



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET
HARRISBURG, PENNSYLVANIA 17120

IN REPLY PLEASE
REFER TO OUR FILE
M-2020-3020824

September 6, 2024

Devin Ryan, Esquire
Post & Schell
17 North Second St., 12th Floor
Harrisburg, PA 17101-1601

Re: PPL Electric Utilities Corporation CSP Contract Amendment 4 Act 129 Services Agr. 09048090 (PPL Internal Parent Contract 2813) with CLEAResult Consulting, Inc., Phase IV EECF Docket No. M-2020-3020824, Filed with Commission on July 24, 2024

Dear Mr. Ryan:

This letter acknowledges that Commission staff has reviewed the PPL Electric Utilities Corporation (PPL) proposed Amendment 4 to Conservation Service Provider (CSP) contract with CLEAResult Consulting Inc., filed with the Commission on July 24, 2024, for the provision of the PPL's Phase IV Energy Efficiency and Conservation Plan,¹ specifically, to add a Residential Electric Vehicle Pilot Program. For the reasons set forth below, Commission Staff denies approval of the proposed CSP contract amendment.

The *Phase IV Implementation Order*,² *inter alia*, required all Electric Distribution Companies (EDCs) subject to Act 129 to submit, for Commission review, all proposed contracts with CSPs. The Commission must review, and may order the modification of, these proposed contracts. 66 Pa. C.S. § 2806.1(a)(8). (*Phase IV Implementation Order*, Section G, pages 67-71).

On July 3, 2024, PPL filed with the Commission at Docket M-2020-302824 PPL's response to Set I of Data Requests sent June 18, 2024, by Commission staff from the Commission's Bureau of Technical Utility Services (TUS).

Data Request A-1.a Requested the following:

In reference to the filing submitted to the Commission on June 12, 2024, containing a 5-slide PowerPoint (PPT) document referencing a proposal by PPL Electric Utilities (PPL) to engage

¹ *Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase IV Energy Efficiency and Conservation Plan*, Docket No. M-2020-3020824 (March 25, 2021).

² *Energy Efficiency and Conservation Program Implementation Order*, Docket No. M-2020-3015228 (June 18, 2020) (*Phase IV Implementation Order*).

in an electric vehicle (EV) charging pilot program, please provide responses to the following questions.

- a. Why has PPL not filed a petition for minor plan change to its Act 129 Phase IV Implementation Plan? Although money is set aside in the Phase IV Implementation Plan for pilot programs, the actual creation of any specific pilot and its associated details does create a change to the Implementation Plan. As identified in Section C, Process for Approving Minor Changes to an EDC EE&C Plan, in the Commission's Order dated June 9, 2011, at Docket M-2008-2069887, the inclusion of the proposed pilot plan warrants filing of a Petition for Minor Plan Change.

PPL's response was as follows:

PPL Electric disagrees that the EV Charger Pilot Program constitutes a "minor" EE&C Plan change. Nothing in the PUC's Minor Plan Change Order states that the addition of a pilot program constitutes a minor plan change that requires PUC approval. See Energy Efficiency and Conservation Program, Docket No. M-2008-2069887 (Order entered June 10, 2011) ("Minor Plan Change Order"). In fact, the word "pilot" is not used anywhere in the Minor Plan Change Order. Rather, Section C of the Minor Plan Change Order states that the following changes to an EE&C Plan constitute "minor" plan changes:

1. The elimination of a measure that is underperforming, no longer viable for reasons of cost-effectiveness, savings or market penetration or has met its approved budgeted funding, participation level or amount of savings;
2. The transfer of funds from one measure or program to another measure or program within the same customer class; and
3. Adding a measure or changing the conditions of a measure, such as its eligibility requirements, technical description, rebate structure or amount, projected savings, estimated incremental costs, projected number of participants, or other conditions so long as the change does not increase the overall costs to that customer class.

Minor Plan Change Order, p. 19.

Here, PPL Electric is not eliminating a measure, transferring funds from one measure or program to another measure or program, or adding a measure or changing the conditions of a measure. The EV Charger Pilot Program will be implemented within the existing Commission-approved budget of \$3 million for residential pilot programs and pursuant to the Commission-approved process for implementing pilot programs, as set forth in Section 9.1.4 of the Company's Phase IV EE&C Plan.

In addition, nothing in PPL Electric's Phase IV EE&C Plan is changing due to the EV Charger Pilot Program. Section 9.1.4 of the Phase IV EE&C Plan expressly outlines the process by which pilot programs will be implemented, stating, "As was done in Phase III, the Company will submit descriptions of any pilot programs or proposed technology additions to the Pa PUC and stakeholders prior to implementation." PPL Electric complied with this process by filing its letter on June 12, 2024, describing the EV Charger Pilot Program and by providing notice and a pilot program description to stakeholders on June 11, 2024.

Furthermore, the Commission-approved Phase IV EE&C Plan notes how not all pilot programs will require PUC approval. On page 67 of the Phase IV EE&C Plan, where the Company's Deep Energy Retrofits and Net Zero Building pilot programs are addressed, the Plan states, in pertinent part:

The Company will submit, within a reasonable time, a description of the pilot program(s) to the Commission and stakeholders prior to implementation in accordance with Section 9.1.4 of the Phase IV EE&C Plan. If either or both of the pilots require a change to the Phase IV EE&C Plan, the Company will review the change with stakeholders and submit the change to the Commission in a petition to modify the Phase IV EE&C Plan.

Phase IV EE&C Plan, p. 67 (emphasis added). The Commission specifically approved this language as part of its Opinion and Order entered on March 25, 2021, which approved the Joint Petition for Approval of Partial Settlement regarding PPL Electric's Phase IV EE&C Plan filing. See Petition of PPL Elec. Utils. Corp. for Approval of its Act 129 Phase IV Energy

Efficiency and Conservation Plan, Docket No. M-2020-3020824, at (Order entered Mar. 25, 2021).

For these reasons, PPL Electric's EV Charger Pilot Program does not require separate Commission approval as a "minor" EE&C Plan change.

PPL's analysis ignores two necessary requirements.

First, Section G of the *Phase IV Implementation Order* requires that the CSP Contract (in this case Contract Amendment) will provide "assurance that the CSP's work product in the EDC's plan will meet the requirement for reduction in demand and consumption." *Phase IV Implementation Order*, Section G, pg. 70. This requires that the CSP's work product is related to a measure in the EDC's Commission-approved plan and demonstrates that it in some way reduces the consumption of electricity, which is not the case for the instant proposed contract. While the Commission Order approving PPL's EE&C Plan approved monies for residential pilot programs, the approved plan does not include any details regarding the EV Pilot Program, or any program or measure, which will be funded from these monies. (*Petition of PPL Elec. Utils. Corp. for Approval of its Act 129 Phase IV Energy Efficiency and Conservation Plan*, Docket No. M-2020-3020824, Section F. Pilot Programs, pg. 18, and Attachment A, Section 9.1.4 PPL EE&C Plan, pg. 148 (Order entered Mar. 25, 2021)). Commission staff cannot approve this CSP contract amendment without these details being part of PPL's Phase IV EE&C Plan.

Second, a filing under the Minor Plan Change Order (*Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order entered June 10, 2011) is necessary if the utility is "adding a measure or changing the conditions of a measure." Minor Plan Change Order, pg. 12; also, *Phase IV Implementation Order*, Section C.4 pg. 57-59 and Ordering paragraph 7. Simply because the Commission approved up to three million dollars to be spent for residential pilot programs does not alter the need to make a minor plan change filing to implement a new measure within the pilot program. PPL's Phase IV EE&C Plan, as approved by the Commission, does not provide any details of the proposed EV Pilot Program, such as those evidenced by the details provided in the proposed Amendment 4 to the CLEAResult Consulting, Inc. contract. For the Commission to review the amendment to the CSP contract, the EV Pilot Program details must already be present in PPL's EE&C Phase IV Plan and approved by the Commission. These details cannot simply be provided after the fact in the CSP Contract Amendment.

The Minor Plan Filing is important because it provides a basis for input from interested parties, as well as appeal rights for these interested parties. Specifically, the Minor Plan Change Order provides³:

C. Process for Approving Minor Changes to an EDC EE&C Plan

The Commission, with this Order, is adopting the following expedited review process for approving proposed minor changes to an EDC's Act 129 EE&C Plan.

- The Commission is delegating its authority to review and approve minor EE&C Plan changes, as defined below, to staff of the Bureau of Conservation, Economics and Energy Planning, with assistance from staff of the Bureau of Fixed Utility Services and the Law Bureau, or their successor(s) as determined by the Commission.
- EDCs are directed to file with the Secretary and serve on the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff and all parties of record any proposed minor EE&C Plan changes. The filing must clearly state that it is to be reviewed under the expedited review process for approving proposed minor changes to an EDC's Act 129 EE&C Plan. EDCs are directed to file sufficient documentation to support the proposed minor EE&C Plan change, to include, but not limited to, the affected pages of the plan, a redlined version of the affected pages and an explanation of how the proposed minor changes affect the previously approved plan. In addition, we direct the EDCs to post a complete redlined version of its proposed plan on its website for public inspection upon filing.
- All interested parties are directed to file comments on the proposed minor EE&C Plan changes within 15 days after the proposed minor EE&C Plan changes have been filed with the Secretary.
- All interested parties are directed to file reply comments within 25 days after the proposed minor EE&C Plan changes have been filed with the Secretary.

³ *Phase IV Implementation Order*, Section C.4 pg. 58-59 adopted the Minor Plan Change Order.

- Commission Staff are directed to issue a Secretarial Letter approving, denying, or transferring to the Office of Administrative Law Judge for hearings, some or all of the proposed minor EE&C Plan changes, along with an explanation, within 35 days after the proposed minor EE&C Plan changes have been filed with the Secretary. Commission Staff have the discretion to extend this consideration period by an additional ten days.
- Parties are directed to file within ten (10) days after service of the Secretarial Letter petitions for appeal from actions of the staff in accordance with 52 Pa. Code § 5.44.

Section C, Minor Plan Change Order⁴, pg. 11-12.

PPL has not complied with the *Phase IV Implementation Order*, depriving interested stakeholders of their opportunity to provide input as described above. Significantly, it has denied the Commission the opportunity to meet its obligations under the Public Utility Code to ensure that individual EDC plans enable the EDC to achieve or exceed the requirements for reduction in consumption in a cost-effective manner. See 66 Pa.C.S. § 2806.1(a)(3),(4). For these reasons, Commission staff denies approval of PPL's proposed CSP Contract amendment as the proposed pilot measure to be implemented by this CSP contract amendment has not been reviewed and approved by the Commission.

The determinations in this Secretarial Letter have been made by PUC staff under authority delegated by the Commission. Parties have the right to seek reconsideration of this staff action. Parties may seek reconsideration of these directives by petitioning the Commission within 20 days after service of this Secretarial Letter. See 52 Pa. Code § 5.44 (relating to petitions for appeal from actions of the staff).

⁴ Minor Plan Change Order (*Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order entered June 10, 2011)). See also *Phase IV Implementation Order*, Section C.4 pg. 57-59 and Ordering paragraph 7.

Please any questions to Joseph Sherrick, Bureau of Technical Utility Services, at (717) 787-2359 or Steven Bainbridge, Assistant Counsel, Law Bureau, at (717) 783-6165.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is fluid and cursive, with the first name being more prominent.

Rosemary Chiavetta
Secretary

cc: Darren Gill, Deputy Director, TUS
Joseph Sherrick, TUS
Charles Covage, TUS
Steven Bainbridge, Assistant Counsel, LAW
Kriss Brown, Deputy Chief Counsel, LAW
Kathy Aunkst, Secretary's Bureau
Patrick M. Cicero, Consumer Advocate (consumer@paoca.org)
NazAarah Sabree, Small Business Advocate (ra-sba@pa.gov)