

March 13, 2024

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
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:

This letter responds to PPL Electric Utilities Corporation's ("PPL's") March 8, 2024 addressing the Joint Solar Parties' ("JSPs'") request for a hearing.

On January 19th, the JSP filed in this docket a Verified Petition for Rescission or Modification ("Petition") of a December 17, 2020 Order issued by the Pennsylvania Public Utility Commission ("Commission") authorizing PPL's implementation of a Distributed Energy Resource ("DER") Management Pilot ("Pilot"). On January 29th, PPL filed an Answer raising New Matter. On February 16th, the JSPs filed a Reply ("Reply"). On March 7th, PPL filed a Motion to Strike the Reply and advised the JSPs of a March 27th return date.

On March 7th, the JSPs requested that an Administrative Law Judge ("ALJ") be assigned for hearing and disposition. On March 8th, 2024, PPL filed a letter urging the rejection of the JSPs' request, erroneously asserting that the JSPs are trying to skip the first step of the analysis required by *Duick v. PG&W*, 56 Pa. P.U.C. 553, 559 (Dec. 17, 1982) ("*Duick*"). The JSPs are doing no such thing. To be clear, the JSPs assert that the Commission should be able to immediately find that their Petition – which was accompanied by a Request for Expedited Relief, and which has now been before the Commission for eight weeks – more than establishes a colorable claim under *Duick*, enabling it to be promptly set for hearing. Obviously, as they asked for a hearing, the JSPs seek the Commission's determination that is the predicate thereto. The JSPs are aware of no statute, regulation, rule, case, or template, and PPL has cited none, stating they must ask twice for Commission involvement – once for a determination, and once for a hearing.

The JSPs agree *Duick* requires that the Commission first determine whether the JSPs offered new and novel arguments, or identified considerations that appear to have been overlooked or not addressed, in the December, 2020 Order approving the launch of PPL’s Pilot. *Duick*’s second step requires that the Commission evaluate the new or novel argument or overlooked or unaddressed considerations to determine whether to modify or rescind the Order. Because the JSPs’ Petition has clearly shown that Pilot implementation has, contrary to the public interest, created substantial uncertainty and confusion in the solar community and impaired the effective deployment of solar generation in PPL territory, the JSPs have amply satisfied Step 1.

For example, the Pilot requires that in order to obtain PPL permission to connect, the customer must allow PPL to install in the customer-owned inverter, a PPL-owned communications device that allows PPL to monitor and control the customer’s inverter; and further, that the customer’s inverter must be one PPL approved based upon PPL’s finding the inverter to be compatible with PPL’s communications device. The JSPs’ experience with Pilot implementation is showing, however, that the customers’ communications modules that were either physically installed in the PPL-approved inverters by the inverters’ manufacturers, or that the manufacturers instructed be used with said inverters, are, in fact, incompatible with PPL’s communications device.¹ As a result, in order to ensure that PPL is able to communicate with the customer’s inverters, as required by the Pilot, customers and installers have had to tolerate their own communications with the customers’ inverters being significantly diminished.²

As neither the December, 2020 Order nor the November, 2020 Recommended Decision the Order adopted anywhere addressed whether in approving the Pilot, the Commission intended to require that customers provide PPL visibility into their systems while sacrificing their own as the price of connecting, the JSPs have clearly presented considerations overlooked or not addressed.

Similarly, the JSPs’ Petition asserted that the Pilot’s restriction of the pool of eligible inverters has caused and exacerbated equipment sourcing difficulties, driven up the costs of and delayed solar installations, and essentially eliminated from PPL territory the deployment of products that require inverters not on PPL’s list.³ While PPL answered that its approved list contains numerous inverters and that the prices of inverters on its list are comparable to those of inverters not on its list, the JSPs’ pleadings established that the Pilot affords no relief for the installers who, in seeking to source PPL-approved inverters, have now had to go outside their customary channels and pay more than market rate.⁴ Thus, the Petition identified an additional consideration overlooked or not addressed.

¹ See Petition, ¶¶ 36.a. – b., and d.; Reply, pp. 8 - 14.

² See *Id.*

³ See *Id.*, ¶¶ 36.c.; Reply, notes 18, 19, 23 and ¶¶ 164, 170, 171, 172, 173, 174, 175, 189 and 191.

⁴ See *Id.*, ¶¶ 31, 32.

Based on its March 8th letter, it appears PPL would agree the JSPs have satisfied Step 1. A review of the record will confirm that the types of severe technical,⁵ economic⁶ and market⁷ disruptions described above and in the JSPs' pleadings were not anticipated, nor was the possibility that the Pilot might require an avenue for mid-course relief.⁸ Thus, the JSPs' pleadings provided the types of "newly discovered evidence" and "substantial change in circumstances" that the Commission in *Feleccia v. PPL Elec. Utils. Corp.*, Docket No. C-20016210 (Order entered Mar. 7, 2003) found would warrant special relief.⁹

As can be seen from the foregoing, the issues to be tried are discrete -- an evidentiary hearing can establish whether in fact the functionality of customers' solar systems has been reduced, and/or installers have been forced to either increase prices and/or forego lines of business in their entirety. It will then be up to the Commission to decide whether to provide relief for the customers or installers who, despite their efforts, just can't make this Pilot work, but still wish to themselves "go solar," or enable their customers to do so before April of 2025.

Conclusion

Presently, the only self-executing relief entails incurring significant costs, foregoing solar in PPL territory, or trying to game the system so as to apply to connect after PPL hits its cap on number of PPL devices to be installed.¹⁰

Accordingly, the JSPs are hopeful that the Commission will exercise its considerable discretion to find the JSPs have more than met *Duick* Step 1 and will promptly set the matter for hearing and disposition.

⁵ See, e.g., Recommended Decision, pp. 34 – 35 (adopted by the Commission in its December 17, 2020 Order), noting that concerns were raised regarding numbers of communications ports to be dedicated to PPL use, but not the situation where the device PPL uses to communicate with the customer's PPL-approved inverter renders non-functional the customer communications component the inverter's manufacturer selected for use with that inverter.

⁶ See, e.g., *Id.* at p. 30, noting that concerns were raised about the availability of approved inverters, but not, as explained by the JSPs in their Reply, n. 19, whether the reality of market restrictions could render "available" inverters economically unavailable.

⁷ See, the JSPs' Reply, n. 23.

⁸ See e.g., Recommended Decision, p. 16 (¶ 57), stating that the unavailability of PPL's DER management devices shall not be a basis for denying or delaying permission to connect, but saying nothing about the unavailability of a PPL-approved inverter that successfully communicates with both PPL and the customer.

⁹ PPL cited *Feleccia* on p. 3 of its March 8, 2024 letter.

¹⁰ In its Answer to the JSPs' Petition at p. 45 (¶¶ 228 – 235), PPL disconcertingly offers the annual cap as a reason why the JSPs' Request for an opt-out should be denied.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties listed below via electronic mail, in accordance with 52 Pa. Code § 154:

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Dated this 13th day of March, 2024

/s/ Bernice I. Corman