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February 23, 2023

VIA EFILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

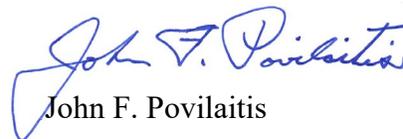
Re: PPL Electric Utilities Corporation's Proposed Universal Service and Energy
Conservation Plan for 2023-2027;
Docket No. M-2022-3031727

Dear Secretary Chiavetta:

Enclosed please find a Petition for Clarification and Reconsideration of the Pennsylvania
Coalition of Local Energy Efficiency Contractors, Inc., filed in the above-captioned proceeding.

Copies are being served as indicated in the attached Certificate of Service.

Very truly yours,


John F. Povilaitis

JFP/kas
Enclosure
cc: Certificate of Service
Kathryn G. Sophy, Director, OSA

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PPL Electric Utilities Corporation’s Proposed :
Universal Service and Energy Conservation : Docket No. M-2022-3031727
Plan for 2023-2027 :

**PETITION OF PA-CLEEC FOR CLARIFICATION AND RECONSIDERATION
OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION’S FEBRUARY 9, 2023
ORDER**

The Pennsylvania Coalition of Local Energy Efficiency Contractors, Inc. (“PA-CLEEC”), by its attorneys, and in accordance with 52 Pa. Code § 5.572, submits this Petition for Clarification and Reconsideration of the Commission’s Order Entered February 9, 2023 (“February 9 Order”) in the above-captioned docket.

I. INTRODUCTION

1. On April 1, 2022, PPL Electric Utilities Corporation (“PPL Electric” or “Company”) filed for approval with the Pennsylvania Public Utility Commission (“Commission” or “PUC”) its Universal Service and Energy Conservation Plan (“Plan”) for the period 2023-2027.

2. PA-CLEEC is a non-profit entity composed of local community-based contractors, specializing in the delivery of field work for public utility Universal Service Energy and Conservation Plans that benefit low-income customers.

3. PA-CLEEC has participated in this docket by attending the Commission’s Bureau of Consumer Services (“BCS”) May 18, 2022, meeting, and through the filing of comments and replies to comments. In these comments and replies, PA-CLEEC stressed that to date PPL Electric’s contractor procurement process has been unclear and not comported with best practices in the design, structure and implementation of a Request for Proposal (“RFP”) process. These flaws result in increased risk of selecting vendors who are not knowledgeable of the PPL Electric service area and its customers, and who have no proven track record of achieving the energy

conservation goals in a specified plan. PA-CLEEC urged the Commission to require PPL Electric to more clearly specify the metrics and factors used in the evaluation of vendors to provide services under the WRAP¹ and LIURP² Programs, and how each such metric and factor was utilized in determining which companies were awarded contracts and which were not.³

4. The Commission declined to direct PPL Electric to make any modifications to its WRAP RFP requirements and noted that PPL Electric (i) will be conducting its next WRAP RFP in 2024, and (ii) encourages previous bidders to report resolved issues that may have negatively impacted their prior bids, so PPL Electric can weigh these factors in the next RFP process.⁴

5. With respect to the LIURP services RFP process, the Commission acknowledged the parties' concerns about the lack of transparency in the RFP selection process but declined to modify the PPL Electric process. Instead, the Commission directed resolution of these concerns to a statewide proceeding to review LIURP regulations, citing its current LIURP regulations rulemaking docket at Docket No. L-2016-2557886.

6. PA-CLEEC submits that without any Commission direction to PPL Electric in this docket, there is no real opportunity for WRAP/LIURP contractors to “learn from their mistakes” and that the statewide rulemaking the Commission cited has been dormant since July 2017 and is therefore not a practical vehicle for resolving the RFP process concerns the PUC acknowledged.

¹ The WRAP Program provides income-eligible customers with a no-cost energy assessment, free energy saving products, and energy tips for long-term savings. plectric.com/site/Ways-to-Save/Assistance-Programs/WRAP

² The Low Income Usage Reduction Program (“LIURP”) helps eligible low-income residential customers lower the amount of electricity or gas each month. The utility may install energy saving feature in customers’ home to help reduce bills. <https://www.puc.pa.gov/about-the-puc/consumer-education/utility-assistance-programs/#:~:text=LIURP%20helps%20eligible%20low%2Dincome,cover%20more%20of%20your%20bill.>

³ See PA-CLEEC Comments, p. 3.

⁴ February 9 Order at 91.

PA-CLEEC therefore seeks reconsideration, amendment and clarification of how the Commission's February 9 Order provides any improvement in the current RFP process and addresses the concerns raised by PA-CLEEC and acknowledged by the Commission in the February 9 Order. At a minimum, PA-CLEEC requests that the Commission reconsider, amend and clarify the February 9 Order to require PPL Electric to provide each RFP bidder a confidential "report card" on the strengths and weaknesses of its bid as part of PPL Electric LIURP and WRAP RFP processes, and to initiate an appropriate rulemaking docket to address LIURP RFP issues of statewide impact.

II. REQUEST FOR CLARIFICATION AND RECONSIDERATION

7. The Commission resolved concerns raised by Parties regarding the WRAP RFP process with no direction to PPL Electric to modify its practices. However, in reaching this resolution, the Commission noted PPL Electric's position that: 1) the RFP review and evaluation of bid proposals and the awarding of bids should be left completely to the Company's discretion, and 2) in the next WRAP RFP issued in 2024, PPL Electric will encourage bidders to "report resolved issues that may have negatively impacted their bids so PPL can weigh these factors in its review and evaluation."⁵ The February 9 Order fails to comprehend and address the inconsistency between PPL Electric's position and the Commission's conclusion that no direction to the Company on the RFP process is necessary. PPL Electric's position is that it has complete discretion to evaluate and award bids, which implies that the Company could elect – consistent with its current practice – to provide *no feedback* to RFP bidders to help them learn how they can improve their chances of being awarded a contract in a future RFP. Yet the Company advised

⁵ February 9 Order at 91.

the Commission that bidders could essentially learn from issues in prior bids that “negatively impacted their bids” so they could “resolve” them in the next PPL Electric RFP.

8. However, without the feedback from PPL Electric on how a bid proposal fared in the Company’s weighting and evaluation process that PA-CLEEC sought to make visible in this proceeding, it is impossible for bidders to react to and learn from the results of a prior RFP as the Commission thought was possible. If indeed the Commission thought bidders were receiving this detailed, confidential feedback from PPL Electric, it is inconsistent with complete Company discretion on evaluating bids and the Commission should modify the February 9 Order and reconsider its decision not to direct the Company to provide a report card to unsuccessful RFP bidders showing the Company’s evaluation factors, the weighting and to what extent any “issues that may have negatively impacted their bids” were present, as PPL Electric stated was the case.

9. The second issue for which PA-CLEEC seeks clarification and reconsideration of the February 9 Order is the Commission’s clear statement and expectation that a current rulemaking docket could serve as an appropriate vehicle for addressing the acknowledged “concerns raised by the parties about the lack of transparency in the RFP selection process.”⁶ Specifically, the Commission directed PA-CLEEC and other parties concerned about the highly discretionary RFP process used by PPL Electric and how it is implemented to the proceeding *Initiative to Review and Revise the Existing LIURP Regulations at 52 Pa. Code §§58.1-58-18*, at Docket No. L-2016-2557886 (“LIURP Rulemaking”).

10. The Commission may not have been aware at the time it suggested the LIURP Rulemaking as a vehicle for resolving current RFP process concerns that this rulemaking

⁶ February 9 Order at 94.

proceeding has had no significant substantive activity, according to the Commission's website, since July of 2017. New rules have not been proposed, and no current comment gathering process is underway. The LIURP Rulemaking is essentially a dated, dormant proceeding that does not have any near-term potential for providing improvements to LIURP programs, including the RFP process. If the Commission does not direct a new, expedited docket with provision for interim guidelines on the RFP process, PA-CLEEC would seek the immediate revitalization of this LIURP Rulemaking proceeding along similar lines.

11. The information gathered at this docket for the PPL Electric Plan has made it clear that necessary and important conservation and efficiency services for low-income customers were being under-delivered. In this environment, it is all the more important for the Commission to ensure that PPL Electric's RFP process and the evaluation of bids is fair and reflects best practices so that the most competent service providers will be encouraged to participate and become better providers of services through the feedback they receive.

12. The Commission's desire to improve LIURP programs and the RFP process through a statewide proceeding can only be rationally implemented through an active docket and direction to staff that interim guidelines covering the RFP process be proposed and implemented on an expedited basis, followed by formal LIURP regulations that are proposed, evaluated and finalized on a reasonable timeline. The Commission should clarify in an amendment to the February 9 Order that a dated, dormant rulemaking docket is not an appropriate vehicle for moving LIURP services forward, and immediately open a new expedited docket that will provide reasonable direction to all electric distribution companies that provide Universal Service and Energy Conservation Plans in the Commonwealth.

III. This Request for Reconsideration, Amendment and Clarification of the February 9 Order Satisfies Applicable Legal Standards.

13. The Public Utility Code (“Code”) establishes a party’s right to seek relief following the issuance of Commission final decisions pursuant to Code Subsections 703(f) and (g), 66 Pa. C.S. § 703(f) and § 703(g), relating to rehearings, as well as the rescission and amendment of orders. Such requests for relief must be consistent with Section 5.572 of the Commission regulations at 52 Pa. Code § 5.572 relating to petitions for relief following the issuance of a final decision.

14. The standards for granting a Petition for Reconsideration were set forth in *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. P.U.C. 553 (1982) (“*Duick*”):

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 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 stated that:

Parties . . . cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically decided against them . . . what we expect to see raised in petitions for reconsideration are new and novel arguments, not previously heard or considerations which appear to have been overlooked by the Commission.

Additionally, a Petition for Reconsideration is properly before the Commission where it pleads newly discovered evidence, alleges errors of law, or a change in circumstances.

15. Under the standards of *Duick*, a petition for reconsideration may properly raise any matter designed to convince this Commission that it should exercise its discretion to amend or rescind a prior order, in whole or in part. Such petitions are likely to succeed only when they raise

“new and novel arguments” not previously heard or considerations which appear to have been overlooked or not addressed by the Commission. *Duick* at 559.

16. In this case and as noted above, the Commission failed to appreciate the inconsistency of its treatment of information necessary for RFP bidders to learn how PPL Electric evaluated its bids and the Company’s assertion that it has complete and discretionary control over the RFP review process. Second, the Commission failed to further appreciate that the rulemaking proceeding directed to PA-CLEEC and other parties for airing their RFP concerns has sat idle for years and without express direction from the Commission to meaningfully restart that proceeding with vigor the relief the Commission thought it was providing to Pa-CLEEC and others in the February 9 Order was fleeting at best. Clearly, the *Duick* standards justifying reconsideration, clarification and amendment of the February 9 Order have been fully satisfied here.

IV. CONCLUSION

Wherefore, PA-CLEEC respectfully requests that the Commission grant reconsideration, clarification and amendment of the February 9 Order as necessary to provide service providers to WRAP and LIURP programs the bidding feedback needed to ensure a continually improving RFP process, and a proper docket for statewide consideration of LIURP guidelines and regulations as envisioned by the Commission in the February 9 Order.

Respectfully submitted,

BUCHANAN, INGERSOLL & ROONEY, PC

Dated: February 23, 2023

By: 

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PPL Electric Utilities Corporation's :
Proposed Universal Service and Energy : Docket No. M-2022-3031727
Conservation Plan for 2023-2027 :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

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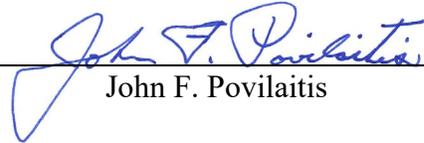
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Dated this 23rd day of February 2023.



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