

September 26, 2024

**Via E-Filing**

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

Re: Petition of PPL Electric Utilities Corporation for Approval of its Second Distributed Energy Resources Management Plan, Docket No. P-2024-3049223; **Joint Solar Parties' Petition for Certification of Petition for Interlocutory Review and Stay of Order**

Dear Secretary Chiavetta:

Attached for electronic filing, please find the Joint Solar Parties' Petition for Certification of Petition for Interlocutory Review and Stay of Order in the above-referenced proceeding.

Copies will be provided in accordance with the attached Certificate of Service.

If you have any questions, please contact me at (202) 213-1672.

Respectfully submitted,



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Attachments

cc: The Honorable John M. Coogan (via e-mail; w/attachments)  
Service List

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Direct Testimony by the Joint Solar Parties and William Stahlman upon the parties listed below via electronic mail, in accordance with the requirements of 52 Pa. Code § 154 (relating to service by a party):

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Dated this 26<sup>th</sup> day of September, 2024

/s/ Bernice I. Corman

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation for :  
Approval of its : Docket No. P-2024-3049223  
Second Distributed Energy :  
Resources Management Plan :

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**PETITION BY THE  
JOINT SOLAR PARTIES  
FOR  
INTERLOCUTORY REVIEW AND STAY OF ORDER**

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Pursuant to Section 5.304 of the Pennsylvania Public Utility Commission’s (“Commission’s”) regulations, 52 Pa. Code § 304 and 66 Pa. C.S. § 333(h) of the Pennsylvania Public Utility Code, American Home Contractors, Inc. (“AHC”), Enphase Energy, Inc. (“Enphase”), the Solar Energy Industries Association (“SEIA”), SolarEdge Technologies, Inc. (“SolarEdge”), Sun Directed, Tesla, Inc. (“Tesla”), and Trinity Solar, LLC (“Trinity Solar”) (collectively, the “Joint Solar Parties,” “JSPs” or “Protestants”) hereby petition Administrative Law Judge Coogan to certify for Interlocutory Review of his Order Granting Motion to Compel entered on September 24, 2024, and further petition Judge Coogan to Stay his order pending interlocutory appeal, as follows:

1. The Order requires immediate production of materials and information that are trade secret and confidential commercial information but sets forth no restraints on how the disclosed information may be used by the multiple parties in this litigation.
2. The grounds for Review are, as more fully argued in the Joint Solar Parties’ September 16, 2024 Answer to the Motion of PPL Electric Utilities Corporation to Dismiss Objections and Compel Responses that was also before this tribunal:

- a. Whether the Order's compelled and unrestricted disclosure of trade secret and confidential commercial information steps not only into a web of pricing agreements between the JSPs and third parties, as well as between and among the JSPs, but also treads upon concerns that competitors not share sensitive pricing information with one another;
  - b. Whether the JSPs' provision of publicly available information could negate the need in some instances for the JSPs' production of sensitive information pursuant to a protective order;<sup>1</sup> and
  - c. Whether the Order's compelled disclosure could put the JSPs in breach of their contractual obligations.<sup>2</sup>
3. The grounds for the Stay are:
- a. That without issuance of a stay pending certification for interlocutory review, the Joint Solar Parties' compelled disclosure of trade secret and confidential commercial information will cause them irretrievable and irreparable damage, especially in light of the lack of limits on uses of the disclosed information;
  - b. That despite their diligent efforts, the JSPs may require additional time beyond September 27<sup>th</sup> to implement the actions compelled by the Order, including pertaining to their Non-Disclosure Agreements ("NDAs"); and

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<sup>1</sup> See JSPs' Answer, n. 8, citing, e.g., *Spring Pharms., LLC v. Retrophin, Inc.*, 2019 U.S. Dist. LEXIS 133316 (E.D. Pa. 2019) (denying a subpoena where responsive information could be obtained through other means that did not impose undue burden).

<sup>2</sup> Many of the Non-Disclosure Agreements that the JSPs have identified thus far provide that parties ordered to disclose covered material are not in breach of their NDAs under specified circumstances, including that if upon receipt of an Order compelling disclosure, the party notifies the NDA party in writing of the Order, gives the NDA party the opportunity to contest disclosure or seek an appropriate protective order, and cooperates with the NDA party in narrowing the scope of the disclosure. See the JSPs' Answer, Appendix B.

- c. That the parties to the litigation are in fact diligently negotiating the terms of a protective order, including still doing so today, which, if entered, will provide an appropriate structure with which to protect the disclosure of trade secret and confidential commercial information.

WHEREFORE, the Joint Solar Parties respectfully request that Judge Coogan certify their Petition for Interlocutory Review and grant their request for a stay pending review.

In the event that the Order is not stayed, then the Joint Solar Parties request that subject to further Order by Judge Coogan or the Commission or agreement of the parties, the documents and information produced may not be disclosed to any person other than the counsel to whom they are being produced and may not be used for any purpose other than review by such council.

Respectfully submitted,

The Joint Solar Parties

By their Attorney:



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Dated: September 26, 2024