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E-File

April 7, 2025

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120-3265

**Re: Initiative to Review and Revise the Existing Low-Income Usage
Reduction Program (LIURP) Regulations at 52 Pa. Code §§ 58.1-58.18
Docket No. L-2016-2557886**

Dear Secretary Chiavetta:

Enclosed for filing on behalf of PPL Electric Utilities Corporation ("PPL Electric") is an Answer to the Pennsylvania Coalition of Local Energy Efficiency Contractors, Inc.'s ("PA-CLEEC") Petition for Reconsideration, Amendment, and Clarification in the above-referenced proceeding.

Pursuant to 52 Pa. Code § 1.11, the enclosed document is to be deemed filed on April 7, 2025, which is the date it was filed electronically using the Commission's E-filing system.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael J. Shafer", is written over a light blue horizontal line.

Michael J. Shafer

Enclosure

cc via email: Certificate of Service
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CERTIFICATE OF SERVICE

(Docket No. L-2016-2557886)

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

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Date: April 7, 2025



Michael J. Shafer

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Initiative to Review and Revise the :
Existing Low-Income Usage Reduction : Docket No. L-2016-2557886
Program (LIURP) Regulations at 52 Pa. :
Code §§ 58.1 – 58.18 :

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO
THE PENNSYLVANIA COALITION OF
LOCAL ENERGY EFFICIENCY CONTRACTORS, INC.’S
PETITION FOR RECONSIDERATION, AMENDMENT, AND CLARIFICATION**

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), pursuant to 52 Pa. Code §§ 5.61 and 5.572, hereby respectfully submits this Answer to the Petition for Reconsideration, Amendment, and Clarification (“Petition”) filed by the Pennsylvania Coalition of Local Energy Efficiency Contractors, Inc. (“PA-CLEEC”) on March 28, 2025, in the above-captioned proceeding.

As explained herein, the Pennsylvania Public Utility Commission (“Commission”) should deny PA-CLEEC’s Petition because reconsideration, amendment, and clarification of the Commission’s March 13, 2025 Order is unwarranted and unjustified. The basic thrust of PA-CLEEC’s Petition is that the Commission purportedly overlooked and failed to consider certain arguments by PA-CLEEC. That is incorrect. Across the Commission’s 311-page March 13, 2025 Order, the Commission fully evaluated and ultimately denied PA-CLEEC’s proposals that are the subject of its Petition. The fact that the Commission rejected PA-CLEEC’s arguments does not mean that the Commission overlooked or failed to consider them. Accordingly, PA-CLEEC’s Petition should be denied.

I. INTRODUCTION AND BACKGROUND

1. 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. PPL Electric furnishes electric distribution, transmission, and provider of last resort electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of 29 counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

2. On December 16, 2016, the Commission issued a Secretarial Letter announcing its intent to conduct a rulemaking to modify the existing Low-Income Usage Reduction Program (“LIURP”) regulations at 52 Pa. Code §§ 58.1-58.18. In the Secretarial Letter, the Commission identified a number of topics relating to LIURP and posed 14 questions to which the Commission solicited responses from interested stakeholders. The Secretarial Letter directed interested parties to submit their responses within 30 days of the date that the Secretarial Letter was published in the *Pennsylvania Bulletin*, and provided that reply responses were due 30 thereafter.¹ The Commission would consider the responses from the stakeholders in determining the scope of the future rulemaking. Several interested parties, including PPL Electric, filed Comments and Reply Comments in response to the Secretarial Letter.

3. On May 18, 2023, the Commission issued its Notice of Proposed Rulemaking (“NOPR”) setting forth proposed amendments to its LIURP regulations at 52 Pa. Code §§ 58.1-58.18. The NOPR directed interested parties to file Comments within 45 days following publication in the *Pennsylvania Bulletin* and Reply Comments within 30 days following the due

¹ The Secretarial Letter was published in the *Pennsylvania Bulletin* on December 31, 2016. Accordingly, initial responses to the Secretarial Letter were due by January 30, 2017, and reply responses were due by March 1, 2017.

date for Comments. After the Commission received a tolling memorandum from the Office of Attorney General on September 29, 2023, the NOPR was published in the *Pennsylvania Bulletin* on December 2, 2023. Accordingly, Comments were due by January 16, 2024, and Reply Comments are due by February 15, 2024.

4. On January 16, 2024, PPL Electric and other interested parties filed Comments on the NOPR.

5. On February 15, 2024, PPL Electric and other interested parties filed Reply Comments.

6. On March 13, 2025, the Commission entered its Final-Form Rulemaking Order.

7. On March 28, 2025, PA-CLEEC filed its Petition for Reconsideration, Amendment, and Clarification of the March 13, 2025 Order.

8. For the reasons explained below, PA-CLEEC's Petition should be denied.

II. LEGAL STANDARDS

9. The Commission's standard for reviewing petitions for reconsideration following final orders is set forth in *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 559, 1982 Pa. PUC LEXIS 4 (Order dated Dec. 17, 1982) (emphasis added):

A petition for rehearing, under the provisions of 66 Pa C.S. § 703(f), properly must seek the reopening of the record for the introduction of additional evidence of some sort. As grounds therefore it must allege newly discovered evidence, not discoverable though the exercise of due diligence prior to the close of the record. *Public Utility Commission v Reading Co.* (1975) 21 Pa Cmwlt 334, 338, 345 A2d 311; *Mobilfone v Pennsylvania Pub. Utility Commission* (1975) 24 Pa Cmwlt 243, 355 A2d 611; *Abramson v Pennsylvania Pub. Utility Commission* (1980) 489 Pa 267, 414 A2d 60.

...

A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code

section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was said that “[p]arties ... cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them...” What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.

10. Consequently, for a petition to warrant reconsideration by the Commission, it must demonstrate new and novel arguments that were raised below by the petitioner, but not previously considered by the Commission. The Commission has cautioned that the last portion of the operative language of the *Duick* standard -- “by the Commission” -- focuses on the deliberations of the Commission, not the arguments of the parties. *See Pa. PUC v. PPL Elec. Utils. Corp.*, Docket No. R-2012-2290597, at 3 (Order entered May 22, 2014). Therefore, a petition for reconsideration cannot be used to raise new arguments or issues that should have been, but were not, previously raised.

11. A petition seeking relief under the *Duick* standard may properly raise any matter designed to convince the Commission that it should exercise its discretion to rescind or amend a prior order in whole or in part. Importantly, however, the *Duick* standard does not permit a petitioner to raise issues and arguments considered and decided below such that the petitioner obtains a second opportunity to argue properly resolved matters. *Id.*

12. Further, as explained by the Pennsylvania Supreme Court, petitions for reconsideration of a final agency order may only be granted judiciously and under appropriate circumstances because such action results in the disturbance of final agency orders. *City of Pittsburgh v. Pa. Dep’t of Transp.*, 490 Pa. 264, 416 A.2d 461 (1980).

13. As explained in the following section, PA-CLEEC’s Petition fails to meet this legal standard and, therefore, should be denied.

III. ARGUMENT

14. In its Petition, PA-CLEEC requests the following:

- a. “[R]econsider and clarify the Final Order in this proceeding as requested herein by establishing a minimum statewide LIURP budget floor, and provide a meaningful process for the review and possible objection to the terms and conditions of proposed [Requests for Proposal (‘RFPs’)] implementing LIURP/[Universal Service and Energy Conservation Plans (‘USECPs’)] *before they are issued to potential bidders*, and granting PA CLEEC such other relief as may be just and reasonable under the circumstances.”²

15. As explained in the following sections, the Commission should reject these requests and deny PA-CLEEC’s Petition.

A. **PA-CLEEC’S PETITION FAILS TO MEET THE *DUICK* STANDARD FOR RECONSIDERATION**

16. The Commission should deny PA-CLEEC’s Petition because it fails to meet the *Duick* standard for reconsideration.

17. All of the issues set forth in PA-CLEEC’s Petition either were previously raised or could have been raised by PA-CLEEC in its Comments or Reply Comments in this proceeding.

1. **The Commission Previously Considered and Rejected PA-CLEEC’s Recommendation to Establish a Minimum Statewide LIURP Budget Floor**

18. The Commission should deny, once again, PA-CLEEC’s proposal to establish a minimum LIURP funding floor equal to 1% of an EDC’s jurisdictional revenues.

² PA-CLEEC Petition at 14 (emphasis in original).

19. In its Comments, PA-CLEEC argued in favor of its LIURP budget proposal at length, claiming, among other things, that “[h]igher budgets are needed so that at least 10% of eligible customers per year can receive LIURP services.” (See PA-CLEEC Comments at 5-8.)

20. The Commission then rejected PA-CLEEC’s proposal after evaluating PA-CLEEC’s and other parties’ arguments in depth. See March 13, 2025 Order at 117-19, 123.

21. Even if the Commission considers, once again, the merits of PA-CLEEC’s proposal, the Commission should reject it.

22. As explained in PPL Electric’s Reply Comments, LIURP’s budget should be driven by the demand for LIURP projects in an EDC’s service territory, the availability of ESPs to conduct those projects in the service territory in a timely and cost-effective manner, and the interest of ratepayers who are ultimately responsible for paying for the costs associated with those projects. (PPL Reply Comments at 6.) Also, in the Company’s experience, the need for LIURP projects does not equal customers’ interest in pursuing LIURP projects. (PPL Reply Comments at 6.) The availability of quality energy service providers (“ESPs”) that can perform the LIURP jobs also varies across EDCs’ service territories. (PPL Reply Comments at 6.) Therefore, as the Commission correctly concluded in its March 13, 2025 Order, the development of LIURP budgets should be left to the individual EDCs’ USECP proceedings, as opposed to setting a “uniformed floor budget of 1% of public utility jurisdictional revenues. March 13, 2025 Order at 123.

23. In addition, PA-CLEEC’s proposal inappropriately focuses on total jurisdictional revenues. Specifically, PA-CLEEC argues that “[m]aintaining a minimum LIURP budget based on 1% of jurisdictional revenues is a reasonable step toward establishing USECPs that provide services to all eligible households within a reasonable period of time.” (PA-CLEEC Petition at 10.) However, only residential customers will be paying for the LIURP-associated costs, and the

amount of jurisdictional revenue from the residential customer class varies among the EDCs and natural gas distribution companies (“NGDCs”), given the different customer counts and usage characteristics in their service territories. (PPL Reply Comments at 6.) Thus, by setting a 1.00% budget floor based on total jurisdictional revenues, the dollar-for-dollar impact on residential customers across the EDCs’ and NGDCs’ service territories would vary significantly.³ (PPL Reply Comments at 6.)

24. Lastly, PA-CLEEC improperly raises a new proposal in its Petition that could have been raised in its Comments or Reply Comments. PA-CLEEC avers that “[i]f PA-CLEEC’s recommendation for a modest 1% floor for LIURP budgets was adopted as a common sense and practical way of addressing systemic underfunding, PA-CLEEC would not object to a provision allowing utilities to make a case for waiver of a minimum budget floor requirement, where it can be shown the budget is excessive and unnecessary and would unduly impact customer rates.” (PA-CLEEC at 10.) PA-CLEEC could have raised, but chose not to raise, this “waiver” recommendation in its Comments or Reply Comments. Accordingly, the Commission should deny PA-CLEEC’s waiver proposal outright.

25. Notwithstanding, to the extent that the Commission considers this recommendation, the Commission should reject it on the merits. EDCs already have to justify their LIURP budgets in their USECP proceedings, thereby making this proposed waiver process cumbersome and a waste of time and resources.

³ PPL Electric recognizes that NGDCs’ LIURPs currently have a funding floor of 0.2% of jurisdictional revenues. See 52 Pa. Code § 58.4(a). However, even if a funding floor for EDCs based on a percentage of total jurisdictional revenues were appropriate, which it would not be for the reasons set forth in the Company’s Reply Comments and this Answer, PA-CLEEC’s proposal would be a substantial and unreasonable increase (*i.e.*, from the 0.2% of total jurisdictional revenues to 1.0% of total jurisdictional revenues). (PPL Reply Comments at 6 n.2.)

2. The Commission Already Rejected PA-CLEEC’s Recommendations Concerning the Low-Income Usage Reduction Program’s (LIURP) Request for Proposal (RFP) Process

26. The Commission should reject PA-CLEEC’s recommendations regarding the LIURP RFP process as well.

27. PA-CLEEC already argued, in detail, about alleged improvements that need to be made to the RFP process for selecting LIURP contractors. *See* PA-CLEEC Comments at 9-12.

28. For example, PA-CLEEC recommended that “each utility’s USECP (or any Petition to amend the USECP that impacts the RFP) include a draft RFP, as defined in the LIURP regulations” as proposed by PA-CLEEC, “that would be used to implement the USECP that the Commission approves.” PA-CLEEC Comments at 11.

29. PA-CLEEC also proposed that “modifications to the utility’s previously used RFP should be described and justified by the utility in its USECP filing” and that “draft proposed RFPs should not be eligible for confidential or highly confidential classification by the utility.” PA-CLEEC Comments at 11.

30. PPL Electric and other interested parties responded to these recommendations in their Reply Comments, explaining why the Commission should reject them. *See, e.g.*, PPL Electric Reply Comments at 11.

31. In its March 13, 2025 Order, the Commission evaluated all these arguments and ultimately denied PA-CLEEC’s proposals, declaring:

We disagree with PA-CLEEC’s recommendation to require consultation when proposing making modifications to an RFP that would impact delivery of program services. We note that the PUC does not dictate the terms of a public utility’s RFP process. A public utility is, however, required to file a petition when seeking to make one or more modifications to an existing USECP including changes to its LIURP. This petition must be served on all parties to the existing USECP. Thus, entities would have the opportunity to

address their concerns as part of a public utility's committee or through filed answers to a petition, or both.

...

Regarding PA-CLEEC's recommendation to modify § 58.14b to include an evaluation of the RFP process in USECP proceedings, we decline to adopt this proposal. As noted by other stakeholders, the Public Utility Code does not direct the PUC to review or regulate the selection process for universal service program administrators beyond encouraging the use of qualified CBOs. We further note that the existing provision in § 58.7(c) requires public utilities to select qualified ESPs and we have proposed additional minimum requirements for ESP qualifications in this rulemaking. Accordingly, we decline to incorporate an RFP evaluation process as part of USECP proceedings, as suggested by PA-CLEEC.

March 13, 2025 Order at 136, 249.

32. Yet, PA-CLEEC once again asks the Commission to implement its proposed changes to the RFP process. PA-CLEEC Petition at 11-14.

33. As alleged justification for seeking reconsideration, amendment, and clarification of the Commission's ruling, PA-CLEEC generally avers that: (1) the Commission has authority to prescribe the requirements of an EDC's RFP process under Sections 102 and 1501 of the Public Utility Code; (2) the Commission's required qualifications for ESPs are not enough due to other potential concerns with an RFP process; and (3) "[t]he only reasonable solution is to provide the draft RFP to the public sufficiently in advance of issuing it, so that concerns about the RFP that affect the terms and/or implementation of the plan can be resolved *before* the RFP is issued and the USECP is inhibited." PA-CLEEC Petition at 11-14 (emphasis in original).

34. Even if the Commission were to consider PA-CLEEC's recommendations for a second time, the Commission should reject them.

35. As explained in PPL Electric's Reply Comments, the EDCs are the entities actually administering and implementing the USECPs, so it should be left to the public utilities' discretion

on how they should conduct their RFPs to review, evaluate, and award bids. (PPL Reply Comments at 11.)

36. Additionally, nothing in the Public Utility Code: (1) sets forth specifications on the use of an RFP process for selecting LIURP contractors; or (2) directs the Commission to review and evaluate the LIURP contractor contracts before they are executed. (PPL Reply Comments at 11.)

37. Furthermore, although the Commission may regulate a public utility’s “service,” well-established case law holds that the Commission cannot operate as the utility’s “super board of directors.” *Metro. Edison Co. v. Pa. PUC*, 437 A.2d 76, 81 (Pa. Cmwlth. 1981) (citations omitted). Absent express statutory to determine how public utilities should conduct their RFPs, as they do for many other facets of their business, the Commission should not establish parameters for the RFP process beyond prescribing the qualifications for ESPs.

38. For example, in Act 129 of 2008 (“Act 129”), the General Assembly specifically directed the Commission to implement: (1) “[p]rocedures to require that electric distribution companies competitively bid all contracts with conservation service providers”; and (2) “[p]rocedures to review all proposed contracts prior to the execution of the contract with conservation service providers to implement the plan.” 66 Pa. C.S. § 2806.1(a)(7)-(8). Pursuant to that express statutory authority, the Commission reviews and approves the major EDCs’ bid evaluation criteria before they are utilized by the EDCs in selecting Conservation Service Providers.⁴ Given the lack of similar language in the Public Utility Code for LIURP-related RFPs, the Commission should reject PA-CLEEC’s recommendation.

⁴ *Energy Efficiency and Conservation Program*, Docket No. M-2020-3015228, at 112-14 (Order entered June 18, 2020) (“*Phase IV Implementation Order*”). However, even then, the EDCs’ evaluations of the bids are confidential and only viewable by the Commission.

3. The Commission Addressed PA-CLEEC's Issues in this Proceeding and Did Not Reverse Its Commitment to Do So, as Alleged by PA-CLEEC

39. PA-CLEEC erroneously contends that the Commission “reversed” a “commitment” to “address[ing] PA-CLEEC’s LIURP budget and RFP process issues” in this proceeding. (PA-CLEEC Petition at 3.)

40. According to PA-CLEEC, the Commission broke that commitment by “rejecting all of PA-CLEEC’s common sense and practical resolutions for addressing these issues, declining to set statewide industry standards on some issues and in fact redirecting PA-CLEEC *back* to individual public utility proceedings for the issue of the level of LIURP budgets.” (PA-CLEEC Petition at 3.)

41. Evidently, PA-CLEEC believes that the Commission failed to address PA-CLEEC’s proposals simply because the Commission rejected them in this proceeding.

42. However, the Commission fully reviewed and considered PA-CLEEC’s proposals, along with several other parties’ arguments in opposition, and ultimately concluded that they should not be adopted. *See* March 13, 2025 Order at 85, 106-08, 117-19, 123, 133-34, 243-45, 247-49.

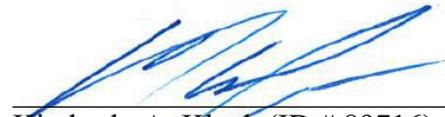
43. Although PA-CLEEC may be displeased with the Commission’s determination, PA-CLEEC cannot credibly claim, as it does in its Petition, that the Commission failed to address its arguments in this proceeding.

44. For these reasons, the Commission should deny PA-CLEEC’s Petition because it fails to meet the *Duick* standard for reconsideration.

IV. CONCLUSION

WHEREFORE, for all the foregoing reasons, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny the Petition for Reconsideration, Amendment, and Clarification filed by the Pennsylvania Coalition of Local Energy Efficiency Contractors, Inc.

Respectfully submitted,



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