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September 3, 2024

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

RE: Petition of the Boroughs of Carlisle, Hatboro, Lansdowne, Media, Narberth,
State College, and Swarthmore for a Declaratory Order regarding the Implementation
of Community Choice Aggregation
Docket No.: P-2024-3049623

Dear Secretary Chiavetta:

Attached for filing in the referenced matter pursuant to 52 Pa Code Section 5.91 is an
amendment to the Boroughs original Petition.

Respectfully Submitted,



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Enclosures:

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of the Boroughs of Carlisle, Hatboro, :
Lansdowne, Media, Narberth, State College, :
and Swarthmore for a Declaratory Order :
regarding the Implementation of Community :
Choice Aggregation :
_____ :

Docket No.: P-2024-3049623

**AMENDMENT TO PETITION OF THE BOROUGHES OF CARLISLE, HATBORO,
LANSDOWNE, MEDIA, NARBERTH, STATE COLLEGE, AND SWARTHMORE.**

1. On June 25, 2024, the Borough of Carlisle, the Borough of Hatboro, Lansdowne Borough, Media Borough, the Borough of Narberth, the Borough of State College, and Swarthmore Borough (the “Boroughs”) filed a petition for a declaratory order with the Commission relating to the establishment of Community Choice Aggregation (“CCA”) programs by the Boroughs (the “Petition”). The Petition was published in the Pennsylvania Bulletin on July 6, 2024, and the notice set a date for comments by August 5, 2024. The Commission received letters of support from 49 organizations and individuals, including two state senators, three state representatives, and several local officials, sixteen state and national environmental and environmental justice organizations, five business and trade associations, ten solar developers, and several other civic, educational and religious organizations. It received Answers from the Office of Consumer Advocate (“OCA”) and the Office of the Small Business Advocate (“OSBA”). It also received petitions to intervene accompanied by answers or protests from the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company (“C&W”), Duquesne Light Company (“Duquesne”), NRG Energy,

Inc. (“NRG”), PECO Energy Company (“PECO”), PPL Electric Utilities Corporation, (“PPL”), and the Retail Energy Supply Association (“RESA”). The intervenors, OCA and OSBA are collectively referred to as the “Respondents.”

2. The Boroughs seek to take effective action on climate change, improve competitive outcomes in the market for green power, and advance energy democracy. They have requested a legal interpretation of a limited set of questions, but Respondents have answered or protested raising a variety of questions and matters that exceed the intended scope of the Boroughs’ Petition. After consideration of Respondents’ submissions, the Boroughs file this Amendment to Petition pursuant to 52 Pa Code Section 5.91 to help narrow and clarify the issues to be decided in this proceeding. The Boroughs also amend their petition to add the Borough of Camp Hill as an additional petitioner.

I. Amendments and Clarifications to the Principal Requests for Declaratory Order

3. The Boroughs amend and clarify their requests for a declaratory order in the following respects.

Opt-Out Program Participation by Licensed EGSs

4. The Boroughs wish to clarify their request for a declaratory order that EGSs can participate in the CCA program as proposed. This is the Borough’s primary request. The Boroughs specifically request an order that the CCA program as proposed, including the specific stipulations presented at Paragraphs 5 – 9 of the Petition and certain additional stipulations below, does not reduce customers’ competitive options and provides important public benefits, and accordingly, participation by licensed EGSs does not violate Section 2807(d)(1) of the Public Utility Code.

Licensing of the CCA Administrator

5. The Boroughs withdraw their request for a declaration that the CCA Administrator need not be licensed as an EGS, and instead stipulate that the Boroughs will require the CCA Administrator to be licensed as an EGS. This will ensure that, in addition to the selected EGS(s), the CCA Administrator is fully subject to the Commission's jurisdiction not only with respect to licensing requirements as such but also in respect to customer disclosures, customer data management and reporting to the extent not specifically waived pursuant to this petition.

Data requests and transfers

6. As a licensed EGS, the CCA administrator will have access to EDC Eligible Customer Lists. Those lists already include almost all customer data that the Boroughs will need to launch their CCA programs.¹ The Boroughs, therefore, limit their request and ask the Commission to approve release by EDCs to the CCA Administrator the following additional data (but only in the context of the Boroughs' proposed program):

- Email address.
- Preferred language (to the extent available).
- Participation in an EDC budget bill program.

The first two will help to ensure effective communication of opt-out rights to customers.² The third is to ensure that customer billing choice is honored upon participation in the CCA and is only necessary for EDCs that are exclusively bill ready.

The Powers of and License Requirements for Boroughs

¹ The Commission has initiated a review of the Eligible Customer List contents and procedure in its Secretarial Letter, *Guidelines for Eligible Customer Lists*, Docket No. M-2010-2183412 (March 1, 2024). To the extent that there are changes, the Boroughs reserve the possibility of further amending their petition.

² The Commission has recognized the value of such an approach in connection with Duquesne's opt out program for eligible customer list inclusion. *Petition of Duquesne Light Company for Clarification of Interim Guidelines for Eligible Customer Lists Final Order*, Docket Nos. P-2023-3043362 and M-2010-2183412 (October 23, 2014).

7. The Boroughs amend their request for a declaration that the Boroughs have the corporate power to adopt the CCA program. Without prejudging the Commission's view of the scope of its jurisdiction, we understand that the Commission may be reluctant to make this declaration.³ Assuming the Commission determines that EGSs can participate in the CCA program as described above, the Boroughs request instead a Commission declaration that, it does not, particularly in the light of the requirements of the ERA, oppose the Borough's adoption of the CCA program on any other basis in the Public Utility Code or other statutes in the Commission's jurisdiction. The Boroughs continue to request a declaration that they themselves are not required to be licensed as EGSs to adopt the CCA program.

The Boroughs Operation of the Program

8. The Boroughs submit that if the Commission grants their other requests as clarified and modified above, and in the light of further amendments and stipulations below, it will have answered their original question about the Boroughs' operation of the program insofar as it lies within the Commission's jurisdiction.

II. Other Corrections to the Petition

Exclusion of Customers who Limit Distribution of their Information

9. Paragraph 34 of the Petition contains an unfortunate misstatement in clause (iii) resulting from a confusion of negatives. The Boroughs amend the Petition to delete clause (iii) and to state separately that the Boroughs will not request information from customers who have elected not to make their information available under 52 Pa. Code Section 54.8. The Boroughs also stipulate, to

³ In *Petition of the Retail Energy Supply Association for Investigation and Issuance of Declaratory Order Regarding the Propriety of the Implementation of Municipal Electric Aggregation Programs Absent Statutory Authority* ("RESA") the Commission was requested to rule on the powers of home rule municipalities but did not address the question. Pa. PUC Declaratory Order in Docket No. P-2010-2207062. entered March 17, 2011.

the extent it was not previously clear, that the Boroughs themselves will not have access to customer data.

Customer Defaults

10. The second sentence of Paragraph 9 of the petition has caused unnecessary confusion. It stated: “The Boroughs expect to work with customers with payment difficulties rather than drop them from the Program.” That sentence is deleted. To clarify, the Boroughs will not have access to customer information and will not be involved in billing or default management. It is expected that the Borough EGSs will participate in the EDC’s Purchase of Receivables programs, and the CCA Administrator, as outlined in the Petition, will work with all customers as an ombudsman to resolve consumer issues, including payment issues, as they arise.

III. Inclusion of Camp Hill Borough in the Petitioner Group

11. The Boroughs amend their Petition to include the Borough of Camp Hill in the Petitioner group, and the Borough of Camp Hill requests to be included. This is not the admission of a new party, which *inter alia* would be represented by separate counsel or potentially take different positions, but gives Camp Hill the benefit of any eventual order in the proceeding. PPL, the EDC for Camp Hill, is already a party to the Proceeding. The Borough of Camp Hill has been a part of the discussions that led to the filing of the Petition and hoped to join, but certain unrelated litigation matters consumed the Borough Council’s attention and limited their ability to give the Petition thoughtful consideration. The Council has now met and has voted to authorize joining the Petition, hence this amendment. There is no other Borough similarly situated to Camp Hill and the Boroughs do not anticipate other such requests later in the proceeding. The following describes the Borough of Camp Hill and its interest in the proceeding.

Camp Hill, Cumberland County, 3,111 Households, 2.1 square miles.

12. Camp Hill has a long history of environmental stewardship. The Borough joined the state Local Climate Action Plan program in 2021. Our Climate Action Task Force developed a Climate Action Plan adopted by Borough Council in May 2023 after multiple public presentations. The plan contains a greenhouse gas emissions (“GHGe”) inventory – residential, commercial, and industrial energy, transportation et.al. This plan sets GHGe reduction targets of 30 percent by 2030, and 80 percent by 2050 and identifies Borough action steps to meet these targets. The Borough Sustainability Committee provides recommendations on the implementation of Action Steps. The Sustainability Committee explored CCA and concluded that CCA is a powerful tool to help protect our community and progress toward our climate goals. In February 2024, the Committee recommended that Camp Hill Council sign an MOU to develop a Borough CCA Implementation Plan and the Council voted to sign the MOU. The Council and the Sustainability Committee seek to implement CCA to progress toward our climate goals and provide guidance and public energy education for the entire community.

IV. Conclusion

13. The amendments to the Petition made here address certain comments made by Respondents by narrowing the Boroughs’ request for a declaratory order and accordingly the issues before the Commission. Since the prehearing conference is ten days away, we believe no party is prejudiced.

Respectfully submitted,



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