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December 23, 2024

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

**RE: Petition of PPL Electric Utilities Corporation for a Waiver of the Distribution System
Improvement Charge Cap of 5% of Billed Revenues; Docket No. P-2024-3048732**

Dear Secretary Chiavetta:

Attached please find for filing with the Pennsylvania Public Utility Commission the Reply Exceptions of the PP&L Industrial Customer Alliance ("PPLICA") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare'.

Adeolu A. Bakare
MCNEES WALLACE & NURICK LLC

Counsel to the PP&L Industrial Customer Alliance

c: Administrative Law Judge Arlene Ashton (via e-mail)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

Dated this 23rd day of December, 2024, at Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities	:	
Corporation for Waiver of the	:	
Distribution System Improvement	:	Docket No. P-2024-3048732
Charge Cap of 5% of Billed Revenues	:	

**REPLY EXCEPTION OF
THE PP&L INDUSTRIAL CUSTOMER ALLIANCE**

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Dated: December 23, 2024

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I. INTRODUCTION

On April 26, 2024, PPL Electric Utilities Corporation, Inc. ("PPL" or "Company"), filed a Petition requesting that the Pennsylvania Public Utility Commission ("Commission") waive the Company's Distribution System Improvement Charge ("DSIC") cap of 5% of billed revenues and increase the maximum allowable DSIC to 9% for bills rendered on or after January 1, 2025.¹ On July 10, 2024, the PP&L Industrial Customer Alliance ("PPLICA")² filed a Petition to Intervene. On July 25, 2024, Administrative Law Judge ("ALJ") Arlene Ashton issued an Order granting PPLICA's Petition to Intervene.

PPLICA received the Company's Direct Testimony filed with the Petition on April 26, 2024. Pursuant to the procedural schedule, on July 18, 2024, PPLICA received Direct Testimony from the following parties: the Office of Consumer Advocate ("OCA"); the Office of Small Business Advocate ("OSBA"); and the Bureau of Investigation and Enforcement ("I&E").

On August 13, 2024, PPLICA received Rebuttal Testimony from PPL. On August 27, 2024, PPLICA received Surrebuttal Testimony from OCA, OSBA, & I&E. On August 30, 2024, PPLICA received Rejoinder Testimony from PPL.

ALJ Ashton presided over an evidentiary hearing on September 3, 2024, where parties submitted testimony and exhibits into the record by way of stipulation and verification. On October 1, 2024, PPLICA received Main Briefs from PPL, OCA, OSBA, and I&E. On October 15, 2024, PPLICA filed a Reply Brief and received Reply Briefs from PPL, OCA, OSBA, and I&E.

¹ *Petition of PPL Electric Utilities Corporation for Waiver of the Distribution System Improvement Charge Cap of 5% of Billed Revenues*, Docket No. P-2024-3048732 (Apr. 26, 2024) (hereinafter, "Petition").

² PPLICA's compilation is listed on the cover page of its Reply Brief.

On November 21, 2024, the presiding Administrative Law Judge issued a Recommended Decision ("RD") recommending that the Commission deny PPL's Petition. PPL filed Exceptions to the RD on December 11, 2024, arguing that the ALJ erred in recommending denial of the Petition and further claiming that the presiding ALJ erred in relying on PPLICA's Reply Brief.

II. REPLY EXCEPTION

PPLICA Reply to PPL Electric Exception No. 3: The RD appropriately referenced PPLICA's Reply Brief and further did not rely on PPLICA's Reply Brief in disposing of PPL's Petition (RD at 30, 42-43).³

PPL's argument that the ALJ erred in relying on PPLICA's Reply Brief is in error. As determined by the ALJ in the Order, a party to a proceeding may file a Reply Brief responding to issues raised in an Initial Brief. Petition of PPL Electric Utilities Corp. for a Waiver of the Distribution System Improvement Charge Cap of 5% of Billed Revenues, Docket No. P-2024-3048732 (Order dated Nov. 14, 2024) ("Order on Motion to Strike"). Accordingly, the Commission should reject PPL's Exception No. 3.

PPL's argument is predicated on its assertion that PPLICA "waived its right to assert an issue not addressed during the proceeding or in post hearing Initial Briefs." PPL Exceptions at 21. However, PPLICA did not assert any issue in its Reply Brief. Rather, PPLICA responded to an issue asserted by I&E in its Main Brief, which is permitted pursuant to Section 5.502 of the Commission's regulations. PPL errantly cites to cases where parties raised entirely new issues that were not raised in Main Brief. For example, in the *Apollo Gas* case, the Commission concurred with an Order from the presiding ALJ striking portions of the Reply Brief filed by Equitable Gas because Equitable offered a new argument related to an alternative path for the pipeline proposed

³ While PPLICA is filing only a Reply to PPL's Exception No. 3, this limited Reply Exception should not be construed as support for PPL's Exception Nos. 1 or 2. PPLICA concurs with the findings in the RD.

by the applicant. *Application of Apollo Gas*, 1994 Pa. PUC LEXIS 45, at *7. However, even in that case, the Commission clarified that "Litigants are afforded the opportunity to file a Reply Brief to respond to issues raised in Main Briefs." *Id.* Here, where PPLICA did not assert an independent argument, but rather relied on the record evidence in this proceeding to oppose a proposal asserted by I&E, it was entitled to file a Reply Brief to such effect.

The Commission should also note that PPL misrepresents the RD in stating that the ALJ "relied" on PPLICA's Reply Brief in rejecting the Petition. *See* PPL Exceptions at 21. To be clear, the Commission may rely on reply briefs based responding to arguments from parties' main briefs, and thus the presiding ALJ was not prohibited from relying on PPLICA's Reply Brief. *See* 52 Pa. Code § 5.502. However, while the RD referenced PPLICA's Reply Brief, the RD in this case relied on the arguments advanced by the I&E and OCA witnesses. *See* RD at 42.

PPL's Exception No. 3 is in error and contrary to due process rights afforded to litigants under Pennsylvania law. Accordingly, the Commission must deny PPL's Exception No. 3.

III. CONCLUSION

WHEREFORE, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission deny PPL's Exception No. 3.

Respectfully submitted,

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