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E-File

December 8, 2021

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17120-3265

**Re: Pennsylvania Public Utility Commission, Bureau of Investigation
and Enforcement v. Greenlight Energy Inc.
Docket No. M-2021-3023026**

Dear Secretary Chiavetta:

Enclosed for filing on behalf of PPL Electric Utilities Corporation ("PPL Electric") please find PPL Electric's Comments in response to the Tentative Order and Opinion entered October 28, 2021 regarding the Joint Petition for Approval of Settlement in the above-captioned proceeding.

Pursuant to 52 Pa. Code § 1.11, the enclosed document is to be deemed filed on December 8, 2021 which is the date it was filed electronically using the Commission's E-filing system.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael J. Shafer", written over a light blue horizontal line.

Michael J. Shafer

Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement : Docket No. M-2021-3023026
v.
Greenlight Energy Inc.

**COMMENTS OF
PPL ELECTRIC UTILITIES CORPORATION**

I. INTRODUCTION & BACKGROUND

On October 28, 2021, the Pennsylvania Public Utility Commission (“PUC”) issued a Tentative Opinion and Order at Docket No. M-2021-3023026 (“Tentative Order”). In the Tentative Order, the PUC provided a tentative ruling and sought comments from interested parties on the Joint Petition for Approval of Settlement (“Settlement”) between the PUC’s Bureau of Investigation and Enforcement (“I&E”) and Greenlight Energy Inc. (“Greenlight”) “with respect to an informal investigation conducted by I&E” concerning possible violations of the Public Utility Code and consumer protections.¹

At issue in this proceeding are allegations that Greenlight and their agents utilized misleading and deceptive telemarketing practices and completed unauthorized customer enrollments.² Based on information referred to I&E by the Office of Competitive Market Oversight (“OCMO”), I&E instituted an informal investigation of Greenlight. The basis for the Settlement resulted from a review of the OCMO referral memo, five informal customer

¹ Tentative Opinion and Order (“Tentative Order”), Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Greenlight Energy, Inc., Docket No. M-2021-3023026, p. 1.

² See Tentative Order, p. 2.

complaints, and Greenlight's responses to I&E's data requests.³ Specifically, on or about November 25, 2020, the Director of OCMO, a PPL Electric Utilities customer, personally received two telemarketing calls concerning Greenlight which included misleading and deceptive telemarketing practices including the suggestion that the customer was due a refund, use of a live agent who failed to identify who he/she was calling on behalf of and the offer of a customer discount.⁴ The Tentative Order describes the contents of the OCMO memo on pages 3-4.

I&E also found in their investigation five informal complaints occurring between August 2020 and November 2020 that alleged an enrollment without authorization or disputed enrollment. In response, Greenlight asserted that, during that time period, it used a third-party vendor service. Currently, its outbound marketing is conducted by in-house agents and is limited to renewal and retention of existing customers. Finally, Greenlight claims that once it became aware of the Director of OCMO's telemarketing experience, it terminated the responsible third-party vendor.⁵ The Tentative Order summarizes each informal complaint on page 5.

As a result of the I&E investigation, I&E and Greenlight have agreed to settle the matter completely without litigation. Per the terms of the Settlement, Greenlight would be required to pay a total civil penalty of \$8,250.00. This includes a civil penalty for each of the 15 identifications related to the telemarketing calls received by the Director of OCMO (totaling \$4,500.00), and a civil penalty of \$750.00 for each of the five complaints related to unauthorized enrollment (totaling \$3,750.00).⁶

PPL Electric Utilities Corporation ("PPL Electric" or "Company") believes it is critical to the success of the retail competitive generation market that customers are provided protections

³ See Tentative Order, pp. 2-3.

⁴ See Tentative Order, pp. 3-4.

⁵ See Tentative Order, pp. 5-6.

⁶ See Tentative Order, p. 7.

against instances of poor Electric Generation Supplier (“EGS”) conduct and that EGSs are actively discouraged from utilizing deceptive sales tactics, misrepresentations, and other forms of inappropriate conduct to obtain customers. Use of unlawful sales tactics should result in appropriate repercussions to penalize EGS infractions and discourage their future use by all EGSs. The issues identified through the I&E investigation are of significant concern to PPL Electric and its customers. The allegations against Greenlight highlight areas of great risk in the competitive electric market in Pennsylvania which warrant further discussion. For these reasons, PPL Electric submits the following Comments.

II. COMMENTS

A. General Comments on the PUC Investigation

Central to this proceeding is I&E’s investigation into the harm caused to customers by Greenlight and their agents through misrepresentation, improper billing, and unauthorized customer enrollments. PPL Electric finds the identified incidents of great concern, warranting the penalties assessed on Greenlight in an effort to both pull back potential revenues gained by the alleged deceptive and malicious actions taken by Greenlight and to reduce the likelihood of such actions occurring in the future by Greenlight or another EGS.

PPL Electric has recent experience with deceptive EGS practices impacting its customers. *See* PUC Bureau of Investigation and Enforcement v. Verde Energy USA, Inc., Docket No. C-2020-3017229. The Verde Energy USA, Inc. (“Verde”) matter includes allegations of unauthorized enrollment (“slamming”), improper release of customer information, and unauthorized access to customer accounts. PPL Electric received customer complaints regarding Verde’s marketing practices and the Company conducted its own investigation into these customer

complaints. The results of PPL Electric's investigation were provided to I&E to assist in its investigation of Verde.

In addition to the Verde incidents, PPL Electric has also supported consumer protection policies for customers participating in PPL Electric's Customer Assistance Program ("CAP") and Standard Offer Program ("SOP"). In the Company's Default Service Plan IV ("DSP 4") filing⁷, the Company presented that over half of all CAP customers who were shopping with an EGS were paying a rate above the PPL Electric Price-to-Compare ("PTC"). In PPL Electric's Default Service Plan V ("DSP 5") filing⁸, the Company presented additional information on SOP customers paying rates significantly more than the PTC and their previous SOP rate after the 12-month contract term of the SOP concludes. The Company found that a majority of customers remained with their SOP supplier on a non-SOP rate after the 12-month contract term ended; however, this resulted in most customers paying a vastly more expensive rate than the PPL Electric PTC.

When an EGS employs deceptive and unlawful marketing and sales practices it has a significant negative impact on the Company's customers. PPL Electric encourages the PUC to continue to investigate customer retail shopping complaints, both formal and informal, to reduce the negative impact on customers, EDCs, and the competitive market as a whole. Deceptive marketing practices sow mistrust in the market and make it difficult for customers to have a good shopping experience. PPL Electric has reviewed the proposed Settlement between I&E and Greenlight and believes that the terms are appropriate in light of the allegations. The Company provides the following additional suggestions that will strengthen oversight over Greenlight's marketing activities and make future allegations easier to investigate.

⁷ PPL Electric Default Service Plan IV, Docket No. P-2016-2526627.

⁸ PPL Electric Default Service Plan V, Docket No. P-2020-3019356.

B. Need For Agent Training

Through the I&E investigation, it was uncovered that Greenlight agents misrepresented rate offerings and the status of customer accounts, called customers on a “Do Not Call” registry⁹, failed to identify themselves to the customer¹⁰, and enrolled customers that were incapable of enrolling with an EGS or ineligible to do so¹¹. Greenlight did note that it terminated the responsible third-party vendor when it became aware the Director of OCMO was contacted via robocall.¹² However, the resulting settlement terms between I&E and Greenlight solely focus on financially penalizing Greenlight and does not include any provisions to improve the training of Greenlight agents or third-party vendors, nor does it provide any terms to improve Greenlight’s record keeping which could otherwise assist in futures investigations of marketing practices.

To improve Greenlight agent conduct and better track customer questions, PPL Electric recommends Greenlight agents be required to be trained on Pennsylvania’s retail competition rules and regulations, including proper communications and representations to customers. Individual Greenlight agents, whether employed directly by Greenlight or a third-party vendor, should complete this training prior to contacting and communicating with any customer and be required to refresh this training annually. Greenlight should be required to certify in writing that all of its agents, in-house and third-party, have met the necessary training requirements. This certification should be submitted to the PUC and retained by Greenlight for future reference.

⁹ See Tentative Order, p. 3-4.

¹⁰ See Tentative Order, p. 3-4.

¹¹ See Tentative Order, p. 5.

¹² See Tentative Order, pp. 5-6.

C. EGS Record Keeping and Documentation, and Response to Customer Inquiries and Complaints

PPL Electric believes it is important for all EGSs to maintain a robust recordkeeping system, documenting customer inquiries and complaints, correspondences, and their resolution. This system could be implemented in conjunction with the agent training recommended in Section B as a holistic approach, having agents trained in Pennsylvania retail competition rules and regulations, and on how the new record system should be utilized. Specifically, PPL Electric recommends that Greenlight be required to retain customer records, including customer inquiries, disputes or complaints, communications, and resolution for at least four years. Additionally, Greenlight should be required to record all telemarketing calls and retain those recordings for a period of four years. The Company has found that robust record keeping is vital to investigations of alleged wrongdoing from its experience in investigating customer complaints around Verde and other EGSs.

Further, it is important that customer inquiries and complaints are responded to in a timely manner. The I&E investigation did not make note of the timeliness of response to customers; however, PPL Electric recommends that Greenlight be required to respond to customer inquiries within forty-eight hours. This timeline will help ensure that customers' concerns are addressed in a reasonable amount of time.

Finally, PPL Electric proposes requiring Greenlight to audit the sales activities of its vendors to determine compliance with the requirements outlined in Chapter 111. If a vendor is found to be in violation of Chapter 111, Greenlight should be required to immediately take remedial actions with the vendor and report the incident(s) to the PUC. Enhanced penalties should

be considered for suppliers who fail to adequately audit their vendors or fail to take timely action after discovering a violation.

III. CONCLUSION

PPL Electric appreciates the opportunity to provide these Comments and respectfully requests that the Commission take these Comments into consideration when issuing its Final Order with respect to the proposed Settlement between I&E and Greenlight.

Respectfully submitted,



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Date: December 8, 2021

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