequitable measures and benefits to low-income customers in the Company's service territory.

**V. EVIDENCE TO BE PRESENTED**

CAUSE-PA expects to present written direct and rebuttal testimony and accompanying exhibits at the evidentiary hearing. CAUSE-PA intends to rely PPL's filings, testimony of PPL witnesses and the witnesses of other parties, exhibits, responses and answers to discovery, Commission orders and other filings from prior and/or ongoing proceedings before the

Commission or other government bodies or courts, reports, and or/other documents related to the issues and sub-issues raised above. CAUSE-PA reserves the right to present evidence of any issues that arise through the course of the proceeding, including but not necessarily limited to the issues identified above or by the other parties to this proceeding. Any and all evidence presented by CAUSE-PA will be directed to ensure that low-income customers are adequately and appropriately protected.

**VI. WITNESSES AND TESTIMONY**

CAUSE-PA intends to present the following witness to testify in this matter, and reserves the right to call additional witnesses as may be warranted upon proper notice to Your Honor and the parties:

Mitchell Miller  
Mitch Miller Consulting LLC  
60 Geisel Road  
Harrisburg, PA 17112  
717-903-2196  
[Mitchmiller77@hotmail.com](mailto:Mitchmiller77@hotmail.com)

Mr. Miller will address the issues identified above, as well as other issues that may arise in the course of this proceeding.

**VII. DISCOVERY**

At the time of this filing, CAUSE-PA is and continues to be actively engaged in ongoing discussions with the parties to identify mutually agreeable modifications to the discovery rules. CAUSE-PA recommends a maximum 5-day timeframe for formal discovery responses (in-hand), and specifically requests that, going forward, this timeframe apply to discovery served on the Companies and the parties prior to the Prehearing Conference. CAUSE-PA notes that, should the schedule in this proceeding be extended to account for the Commission-established timeframe for formal Answers in this proceeding, we believe a 7-day timeframe for discovery

responses would be appropriate. See below. However, if the timeframe for litigation remains on a compressed schedule, we believe a maximum 5-day timeframe for initial discovery responses is critical.

### **VIII. LITIGATION SCHEDULE**

CAUSE-PA has been actively engaged in discussions with the parties to arrive at a mutually agreeable schedule for litigation in this proceeding, consistent with the timeframe identified by ALJ Hoyer in his email to all active parties and intervenors on December 28, 2020. At the time this Prehearing Memorandum was filed, the parties have not yet reached consensus agreement on a schedule that complies with the timeframe identified by Judge Hoyer. CAUSE-PA will continue to work with the parties ahead of the prehearing conference to arrive at a mutually agreeable schedule.

Nevertheless, CAUSE-PA respectfully asserts that litigation in this proceeding should not begin until after January 22, 2021, following the 20-day timeframe for formal Answers established by the Commission in its Implementation Order and published in the Pennsylvania Bulletin on January 2, 2021. (See 51 Pa.B. 116, see also Implementation Order at 87-88). Starting litigation in this proceeding before the 20-day timeframe for formal Answers expires would be prejudicial to all parties, who would not have the opportunity to respond to unsworn Comments and formal Answers through testimony. It would also be prejudicial to potential additional litigants, who would be foreclosed from participating in litigation – in contradiction with the formal published notice in this proceeding and in violation of the Commission’s own regulations which allow for intervention on or before the deadline for Answers set by the Commission through its Orders. (52 Pa. Code § 5.61(a), 52 Pa. Code § 5.74(b)). These serious

procedural due process issues create the distinct possibility for protracted appeal and substantial delays in the ultimate approval of the Act 129 Phase IV Plans.

On the other hand, a brief extension of the timeframe for litigation would not be prejudicial to the parties – nor would it impact the ability of the Commission to issue a final order prior to the start of the Phase IV Plans in June 2021. Given the Commission’s delay in publication of the Act 129 Plans in the Pennsylvania Bulletin, and the possibility formal Answers and Petitions to Intervene may be filed pursuant to that notice after hearings occur in this proceeding, we believe this slight extension of the timeframe for litigation of the Act 129 Plans is prudent, and will avoid potential complications should litigation conclude prior to the date for formal Answers in this proceeding.

Notably, there is no regulatory or statutory deadline for litigation of Act 129 Phase IV Plans. While Act 129 set forth a 120-day timeframe for litigation of Phase I Plans, subsequent review processes for Phases II, III, and IV have modified this Phase I statutory process, namely by eliminating the requirement for public input hearings. (See 66 Pa. C.S. § 2806.1(e)). Completing litigation before the deadline for Answers – and subsequently for Intervention – forecloses the opportunity for the public to meaningfully engage in these proceedings.

For these reasons, CAUSE-PA asserts that the litigation schedule in this proceeding should not begin until after the deadline for formal Answers.

## **IX. SETTLEMENT**

CAUSE-PA is willing and ready to engage in settlement discussions in an attempt to resolve or narrow the issues in this proceeding, with any and all parties, and encourages the parties to engage in settlement early in the process.

**X. CONCLUSION**

CAUSE-PA respectfully submits this Prehearing Conference Memorandum and requests that it be entered into the record of this proceeding.

Respectfully submitted,

**PENNSYLVANIA UTILITY LAW PROJECT**

*Counsel for CAUSE-PA*



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Petition of PPL Electric Utilities Corporation for :  
Approval of its Act 129 Phase IV Energy : Docket No. M-2020-3020824  
Efficiency and Conservation Plan :

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**Certificate of Service**

I hereby certify that I have this day served copies of the **Prehearing Conference Memorandum of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54 and consistent with the Commission’s Emergency Order issued on March 20, 2020.

**VIA Email Only**

VIA EMAIL ONLY	
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Respectfully Submitted,  
**PENNSYLVANIA UTILITY LAW PROJECT**  
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