

**Michael J. Shafer**  
Senior Counsel

**PPL**  
Two North Ninth Street  
Allentown, PA 18101-1179  
Tel. 610.774.2599 Fax 610.774.4102  
MJShafer@pplweb.com



**E-File**

March 6, 2023

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

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

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Dear Secretary Chiavetta:

Enclosed for filing on behalf of PPL Electric Utilities Corporation ("PPL Electric") is PPL Electric's Answer to the February 23, 2023 Petition for Clarification and Reconsideration filed by the Pennsylvania Coalition of Local Energy Efficiency Contractors, Inc. in the above-captioned proceeding.

Pursuant to 52 Pa. Code § 1.11, the enclosed document is to be deemed filed on March 6, 2023, 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", is written over a light blue horizontal line.

Michael J. Shafer

Enclosure

cc via email: Certificate of Service  
Office of Special Assistants ([ra-OSA@pa.gov](mailto:ra-OSA@pa.gov))

## CERTIFICATE OF SERVICE

(Docket No. M-2022-3031727)

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

### VIA ELECTRONIC MAIL

Christy Appleby, Esquire  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101-1923  
[cappleby@paoca.org](mailto:cappleby@paoca.org)

Richard Kanaskie, Esquire  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North Street, 2nd Floor West  
Harrisburg, PA 17105-3265  
[rkanaskie@pa.gov](mailto:rkanaskie@pa.gov)

Steven C. Gray, Esquire  
Office of Small Business Advocate  
555 Walnut Street  
Forum Place, 1<sup>st</sup> Floor  
Harrisburg, PA 17101  
[sgray@pa.gov](mailto:sgray@pa.gov)

Alexis Bechtel, Esquire  
Lori Mohr, Esquire  
Renardo Hicks, Esquire  
Bureau of Consumer Services  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17101  
[abechtel@pa.gov](mailto:abechtel@pa.gov)  
[laumohr@pa.gov](mailto:laumohr@pa.gov)  
[rehicks@pa.gov](mailto:rehicks@pa.gov)

Paul Diskin  
Bureau of Technical Utility Services  
PA Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17101  
[pdiskin@pa.gov](mailto:pdiskin@pa.gov)

Elizabeth R. Marx, Esquire  
John Sweet, Esquire  
Ria Pereira, Esquire  
Lauren Berman  
PA Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101  
[pulp@pautilitylawproject.org](mailto:pulp@pautilitylawproject.org)

John F. Povilaitis, Esquire  
Alan M. Seltzer, Esquire  
Buchanan Ingersoll & Rooney, PC  
409 North Second Street  
Suite 500  
Harrisburg, PA 17101-1357  
[john.povilaitis@bipc.com](mailto:john.povilaitis@bipc.com)  
[alan.seltzer@bipc.com](mailto:alan.seltzer@bipc.com)

Joseph L. Vullo, Esquire  
Burke Vullo Reilly Roberts  
1460 Wyoming Avenue  
Forty Fort, PA 18704  
[jvullo@bvrirlaw.com](mailto:jvullo@bvrirlaw.com)

Andrew D. Bigda  
Law Office of Andrew D. Bigda  
340 Market Street  
Kingston, PA 18704  
[abigda@bigdalaw.com](mailto:abigda@bigdalaw.com)

Pamela Denlinger  
Solaire Energy  
2358 Grover Road  
Canton, PA 17724  
[pam@solaire-energy.com](mailto:pam@solaire-energy.com)

Date: March 6, 2023



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Michael J. Shafer

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PPL Electric Utilities Corporation’s Proposed :  
Universal Service and Energy Conservation :  
Plan for 2023-2027 Submitted in Compliance : Docket No. M-2022-3031727  
with 52 Pa. Code § 54.74 :

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**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO  
THE PETITION FOR CLARIFICATION AND RECONSIDERATION FILED BY  
THE PENNSYLVANIA COALITION OF  
LOCAL ENERGY EFFICIENCY CONTRACTORS, INC.**

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PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), pursuant to 52 Pa. Code §§ 5.61 and 5.572, hereby respectfully submits this Answer to the Petition for Clarification and Reconsideration (“Petition”) filed by the Pennsylvania Coalition of Local Energy Efficiency Contractors, Inc. (“PA-CLEEC”) on February 23, 2023, in the above-captioned proceeding.

As explained herein, the Pennsylvania Public Utility Commission (“Commission”) should deny PA-CLEEC’s Petition because clarification and reconsideration of the Commission’s February 9, 2023 Order is unwarranted and unjustified.

**I. INTRODUCTION AND BACKGROUND**

1. PPL Electric is a public utility that provides electric distribution and provider of last resort services in Pennsylvania subject to the regulatory jurisdiction of the Commission. PPL Electric furnishes electric distribution, transmission, and provider of last resort electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of 29 counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

2. On April 4, 2022, PPL Electric filed its proposed Universal Service and Energy Conservation Plan (“USECP” or “Plan”) for 2023-2027, in compliance with 52 Pa. Code § 54.74.

3. Before any order was issued by the Commission establishing the comment period for the USECP, PA-CLEEC filed “Follow-Up Comments” on May 26, 2022.

4. PPL Electric filed a Response to PA CLEEC’s “Follow-Up Comments” on June 14, 2022, explaining that: (1) in prior USECP proceedings, the Commission has requested comments and reply comments from the stakeholders after the issuance of a tentative order; and (2) the Company reserved all rights to respond to the substance of the PA CLEEC Comments when the Commission requests all stakeholders to comment on the proposed USECP.

5. On July 14, 2022, the Commission entered its Order Directing Supplemental Information and Establishing Comment Period (“*July 2022 Order*”) in the above-captioned proceeding. The Commission’s *July 2022 Order* withheld approval of the Plan pending the review of additional requested information and the submission of comments and reply comments.

6. On July 25, 2022, the Commission issued a Secretarial Letter granting the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania’s (“CAUSE-PA”) Petition requesting a 30-day extension of the comment period.

7. On August 3, 2022, PPL Electric filed Supplemental Information responding to the Commission’s questions set forth in the *July 2022 Order*.

8. On or about September 22, 2022, Comments were filed by the Office of Consumer Advocate (“OCA”), CAUSE-PA, the Commission on Economic Opportunity (“CEO”), PA-CLEEC, and the Pennsylvania Weatherization Providers Task Force (“PA Weatherization Providers”).

9. On or about October 7, 2022, Reply Comments were filed by PPL Electric, CAUSE-PA, and PA-CLEEC. Also, CEO and PA Weatherization Providers filed Joint Reply Comments.

10. On February 9, 2023, the Commission entered an Opinion and Order approving, with certain modifications, the Company’s USECP for 2023-2027. The Order directed PPL Electric to file a Revised USECP consistent with the Commission’s Order within 30 days of the Order’s entry date.

11. On February 23, 2023, PA-CLEEC filed its Petition for Clarification and Reconsideration.

12. On March 2, 2023, the Commission entered an Order granting PA-CLEEC’s Petition for Clarification and Reconsideration pending review of the merits.

13. For the reasons explained below, PA-CLEEC’s Petition should be denied.

## **II. LEGAL STANDARDS**

14. The Commission’s standard for reviewing petitions for reconsideration following final orders is set forth in *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 559, 1982 Pa. PUC LEXIS 4 (Order dated Dec. 17, 1982) (emphasis added):

A petition for rehearing, under the provisions of 66 Pa C.S. § 703(f), properly must seek the reopening of the record for the introduction of additional evidence of some sort. As grounds therefore it must allege newly discovered evidence, not discoverable though the exercise of due diligence prior to the close of the record. *Public Utility Commission v Reading Co.* (1975) 21 Pa Cmwlt 334, 338, 345 A2d 311; *Mobilfone v Pennsylvania Pub. Utility Commission* (1975) 24 Pa Cmwlt 243, 355 A2d 611; *Abramson v Pennsylvania Pub. Utility Commission* (1980) 489 Pa 267, 414 A2d 60.

...

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 section 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 said that “[p]arties ..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them....” What we expect to see raised in such petitions are

new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.

15. Consequently, for a petition to warrant reconsideration by the Commission, it must demonstrate new and novel arguments that were raised below by the petitioner, but not previously considered by the Commission. The Commission has cautioned that the last portion of the operative language of the *Duick* standard -- “by the Commission” -- focuses on the deliberations of the Commission, not the arguments of the parties. *See Pa. PUC v. PPL Elec. Utils. Corp.*, Docket No. R-2012-2290597, p. 3 (Order entered May 22, 2014). Therefore, a petition for reconsideration cannot be used to raise new arguments or issues that should have been, but were not, previously raised.

16. A petition seeking relief under the *Duick* standard may properly raise any matter designed to convince the Commission that it should exercise its discretion to rescind or amend a prior order in whole or part. Importantly, however, the *Duick* standard does not permit a petitioner to raise issues and arguments considered and decided below such that the petitioner obtains a second opportunity to argue properly resolved matters. *Id.*

17. Further, as explained by the Pennsylvania Supreme Court, petitions for reconsideration of a final agency order may only be granted judiciously and under appropriate circumstances because such action results in the disturbance of final agency orders. *City of Pittsburgh v. Pa. Dep’t of Transp.*, 490 Pa. 264, 416 A.2d 461 (1980).

18. As explained in the following section, PA-CLEEC’s Petition fails to meet this legal standard and, therefore, should be denied.

### **III. ARGUMENT**

19. In its Petition, PA-CLEEC requests the following:

- a. “[R]econsideration, 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”; and
- b. “[R]econsider[ation], amend[ment] and clarif[ication]” such that the Commission’s Order “require[s] 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.”<sup>1</sup>

20. As explained in the following sections, the Commission should reject these requests and deny PA-CLEEC’s Petition.

**A. PA-CLEEC’S PETITION FAILS TO MEET THE *DUICK* STANDARD FOR RECONSIDERATION**

21. The Commission should deny PA-CLEEC’s Petition because it fails to meet the *Duick* standard for reconsideration.

22. All of the issues set forth in PA-CLEEC’s Petition either were previously raised or could have been raised by PA-CLEEC in its “Follow-Up Questions/Comments,” Comments, or Reply Comments in this proceeding.

**1. The Commission Already Rejected PA-CLEEC’s Recommendations Concerning the Low-Income Usage Reduction Program’s (LIURP) Request for Proposal (RFP) Process**

23. PA-CLEEC already argued, at length, about alleged improvements that need to be made to the Company’s Request for Proposal (“RFP”) process for selecting Low-Income Usage

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<sup>1</sup> PA-CLEEC Petition, p. 3.

Reduction Program (“LIURP”) contractors, including providing “transparent” feedback to bidders on why their bids were unsuccessful. *See* PA-CLEEC Follow-Up Questions/Comments, pp. 3-4; PA-CLEEC Comments, pp. 3, 5-11; PA-CLEEC Reply Comments, pp. 3-5.

24. Specifically, PA-CLEEC’s recommendations included: (1) making “[t]he RFP process . . . completely transparent”; (2) making clear “all metrics and criteria on which proposals will be evaluated”; (3) making it “clearer to all stakeholders why a bid was successful or unsuccessful”; (4) amending the RFP process to that “PPL Electric will respond to bidder questions on the results of the bidding and selection process”; (5) amending the RFP process so that PPL Electric will issue a “form of notice” to “all bidders informing them of the results of the process and the final selection of service providers”; and (6) amending the RFP process so that “each bidder” is provided “a form of confidential notice provided . . . advising the bidder of their scores and ranking.” PA-CLEEC Follow-Up Questions/Comments, pp. 3-4; PA-CLEEC Comments, p. 9.

25. PPL Electric responded to these recommendations in its Reply Comments, explaining why the Commission should reject them. *See* PPL Electric Reply Comments, pp. 33-34. Among the many flaws with PA-CLEEC’s recommendations, PPL Electric noted that changes to the LIURP RFP process should be adopted, if at all, in a statewide proceeding so that the Company is not subject to different requirements than other EDCs. *See* PPL Electric Reply Comments, p. 34.

26. The Commission then reviewed the positions of PA-CLEEC and PPL Electric and, ultimately, rejected PA-CLEEC’s recommendations in its February 9, 2023 Order. *See* February 9, 2023, pp. 87-95.

27. Indeed, the Commission held that “proposed changes to the process used by public utilities to evaluate and select LIURP contractors are more appropriately addressed in a statewide proceeding, such as the Commission’s ongoing proceeding to review and revise the LIURP regulations.” February 9, 2023 Order, p. 94.

28. Yet, PA-CLEEC once again asks the Commission to implement its proposed changes to the RFP process, including requiring PPL Electric to provide a confidential “report card” to each bidder “on the strengths and weaknesses of its bid.” PA-CLEEC Petition, p. 3.

29. Clearly, the Commission already considered and rejected PA-CLEEC’s recommendation that some form of confidential “report” be provided to losing bidders, which PA-CLEEC raises once again its Petition.

30. Moreover, even if the Commission were to consider PA-CLEEC’s recommendations for a second time, the Commission should reject them.

31. The USECP is PPL Electric’s plan, and it is the Company’s responsibility to deliver the universal service programs to its customers on “reasonable terms and conditions.” 66 Pa. C.S. § 1402(3).

32. Therefore, as the entity actually administering and implementing the USECP, it should be left to the Company’s discretion on how it should conduct its RFPs to review, evaluate, and award bids.

33. In addition, PPL Electric already employs a reasonable and adequate RFP process to review, evaluate, and award bids for WRAP contracts. That process is confidential, so that bidders have confidence that their bids will not result in undue competitive harm to them. *See* PPL Electric Reply Comments, p. 33.

34. If PPL Electric were to provide a confidential “report card” to a losing bidder, that bidder would undoubtedly gain information about the winning bid. For example, if a losing bidder’s report card showed poor grades on the bid’s price, then the bidder would, at the very least, know that one or more bids (and perhaps the winning bid) had better pricing. Such information is not regularly disclosed to bidders in RFP processes for this very reason.

35. Further, nothing in Chapter 14 of the Public Utility Code or the Commission’s regulations: (1) sets forth specifications on the use of an RFP process for selecting WRAP contractors; or (2) directs the Commission to review and evaluate the WRAP contractor contracts before they are executed. *See* PPL Electric Reply Comments, p. 33.

36. This RFP process differs from, for example, the Company’s Energy Efficiency and Conservation Plan (“EE&C Plan”), where Act 129 of 2008 (“Act 129”) specifies that the Commission shall implement: (1) “[p]rocedures to require that electric distribution companies competitively bid all contracts with conservation service providers”; and (2) “[p]rocedures to review all proposed contracts prior to the execution of the contract with conservation service providers to implement the plan.” 66 Pa. C.S. § 2806.1(a)(7)-(8). Pursuant to that express statutory authority, the Commission reviews and approves the major EDCs’ bid evaluation criteria before they are utilized by the EDCs in selecting Conservation Service Providers.<sup>2</sup> However, even then, the EDCs’ evaluations of the bids are confidential and only viewable by the Commission. The losing bidders do not receive those evaluations.

37. Lastly, PPL Electric should not be subject to different RFP bidding requirements for its USECP than the other EDCs. To the extent that the Commission wishes to impose these RFP bidding requirements, it should only do so through a statewide proceeding where all interested

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<sup>2</sup> *Energy Efficiency and Conservation Program*, Docket No. M-2020-3015228, pp. 112-14 (Order entered June 18, 2020) (“*Phase IV Implementation Order*”).

parties can participate. Imposing different regulatory requirements on PPL Electric through its individual USECP proceeding, especially ones that would directly and unduly affect the Company's authority to administer its USECP, is neither reasonable nor prudent.

38. For these reasons, the Commission should reject these requests because they fail to meet the *Duick* standard for reconsideration. Moreover, even if the Commission were to consider these requests again, the Commission should deny them on the merits.

**2. PA-CLEEC Could Have, but Failed to, Raise Its Request to Initiate a Separate and Distinct Statewide Proceeding on the LIURP RFP Process Earlier in this Proceeding**

39. In its Petition, PA-CLEEC also contends that the Commission should “initiate an appropriate rulemaking docket to address LIURP RFP issues of statewide impact” because the ongoing LIURP rulemaking proceeding (Docket No. L-2016-2557886) is insufficient. PA-CLEEC Petition, pp. 4-5.

40. According to PA-CLEEC, “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 proceeding has had no significant substantive activity, according to the Commission’s website, since July of 2017.” PA-CLEEC Petition, pp. 4-5.

41. Therefore, PA-CLEEC wants the Commission to “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.” PA-CLEEC Petition, p. 5.

42. PA-CLEEC could have, but failed to raise, made this request earlier in the proceeding.

43. Nothing prevented PA-CLEEC from arguing that the Commission should open a statewide proceeding at a new docket to address the LIURP RFP process for all EDCs.

44. Nevertheless, after three bites at the proverbial apple by filing Follow-Up Questions/Comments, Comments, and Reply Comments, PA-CLEEC waited until the instant Petition to argue that the Commission should open a separate and distinct statewide rulemaking proceeding to address LIURP RFP issues.

45. As noted previously, the reconsideration stage cannot be used to raise new arguments or issues that should have been, but were not, previously raised by a party.

46. However, that is precisely what PA-CLEEC aims to do here.

47. Furthermore, to the extent that the Commission considers PA-CLEEC's request, the Commission should reject it.

48. The Commission correctly noted that there already is an ongoing LIURP rulemaking docket where PA-CLEEC's issues and recommendations can be considered. *See* February 9, 2023 Order, p. 94.

49. Although PA-CLEEC may disagree with the speed at which that rulemaking has progressed, PA-CLEEC cannot dispute that these issues fall squarely within the scope of that rulemaking.<sup>3</sup>

50. Also, given that PA-CLEEC's criticisms of the current LIURP RFP process are meritless,<sup>4</sup> nothing justifies opening a separate and distinct rulemaking docket to address PA-CLEEC's issues.

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<sup>3</sup> *See Initiative to Review and Revise the Existing Low-Income Usage Reduction Program (LIURP) Regulations at 52 Pa. Code §§ 58.1 – 58.18*, Docket No. L-2016-2557886, p. 5 (Secretarial Letter dated Dec. 16, 2016) (requesting comments on whether there are “best practices” that “would better serve the LIURP objectives which should be standardized across all the utilities,” such as whether there is “a more optimal and cost effective method(s) of procuring energy efficiency services so as to maximize energy savings at lower unit costs”); *Review of Universal Service and Energy Conservation Programs*, Docket No. L-2016-2557886, p. 3 (Order entered May 10, 2017) (establishing a comment period to “provid[e] interested stakeholders with the opportunity to file comments on priorities, concerns, and suggestions for amending and improving any or all aspects of the Universal Service and Energy Conservation Programs”).

<sup>4</sup> *See* Section III.A.1, *supra*.


51. Such a separate and distinct rulemaking proceeding would only serve to waste the Commission's, EDCs' and stakeholders' time and resources. The most efficient approach would be to address PA-CLEEC's issues and recommendations in the LIURP rulemaking proceeding.

52. Based on the foregoing, the Commission should reject PA-CLEEC's recommendation because it fails to meet the *Duick* standard for reconsideration, and even if the Commission were to consider the recommendation, the Commission should deny it on the merits.

**IV. CONCLUSION**

WHEREFORE, for all the foregoing reasons, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny the Petition for Clarification and Reconsideration filed by the Pennsylvania Coalition of Local Energy Efficiency Contractors, Inc.

Respectfully submitted,



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Kimberly A. Klock (ID # 89716)  
Michael J. Shafer (ID # 205681)  
PPL Services Corporation  
Two North Ninth Street  
Allentown, PA 18101  
Phone: 610-774-2599  
Fax: 610-774-4102  
E-mail: [kklock@pplweb.com](mailto:kklock@pplweb.com)  
[mjshafer@pplweb.com](mailto:mjshafer@pplweb.com)

Date: March 6, 2023

Attorneys for PPL Electric Utilities Corporation

**VERIFICATION**

I, YVETTE BELFORT, being the Manager – Regulatory Programs/Business Services at PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect PPL Electric Utilities Corporation to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 03/06/2023

*Yvette Belfort*  
Yvette Belfort (Mar 6, 2023 10:04 EST)

Yvette Belfort