



March 26, 2024

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
P.O. Box 3265
Harrisburg, PA 17105-3265

**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:

On behalf of Tesla, Inc, Sun Directed, American Home Contractors, Sunrun, Inc. and the Solar Energy Industries Association (the "Joint Solar Parties" or "JSPs"), enclosed for filing is the JSPs' Answer to the Motion of PPL Electric Utilities Corporation to Strike the JSPs' Reply.

Copies are being provided as indicated on the Certificate of Service.

Respectfully submitted,

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cc: Service List

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :
for Approval of Tariff Modifications and Waivers : Docket No. P-2019-3010128
of Regulations Necessary to Implement its :
Distributed Energy Resources Management Plan :

**JOINT SOLAR PARTIES' ANSWER TO
MOTION OF PPL ELECTRIC UTILITIES CORPORATION TO
STRIKE THE JOINT SOLAR PARTIES' REPLY TO
PPL ELECTRIC UTILITIES CORPORATION'S ANSWER TO
THE PETITION OF JOINT SOLAR PARTIES FOR RESCISSION OR AMENDMENT
OF PPL ELECTRIC'S DISTRIBUTED ENERGY RESOURCES MANAGEMENT PILOT
and REQUEST FOR EXPEDITED PROCEEDING**

AND NOW, come Tesla, Inc. ("Tesla"), Sun Directed, American Home Contractors ("AHC"), Sunrun, Inc. ("Sunrun") and the Solar Energy Industries Association ("SEIA") (the "Joint Solar Parties" or "JSPs"), and pursuant to 52 Pa. Code Sections 5.61(a)(1) and 5.103(c), submit their Answer to the "Motion of PPL Electric Utilities Corporation ('PPL') to Strike the JSPs' Reply ('Motion to Strike')" filed by PPL on March 7, 2024. Any of PPL's averments not expressly admitted by the JSPs herein are denied. For the reasons set forth herein, the JSPs respectfully request that the Pennsylvania Public Utility Commission ("Commission") reject PPL's Motion to Strike.

I. INTRODUCTION

It is clear PPL will go to great lengths to try to prevent the Commission from hearing the JSPs' Petition to Rescind or Modify the Commission's 2020 Order authorizing PPL's Distributed Energy Resources Management Pilot Program, as this is the second instance of PPL's erecting groundless barriers thereto. First, in its letter of March 8th, PPL asked the Commission to deny the

JSPs' the hearing made available by 66 Pa. C.S. § 703(g)¹ and 52 Pa. Code § 5.572² by falsely claiming the JSPs were required to first, separately, ask the Commission to first determine whether their Petition established a colorable claim -- a step nowhere stated in law or rule.³ Now, PPL is seeking to further consume the resources of the Commission with a Motion to Strike based on exceedingly thin argument, and citation to a single, inapposite, case.

The Commission should deny PPL's Motion to Strike, because the JSPs' Reply was fully compliant with, and indeed, was called for, by 52 Pa. Code § 5.63, which provides for "Replies to answers seeking affirmative relief or new matter." Virtually all of PPL's Answer consists of averments of new, material, facts, on topics ranging from statistics on the purported successes of PPL's Program, to PPL's corporate philosophy, to PPL's allegations of anti-competitive behavior by the JSPs.⁴ While the Commission has itself not expressly defined "New Matter," common sense would dictate,⁵ and indeed, the same case cited by PPL supports,⁶ the proposition that material facts not already set forth in the record underlying the Commission's 2020 Order -- in other words, "new

¹ 66 Pa. C.S. § 703(g) provides for rescission of an order after a hearing.

² 52 Pa. Code § 5.572 provides the requirements for filing petitions for rescission or amendment; 52 Pa. Code § 5.572(d) refers to 66 Pa. C.S. § 703(g)'s hearing requirements.

³ As stated by the JSPs in their March 13, 2024, letter to the Commission, the JSPs properly filed petition for rescission of course embodies the request that the Commission reach the determination that is the predicate to its setting a hearing. There is no law, rule, or case stating that petitioners seeking relief under the above-cited authorities must petition twice for Commission involvement.

⁴ See PPL Answer, ¶¶ 1 – 64 (PPL's rendition of background), ¶¶ 82 – 86 (timeframes for processing interconnection applications), ¶ 91 – 93 (PPL's sustainability goals), ¶¶ 96 – 109 (alleged program benefits), ¶¶ 110 – 119 (JSPs' alleged anti-competitive behavior), ¶¶ 120 – 130 (JSPs' alleged after-market modifications), ¶¶ 131 – 157 (JSPs' alleged tampering with or vandalizing PPL's equipment), ¶¶ 160 – 162 (other jurisdictions' interconnection requirements), ¶¶ 171 - 175 (records of business transactions with JSPs), ¶¶ 176 – 189 (statistics on PPL's approved inverter list), ¶¶ 190 – 196 (prices of approved inverters), and ¶¶ 202 – 206 (PPL's purported efforts to work with JSPs on a software solution).

⁵ See e.g., *Lawrence Jones v. Philadelphia Gas Works*, 2020 Pa. PUC LEXIS 317 (PUC Jul. 16, 2020, Docket C-2019-3007984) ("Jones") (where in response to a Complaint alleging an improper charge, PGW's Answer and New Matter provided the identity of the account owner, the continuity of gas service, and the outstanding bill amount).

⁶ See *Pa. PUC v. Philadelphia Gas Works*, 2009 Pa. PUC LEXIS 596 (Order entered Mar. 26, 2009, Docket No. R-2008-207398) ("PGW") (defensive argument citing text of challenged Order was neither New Matter nor a new request for relief).

material facts,” are New Matter.⁷ PPL’s failure, intentional or otherwise, to include New Matter in its Answer without labeling it as such does not change its nature, and does not mean it is not New Matter.⁸

Nor are the JSPs deprived of their right to Reply to New Matter because, as PPL asserts on page 1 of its Motion, PPL raised no affirmative defenses in its Answer. PPL is flatly in error. PPL is correct -- the first sentence in 52 Pa. Code § 5.62(b) does require that a party plead an affirmative defense in an answer under the heading of “New Matter.” But PPL fails to note that the second sentence in 52 Pa Code § 5.62(b) plainly allows, without any reference to the party’s having to plead an affirmative defense, that “[a] party may set forth as new matter another material fact which is not merely a denial of the averments of the preceding pleading.”⁹ Further, 52 Pa. Code § 5.63 nowhere bars a party from Replying to an Answer containing New Matter unless the Answer also contains an affirmative defense. To the contrary, 52 Pa. Code § 5.63 permits parties to file “Replies to answers seeking affirmative relief or new matter.” (emphasis added.) Indeed, 52 Pa. Code § 5.63(b) makes clear that a party proceeds at its peril if it fails to Reply, stating “Failure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted.”¹⁰

Finally, PPL is flatly in error in claiming that *PGW* lends it support. To the contrary, *PGW* is inapposite on both substantive and procedural grounds.

⁷ See *PGW’s* Motion to Strike, ¶ 4, Docket No. R-2008-207398 (“New matter comprises new facts and/or affirmative defenses. A pleading that contains no affirmative defenses and only denials of the averments of the preceding pleading does not contain new matter.”) (emphasis added.), citing *Goodrich-Amram* (2d Ed.), Civil Action § 1017(a):5.

⁸ See, e.g., *Frank J. Cservak, Jr., P.E. v. Duquesne Light Company*, 2023 Pa. PUC LEXIS 278 (PUC Oct. 19, 2023, Docket No. C-2022-3036252) (“*Cservak I*”), in which Plaintiff’s complaint alleging, *inter alia*, that there were incorrect charges on his bills, were met by Duquesne’s denial, and averment that challenges to such charges were barred by *res judicata*, as the correctness of them had been decided in *Cservak I*.

⁹ See also 231 Pa. Code § 1030(a) (New Matter), providing the same.

¹⁰ See, e.g., *Boatin v. PUC*, 2009 Pa. Commw. Unpub. LEXIS 64, n. 3 (Pa. Commw. Ct. 2009) (“*Boatin*)(taking facts from Verizon’s answer and new matter, as *Boatin* did not reply); *Eileen Walden v. PECO Energy Company*, 2020 Pa. PUC LEXIS 600, *6 - *7 (P.U.C. 2020, Docket No. F-2019-3011507) (same); and *Jones*, *4 (same).

PGW involved a Petition filed by PGW for Extraordinary Rate Relief. In a 2008 Order, the Commission granted PGW's Petition, awarding it \$60 million in extraordinary rate relief, but also directing PGW to file a base rate case in 2009 to be decided in 2010, and that PGW use the Office of Small Business Advocate's ("OSBA's") proffered "across the board" methodology to allocate the rate increases.¹¹ OSBA filed a Petition to Rescind the 2008 Order, contesting the Commission's award of the increased revenue requirement without also directing an immediate base rate case and production of cost studies, and suspension period ending in 2009.¹² Specifically, OSBA asserted that the Commission had in effect awarded PGW a permanent \$60 million increase through 2010 without basing its allocation of rate increases on cost of service.¹³

PGW's Response requested that the Commission recognize the alternative basis for its 2008 Order stated in the Order, namely, that the across-the-board revenue allocation of the authorized rate increase maintained the status quo revenue/cost relationships from PGW's prior base rate case, which action was an appropriate and reasonable exercise of the Commission's discretion.¹⁴

OSBA then filed a pleading styled as an Answer, in which it asserted that PGW's Response constituted New Matter and a request for affirmative relief (specifically, a request that the Order be rewritten to provide an alternative theory upon which to base the grant to PGW of rate relief), entitling OSBA to Answer.¹⁵ PGW filed a Motion to Strike, arguing that its Response to OSBA's Petition

¹¹ *PGW*, *2 - *3.

¹² *Id.*, *4 - *5.

¹³ *Id.*, *7,

¹⁴ Philadelphia Gas Works' Motion to Strike and Response to the "Answer" of the Office of Small Business Advocate to PGW's Answer to OSBA's Petition for Reconsideration, *Pennsylvania Public Utility Commission v. Philadelphia Gas Works*, Docket No. R-2008-2073938, p. 2. See also, *Id.*, ¶ 14, where PGW indeed characterizes the "defensive argument" stated in its Answer as an explanation that "the [Commission] did address revenue allocation, basing the allocation on cost of service in a manner that maintained the movement of class rates closer to a cost of service basis, just as the Commission had ordered in the prior base rate case." (emphasis added.) Finally, see the Commission's December 18, 2008 Opinion and Order, Docket No. R-2008-2073938, at p. 48.

¹⁵ *PGW*, * 27.

raised no New Matters, rather it “merely responded” to the issues raised in OSBA’s Petition. The Commission agreed and struck OSBA’s Answer. *Id.*, *27.

A careful read of the whole of *PGW* confirms that in fact, PGW’s Response did not raise New Matters. To the contrary, PGW’s Response contained the defensive argument that in its 2008 Order, the Commission considered cost of service issues, while also adopting said alternative allocation methodology. *See PGW*, *10, *citing* the 2008 Order at 47. *See also PGW*, *27, where the Commission cites PGW’s Response favorably, stating: “As stated by PGW, ‘PGW’s [A]nswer merely requested that the Commission recognize the alternative basis for its order and made defensive arguments to support preserving the relief already granted to PTW.” (emphasis added.) In other words, PGW’s Answer simply asserted a defensive argument based on material facts already stated in the Order at issue in that case.

Here, PPL cannot reasonably argue that its Answer did not raise New Matters.¹⁶ By way of example, the JSPs’ Petition requested rescission or modification of PPL’s Pilot Program, having experienced as a result of Program implementation, that compliance with Program requirements is causing unforeseen technical disruptions to customers’ solar systems, and that these are in turn compelling customers to have to tolerate severely diminished services if they wish to obtain and maintain permission to operate their systems under the program, or to forego “going solar” altogether in PPL territory. PPL did provide a 2-paragraph response to the JSPs’ allegations as to disruptions to customers’ systems.¹⁷ However, PPL’s Answer also cites purported evidence of Tesla’s alleged “history” of “efforts to undermine the pilot program,”¹⁸ and that Tesla’s and the other JSPs’ “. . .

¹⁶ *See supra*, n. 4.

¹⁷ PPL’s Answer dedicates only two paragraphs (¶¶ 158 and 159) to answering Tesla’s allegations of incompatibility, averring, without support, that inverter manufacturers can remotely view error codes for their DER systems with PPL’s DER Management Device installed, and that Delta cannot view error codes with the ZigBee chip.

¹⁸ *See* PPL Answer, Section 3, pp. 25 – 35; ¶ 153.

personnel intentionally vandalized or tampered with PPL Electric's DER Management Devices."¹⁹ (emphasis added).

Clearly PPL's overheated allegations, which PPL offered on grounds that "[t]he Commission should take [the JSPs'] indisputable, disreputable, and unlawful actions into account when weighing the JSPs' allegations and their requested relief, as such actions severely impeach their credibility regarding any criticisms of the commission approved pilot program,"²⁰ are New Matters, to which the JSPs must reply.²¹ Allegations that the JSPs' conduct "contravenes . . . PPL Electric's Commission-approved tariff,"²² purportedly shown by PPL's alleged new, material, facts, go far beyond a defensive argument based on facts already in the record underlying the 2020 Order issued in this case, or the type of facts that would tend to disprove any one or more of the averments in the JSP's Petition, and be offered under a general denial.²³

PGW is also inapposite on procedural grounds. In ¶ 65 of its Motion to Strike, PPL elliptically quotes the Commission's statement in *PGW* (which the Commission itself labeled a "parenthetical notation"²⁴) that "'if *PGW*'s Response to the OSBA's Petition contained inappropriate arguments or 'New Matter,' the OSBA's remedy would have been to file a Motion to Strike, not an Answer under 52 Pa. Code § 5.63;" then in ¶ 68, argues that "the Commission should adhere to its precedent in *PGW* and strike the JSPs' 'Reply' to PPL Electric's Answer."

¹⁹ See *Id.*, ¶¶ 132 – 154, and n. 48.

²⁰ *Id.*, ¶ 154.

²¹ By way of another example, the JSPs' Petition alleges that the Pilot's restrictions as to the types of equipment that could be deployed in PPL territory was, *inter alia*, causing installers to terminate lines of business. PPL's Answer alleges facts in support of its argument that the JSPs either never had business dealings in PPL territory (PPL's Answer, p. 6 and ¶ 126), or that they were continuing to do business in territory, allegedly unfazed by the Pilot Program (*Id.*, ¶¶ 171-174). Again, these are new and glaringly erroneous material facts, to which the JSPs are entitled to reply.

²² PPL's Answer, p. 4, and ¶ 126.

²³ *Weygandt v. Bell Tel. Co.*, 1948 Dist. & Cnty. Dec. LEXIS 260 (Common Pleas Ct. 1948), *7 - *8.

²⁴ *PGW*, *27.

The “parenthetical notation” made by the Commission in *PGW* stated only that an Answer is an inappropriate response to a Petition containing inappropriate arguments or “New Matter.”²⁵ Regardless, the Commission’s “notation” is inapposite, as in its immediately preceding statements, the Commission found that PGW’s Answer contained no “New Matter.” It bears noting, further, that in PGW’s Motion to Strike, with which the Commission stated it agreed, PGW conceded that if it had asserted “new matter,” OSBA would have been entitled to file a Reply. *See* PGW’s Motion to Strike, p. 2, stating: “. . . OSBA mischaracterizes PGW’s answer as ‘new matter,’ thus arguably justifying application of the “complaint pleading” rules which do permit a ‘reply’ (although not an ‘answer’ as OSBA asserts) to New Matter.” (emphasis added.)

The JSPs do not object to PPL raising New Matters in its Answer. The JSPs’ Petition contains, at a minimum, “newly discovered evidence,” “change of circumstances,” and “new and novel arguments not previously heard” or “considerations . . . overlooked” by the Commission, all discovered because of the JSPs’ Pilot Program implementation, *i.e.*, after the Commission issued its 2020 Order authorizing the Program’s launch. As such, the JSPs are not surprised PPL would Answer the JSPs’ allegations with its own set of alleged new facts. Thus, to be clear, the JSPs do not object to PPL’s properly filing New Matter (*i.e.*, by pleading it as such under the heading of “New Matter”), but they are zealously protecting their right to admit or deny same, as expressly contemplated in 52 Pa. C.S. § 5.63.

The JSPs’ Petition has now been pending before the Commission for ten weeks. As such, the JSPs urge the Commission to refrain from permitting PPL to further thwart the JSPs’ opportunity to present arguments as to why they and the residents and businesses in PPL territory need immediate

²⁵ *See PGW*, *27, where the Commission states: “We note parenthetically that if PGW’s Response to the OSBA’s Petition contained inappropriate arguments or “New Matter,” the OSBA’s remedy would have been to file a Motion to Strike, not an Answer under 52 Pa. Code § 5.63.” 52 Pa Code § 5.63 does not provide for provision of an Answer thereunder, it provides only for Replies.

relief from PPL's Pilot Program prior to the Program's expiration and potential renewal in April, 2025. By failing to provide the JSPs with such opportunity, the Commission's inaction is amounting to its tacitly acceding to PPL's position -- that the JSPs should not be permitted to argue for or obtain mid-course relief.

The JSPs' Reply was not only appropriate, it was required by 52 Pa. Code § 5.63, and *PGW* provides no basis for PPL's arguing that the JSPs' Reply should be struck. By and in support of their Answer to PPL's Motion, the JSPs state as follows:

II. THE JSPs' ANSWER TO PPL's NUMBERED PARAGRAPHS²⁶

A. Background

1. The JSPs admit that 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. The JSPs lack information to either admit or deny the allegations in the second sentence of this paragraph.
2. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.
3. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.
4. The allegations in this paragraph contain PPL's characterization of documents which speak for themselves and to which no responses are required.

²⁶ Numbered paragraphs 1 – 67 of PPL's Motion to Strike are an exact replica of numbered paragraphs 1 – 67 in PPL's Answer to the JSPs' Petition. As such, the JSPs' Replies are the exact same as were provided in their Reply.

5. The allegations in this paragraph contain PPL's characterization of documents which speak for themselves and to which no responses are required.
6. The allegations in this paragraph contain PPL's characterization of documents which speak for themselves and to which no response is required.
7. The allegations in this paragraph contain PPL's characterization of documents which speak for themselves and to which no response is required.
8. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.
9. The allegations in this paragraph contain PPL's characterization of documents which speak for themselves and to which no response is required.
10. The allegations in this paragraph contain PPL's characterization of a pre-hearing conference, and orders of Administrative Law Judge ("ALJ") Devoe, which speak for themselves and to which no response is required.
11. The allegations in this paragraph contain PPL's characterization of documents which speak for themselves and to which no response is required.
12. The allegations in this paragraph contain PPL's characterization of documents which speak for themselves and to which no response is required.
13. The allegations in this paragraph contain PPL's characterization of documents which speak for themselves and to which no responses are required.
14. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.
15. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.

16. The allegations contained in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.

17. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.

18. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.

19. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.

20. The allegations in this paragraph contain PPL's characterization of documents which speaks for themselves and to which no responses are required. Admit that a prehearing conference was held on November 15, 2019.

21. The allegations in this paragraph contain PPL's characterization of documents which speaks for themselves and to which no responses are required.

22. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.

23. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.

24. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.

25. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.

26. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.

27. The allegations in this paragraph contain PPL's characterization of the ALJs March 16, 2020 notification to the parties, to which no response is required.
28. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.
29. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.
30. The allegations in this paragraph contain PPL's characterization of a March 25, 2020 email PPL sent to the ALJs to which no response is required.
31. The allegations in this paragraph contain PPL's characterization of a document which speaks for itself and to which no response is required.
32. The allegations in this paragraph contain PPL's characterization of an April 29, 2020 email PPL sent to the ALJs to which no response is required.
33. The allegations in this paragraph contain a characterization of April 30, 2020 directions by the ALJs to which no response is required.
34. The allegations in this paragraph contain PPL's characterization of a May 29, 2020 email PPL sent to the ALJs to which no response is required.
35. The allegations in this paragraph contain a characterization of May 29, 2020 directions by the ALJs to which no response is required.
36. The allegations in this paragraph contain PPL's characterization of a June 26, 2020 email PPL sent to the ALJs, and the ALJs responses, to which no responses are required.
37. The allegations in this paragraph contain PPL's characterization of a July 13, 2020 email from the ALJs to which no response is required.

38. The allegation in this paragraph contains a characterization of a document to which no response is required.
39. The allegation in this paragraph contains a characterization of a document to which no response is required.
40. The allegation in this paragraph contains a characterization of a document to which no response is required.
41. The allegations in this paragraph contain PPL's characterization of an August 27, 2020 email PPL sent to the ALJs to which no response is required.
42. The allegation in this paragraph contains a characterization of a document to which no response is required.
43. The allegation in this paragraph contains a characterization of a document to which no response is required.
44. The allegation in this paragraph contains a characterization of a document to which no response is required.
45. The allegation in this paragraph contains a characterization of the proceedings to which no response is required.
46. The allegation in his paragraph contains a characterization of a document to which no response is required.
47. The allegations in this paragraph contains characterizations of the ALJs's service of and contents of their November 17, 2020 Recommended Decision to which no responses are required.
48. The allegations in this paragraph contains characterizations of the Commission's December 17, 2020 Order to which no response is required.

49. The allegations in this paragraph contain characterizations of a document to which no responses are required.

50. The allegations in this paragraph contain characterization of a document to which no response is required.

51. The allegations in this paragraph contain characterization of a document to which no response is required.

52. The allegations in this paragraph contain characterization of a document to which no response is required.

53. The allegations in this paragraph contain characterizations of documents to which no responses are required.

54. The allegations in this paragraph contain characterization of a document to which no response is required.

55. The allegations in this paragraph contain characterization of a document to which no response is required.

56. The allegations in this paragraph contain characterization of PPL's October 29, 2021 Supplement No. 322 to Tariff Electric Pa. P.U.C. No. 201 to which no response is required.

57. The allegations in this paragraph contain characterization of a document to which no response is required.

58. The allegations in this paragraph contain characterization of a document to which no response is required.

59. The allegation in this paragraph contains characterization of a document to which no response is required.

60. The allegations in this paragraph contain characterization of a document to which no response is required.

61. The allegations in this paragraph contain characterization of a document to which no response is required.

62. The allegations in this paragraph contain characterization of a document to which no response is required.

63. The allegations in this paragraph contain characterization of a document to which no response is required.

64. The allegations in this paragraph contain characterization of a document to which no response is required.

65. The allegations in this paragraph contain conclusions of law to which no responses are required.

66. The allegations in this paragraph contain conclusions of law to which no responses are required.

67. The allegations in this paragraph contain conclusions of law to which no responses are required.

b. JSPs' ANSWER TO PPL'S MOTION TO STRIKE

68. [PPL's second ¶ 50, Motion to Strike, p. 11.] The allegations in this paragraph contain argument and conclusions of law to which no responses are required. To the extent a response is required, the JSPs deny that their Reply should be struck on grounds that the Reply is proper and appropriate pursuant to Pa. Code 52 Pa. Code § 5.63(b), which expressly provides for "Replies to

Answer seeking . . . New Matter.” (emphasis added.). The JSPs aver that for the reasons set forth herein, the Commission should deny PPL’s Motion to Strike.

69. [PPL’s second ¶ 51, Motion to Strike, p. 12.] The allegations in this paragraph contain characterization, argument and conclusions of law to which no responses are required. To the extent a response is required, 52 Pa. Code § 5.1 speaks for itself. The JSPs aver that ¶¶ 1 – 64 (PPL’s rendition of background), ¶¶ 82 – 86 (timeframes for processing interconnection applications), ¶ 91 – 93 (PPL’s sustainability goals), ¶¶ 96 – 109 (PPL’s alleged program benefits), ¶¶ 110 – 119 (JSPs’ alleged anti-competitive behavior), ¶¶ 120 – 130 (JSPs’ alleged after-market modifications), ¶¶ 131 – 157 (JSPs’ alleged tampering with or vandalizing PPL’s equipment), ¶¶ 160 – 162 (other jurisdictions’ interconnection requirements), ¶¶ 171 - 175 (records of business transactions with JSPs), ¶¶ 176 – 189 (statistics on PPL’s approved inverter list), ¶¶ 190 – 196 (prices of approved inverters), and ¶¶ 202 – 206 (PPL’s purported efforts to work with JSPs on a software solution) all constitute New Matter entitling the JSPs to Reply under 52 Pa. Code § 5.63, as they go beyond a defensive argument based on facts already in the record underlying the 2020 Order issued in this case, or the type of facts that would tend to disprove any one or more of the averments in the JSP’s Petition and be offered under a general denial.

70. [PPL’s second ¶ 52, Motion to Strike, p. 12.] The allegations in this paragraph contain argument and conclusions of law to which no responses are required. To the extent a response is required, the JSPs assert that PPL Electric raised New Matter in its Answer, as identified, *supra*, in ¶ 69, which is incorporated into this Answer as if repeated herein, to which the JSPs were entitled to Reply.

71. [PPL’s second ¶ 53, Motion to Strike, p. 12.] The allegations in this paragraph contain characterization, to which no response is required, and a quotation from the JSPs’ Reply, which

speaks for itself. To the extent a response is required, the JSPs assert that they must reply to new matters, as per 52 Pa. Code § 5.63(b), “[f]ailure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted.”

72. [PPL’s second ¶ 54, Motion to Strike, p. 12.] The allegations in this paragraph contain argument and conclusions of law to which no response is required. To the extent a response is required, deny that the JSPs’ position contravenes the Commission’s regulations and Commission precedent. The JSPs’ aver that their Reply to PPL’s Answer was fully compliant with, and called for, by 52 Pa. Code § 5.63, which provides for “Replies to answers seeking affirmative relief or new matter,” as virtually all of PPL’s Answer consists of averments of new, material, facts, as are identified *supra* in ¶ 69, the text of which is incorporated into this Answer as if repeated herein.

73. [PPL’s second ¶ 55, Motion to Strike, p. 12.] Deny that “[u]nder the Commission’s regulations, parties are only required to plead New Matter when they are raising affirmative defenses.” 52 Pa. Code 5.62(b) permits a party to set forth as new matter another material fact which is not merely a denial of the averments of the preceding pleading. *See Boatin, supra*, n. 10, taking as true facts asserted in an answer containing new matter, but no affirmative defenses. *See also Ethan Habrial v. Metropolitan Edison Company*, 2023 Pa. PUC LEXIS 336 (P.U.C. Dec. 21, 2023, Docket No. C-2018-3005907) (involving an Answer and New Matter (with no affirmative defenses) and a timely Reply thereto).

74. [PPL’s second ¶ 56, Motion to Strike, p. 12.] The allegations in this paragraph contain characterization, argument, and conclusions of law to which no response is required. To the extent a response is required, 52 Pa. Code § 5.62(b) speaks for itself.

75. [PPL’ second ¶ 57, Motion to Strike, p. 12.] The allegations in this paragraph contain argument to which no response is required.

76. [PPL's second ¶ 58, Motion to Strike, p. 13.] Deny that the Company did not plead New Matter; deny that the JSPs cannot be deemed to admit any allegations set forth in PPL Electric's Answer by failing to respond, as 52 Pa. Code § 5.63(b) provides that "Failure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted."

77. [PPL's second ¶ 59, Motion to Strike, p. 13.] Denied, as 52 Pa. Code § 5.63 authorizes replies to answer containing new matter.

78. [PPL's second ¶ 60, Motion to Strike, p. 13.] The allegations in this paragraph contain characterization, argument, and legal conclusion to which no responses are required. To the extent a response is required, the allegations are denied as "essentially the same argument" is too vague to respond. The JSPs aver that *PGW* stands for the proposition that an Answer requesting that the Commission recognize the alternative basis for its order and containing defensive arguments to support preserving the relief already granted is not New Matter, so does not entitle an opposing party to Reply. *PGW*, *26 – 27.

79. [PPL's second ¶ 61, Motion to Strike, p. 13.] The allegations in this paragraph contain PPL's characterization of *PGW*, which decision speaks for itself and to which no response is required.

80. [PPL's second ¶ 62, Motion to Strike, p. 13.] The allegations in this paragraph contain PPL's characterization of *PGW*, decision which speaks for itself and to which no response is required.

81. [PPL's second ¶ 63, Motion to Strike, p. 13.] The allegations in this paragraph contain PPL's characterization of *PGW*, which decision speaks for itself and to which no response is required.

82. [PPL's second ¶ 64, Motion to Strike, p. 13.] The allegations in this paragraph contain PPL's characterization of *PGW*, which decision speaks for itself and to which no response is required.

83. [PPL's second ¶ 65, Motion to Strike, p. 13.] The allegations in this paragraph contain PPL's characterization of *PGW*, which decision speaks for itself and to which no response is required. To the extent a response is required, deny that 52 Pa. Code § 5.63 governs provision of an Answer (52 Pa. Code § 5.63 governs provision of a Reply).

84. [PPL's second ¶ 66, Motion to Strike, p. 14.] The allegations in this paragraph contain argument and conclusions of law to which no responses are required. To the extent a response is required, admit that the JSPs' Petition was filed under Section 703(g) of the Public Utility Code and Section 5.572 of the Commission's regulations.

85. [PPL's second ¶ 67, Motion to Strike, p. 14.] The allegations in this paragraph contain argument and conclusions of law to which no responses are required. To the extent a response is required, admit that PPL filed an Answer to the JSPs' Petition for Rescission or amendment, and aver that said Answer contained New Matter, as identified, *supra*, in ¶ 69, which text is incorporated into this Answer as if repeated herein.

86. [PPL's ¶ 68.] The allegations in this paragraph contain argument, to which no response is required. To the extent a response is required, deny that *PGW* is applicable, and deny that the Commission should strike the JSPs' Reply. The JSPs aver that while *PGW* is precedent where Answers do not contain New Matter, it is inapposite to Answers such as that filed by PPL that contain New Matter.

87. [PPL's ¶ 69.] The allegations in this paragraph contain argument, to which no response is required.

III. CONCLUSION

As PPL's Answer raised New Matter, and the JSPs' Reply thereto was lawful, the Commission has no basis for granting PPL's Motion to Strike. Thus, it must deny PPL's Motion to Strike, and leave intact the JSPs' Reply to PPL's Answer to the Petition of Joint Solar Parties for Rescission or Amendment of PPL's Distributed Energy Resources Management Pilot (and Request for Expedited Processing).

Dated: March 26, 2024

Respectfully submitted,

Tesla, Inc.
Sun Directed
American Home Contractors
Sunrun, Inc.
Solar Energy Industries Association



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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 26th day of March, 2024

/s/ Bernice I. Corman