



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Andrew S. Tubbs

atubbs@postschell.com
717-612-6057 Direct
717-731-1985 Direct Fax
File #: 140069

September 10, 2012


Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Petition of PPL Electric Utilities Corporation for an Evidentiary Hearing on the Energy Benchmarks Established for the Period June 1, 2013 through May 31, 2016
Docket No. P-2012-2320369

Dear Secretary Chiavetta:

Enclosed is the Answer of PPL Electric Utilities Corporation to the Petition to Intervene of Comverge, Inc. in the above-referenced proceeding. Copies have been provided to the persons in the manner indicated on the Certificate of Service.

Respectfully Submitted,



Andrew S. Tubbs

AST/jl

Enclosures

cc: Honorable Elizabeth Barnes
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

Johnnie E. Simms, Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
PO Box 3265
Harrisburg, PA 17105-3265

Shaun A. Sparks, Esquire
Krystle J. Sacavage, Esquire
Law Bureau
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17120

Pamela C. Polacek, Esquire
Adeolu A. Bakare, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108

Steven C. Gray Esquire
Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, PA 17101

Harry S. Geller, Esquire
Patrick M. Cicero, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Jeffrey J. Norton, Esquire
Carl R. Shultz, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
P.O. Box 1248
Harrisburg, PA 17101

Zachary Max Fabish, Esquire
Sierra Club
50 F. Street NW, 8th Floor
Washington, DC 20001

Joseph Otis Minott, Esquire
Clean Air Council
135 South 19th Street
Suite 300
Philadelphia, PA 19103

Heather M. Langeland, Esquire
PennFuture
425 Sixth Avenue, Suite 2770
Pittsburgh, PA 15219

James A. Mullins, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Date: September 10, 2012



Andrew S. Tubbs

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities
Corporation for an Evidentiary Hearing on
the Energy Efficiency Benchmarks
Established for the Period June 1, 2013
through May 31, 2016

Docket No. P-2012-2320369

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION
TO THE PETITION TO INTERVENE OF COMVERGE, INC.**

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

PPL Electric Utilities Corporation (“PPL Electric” or “Company”), pursuant to 52 Pa. Code § 5.66, hereby files this Answer in Opposition to the Petition to Intervene (“Petition”) filed by Comverge, Inc. (“Comverge”). Comverge seeks to intervene in the proceeding arising from PPL Electric’s August 20, 2012 Petition for Evidentiary Hearing relative to disputed issues of material fact regarding information relied upon by the Pennsylvania Public Utility Commission (“Commission”) in adopting the Company’s incremental consumption reduction target associated with the Phase II Energy Efficiency and Conservation Plan (“EE&C Plan”) pursuant to Act 129 of 2008 (“Act 129”), P.L. 1592, 66 Pa. C.S. §§ 2806.1 and 2806.2.¹ By way of general response, PPL Electric objects to Comverge’s intervention in this proceeding because it has failed to allege a right or interest justifying its intervention in this proceeding. PPL Electric answers each of the separately numbered paragraphs of the Petition as follows:

1. Denied. The averments set forth in Paragraph 1 of the Petition relate to and reference a statute, the terms of which speak for themselves. Any interpretation, characterization, or quotation thereof is denied.

¹ *Energy Efficiency and Conservation Program, Implementation Order*, at Docket Nos. M-2012-2289411 and M-2008-2069887 (Order Entered August 3, 2012) (“*Implementation Order*”).

2. Admitted. It is admitted that the Commission initially approved PPL Electric's Phase I EE&C Plan, with modifications, on October 26, 2009 and further revisions were approved in various subsequent orders.²

3. Denied in part and admitted in part. Certain averments set forth in Paragraph 3 of the Petition relate to and reference a statute, the terms of which speak for themselves. Any interpretation, characterization, or quotation thereof is denied. The dates related to the release of the statewide evaluator's ("SWE") baseline studies and market potential study as well as the date of the Commission's Tentative Implementation Order at Docket Nos. M-2008-2069887 and M-2012-2289411 are admitted.

4. Admitted. It is admitted that that the Commission's *Implementation Order* provided electric distribution companies ("EDC") with the ability to voluntarily continue demand response programs. By way of further response, the Commission determined that pursuant to Act 129, the Commission "may only impose additional peak demand reduction requirements if proven to be cost-effective." *Implementation Order* at 38. Therefore, the Commission stated that, "it is most prudent and most beneficial to ratepayers to await the results of the SWE's demand response study before proposing any potential future peak demand reduction targets." *Implementation Order* at 40. Therefore, in its *Implementation Order* the Commission stated that:

the Commission does not believe it has the authority, under 66 Pa. C.S. § 2806.1(d)(2), to propose any demand response program targets until a determination of cost-effectiveness has been completed. While we recognize the concerns of the parties, the Commission believes that it cannot mandate the inclusion of targets that may or may not be cost-effective to Pennsylvania ratepayers.

² See e.g., *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (Order Entered February 17, 2010); *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (Order Entered May 6, 2011).

Implementation Order at 42.

Therefore, the Commission expressly rejected requests to mandate peak demand reduction targets in the EDC's Phase II EE&C Plans.³ However, the Commission did encourage stakeholders to review the effectiveness of demand response programs and stated that those EDCs that voluntarily determine to establish new, or continue existing, cost-effective load management programs may file a petition with the Commission for approval of such programs under 66 Pa. C.S. § 1505(b). *Implementation Order* at 43. Therefore, through its *Implementation Order*, the Commission clearly stated that to the extent an EDC determines to offer demand response programs, the Commission will review such proposals in a separate proceeding and not as part of an EDC's Phase II EE&C Plan. Moreover, as noted by the Commission in its *Implementation Order*, PPL Electric agrees with the Commission that peak demand reductions should be excluded from EDC's Phase II EE&C Plans. *Implementation Order* at 36. Therefore, PPL Electric does not intend to offer peak demand reduction programs as part of the Company's Phase II EE&C Plan.

5. Admitted. By way of further response, PPL Electric notes that in setting EDC specific Phase II consumption reduction targets, the Commission expressly declined to set peak demand reduction targets and directed that if an EDC voluntarily seeks to continue to offer demand response programs, the EDC must seek Commission approval of such programs pursuant to 66 Pa. C.S. § 1505(b).

³ Pursuant to Act 129, during Phase I of the EDC's EE&C Plans, EDCs are required to reduce the total annual weather normalized electric consumption by three percent. ("consumption reduction target") 66 Pa. C.S. § 2806.1(c)(2). In addition, during Phase I, EDCs are required to reduce by a minimum of four and one-half percent of the EDC's annual system peak demand in the 100 hours of highest demand, measured against the EDC's peak demand during the period June 1, 2007, through May 31, 2008. ("peak demand target"). 66 Pa. C.S. § 2806.1(d)(1). Through its *Implementation Order*, the Commission has set Phase II consumption reduction targets for the EDCs. However, the Commission has expressly declined to set Phase II peak demand reduction targets based upon the Commission's ongoing evaluation as to the cost-effectiveness of the EDCs' Phase I demand response programs. *Implementation Order* at 40.

6. Admitted. By way of further response, PPL Electric notes that concurrent with its filing of a Petition for an Evidentiary hearing, the Company filed a Petition for Reconsideration of the Commission's *Implementation Order* and that this Petition is currently pending before the Commission.

7. Admitted in part and denied in part. It is admitted that Comverge is a conservation service provider in Pennsylvania that provides services to PPL Electric as part of the Company's Phase I EE&C Plan. PPL Electric is without sufficient knowledge or information to form an opinion as to the truth of the remainder of the averments contained in Paragraph 7, and therefore, they are denied.

8. Denied. Paragraph 8 of the Petition identifies Comverge's counsel in this proceeding, to which no response is required. To the extent a response is deemed necessary, PPL Electric denies the same.

9. Denied. The averments set forth in Paragraph 9 of the Petition relate to and reference the Commission's regulations, the terms of which speak for themselves. Any interpretation, characterization, or quotation thereof is denied.

10. Denied. Pursuant to the Commission's regulations, a petition to intervene may be filed by a person claiming, *inter alia*, an interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding. See 52 Pa. Code § 5.72(a). A petition to intervene must set out clearly and concisely, *inter alia*, the facts from which the alleged intervention right or interest can be determined, and the grounds of the proposed intervention. See 52 Pa. Code § 5.73(a). From the representations made in the Petition, Comverge has

demonstrated no interest, direct or otherwise, that can be affected by this proceeding in which it seeks to intervene.

In providing EDCs, and EDCs only, with the opportunity to contest the facts relied upon by the Commission in adopting Phase II consumption reduction targets, the Commission expressly stated that, “[t]he scope of any such proceeding will be narrow and limited to the consumption reduction requirement issue.” *Implementation Order* at 31. Therefore, the scope of this proceeding is specifically limited to PPL Electric’s challenge to its Phase II consumption reduction target tentatively established by the Commission in its *Implementation Order*. Specifically, in initiating this proceeding, the Company has clearly stated that it is not challenging its Phase II consumption reduction target. Instead, PPL Electric requested this proceeding as a protective measure in order to affirm that EDCs retain the right to challenge subsequent modifications to the Commission’s Technical Reference Manual (“TRM”) and to petition to modify their Phase II consumption reduction targets as a result of future changes to the TRM or other market changes that are not presently known.

In its Petition, Comverge expressly states that its interests in this proceeding relate to the continuation of demand response programs in the EDCs Phase II EE&C Plans and that it intends to “explain how the continuation of energy management programs will provide stability in reliability planning, capture significant benefits, and avoid waste at little added cost” and the benefits of demand response programs to consumers. Petition at 10. As noted above, pursuant to Act 129, the Commission has determined that it does not have the authority mandate the inclusion of peak demand reduction targets that may or may not be cost-effective to Pennsylvania ratepayers. Based upon this determination, the Commission rejected requests that it set peak demand reduction targets for the Phase II EE&C Plans. Moreover, the Commission

expressly limited the scope of this proceeding to “consumption reduction requirement issue.” *Implementation Order* at 31. Therefore, based on the representations made in the Petition, Comverge has no interest, direct or otherwise, that can be affected by this proceeding in which it seeks to intervene.

11. Denied. As addressed in PPL Electric’s response to Paragraph 10, which is incorporated herein by reference as if stated in its entirety, the scope of this proceeding is expressly limited to the issues raised by PPL Electric’s in its Petition for an Evidentiary Hearing. Further, the Commission expressly declined to mandate peak demand response targets as part of the EDC’s Phase II EE&C Plans. Moreover, the Commission stated that those EDCs that choose to voluntarily offer demand response programs may do so by filing a separate petition by which the Commission may evaluate its merits of such programs. For these reasons, Comverge’s stated concerns related to demand response programs is beyond the scope of this proceeding and fails to provide it with an interest, direct or otherwise, that can be affected by this proceeding in which it seeks to intervene.

12. Denied. PPL Electric incorporates its responses to Paragraphs 4,10 and 11 herein by reference as if stated in their entirety. By way of further response, in its *Implementation Order* the Commission set Phase II consumption reduction targets for each EDC, “based on the specific mix of program potential, acquisition costs and funding available under the 2% of revenue annual spending cap.” *Implementation Order* at 24. Further, the Commission expressly rejected requests that it set peak demand reduction targets for the EDCs’ Phase II EE&C Plans. *Implementation Order* at 40. Therefore, Comverge’s stated concern relative to the impact of PPL Electric’s expenditures to meet its Phase II consumption reduction targets on demand

response programs in the Company's service territory is irrelevant and fails to provide a "substantial" interest by which to grant Comverge's intervention in this proceeding.

13. Admitted in part and denied in part. PPL Electric admits that Comverge is on the Commission's Registry of CSPs. PPL Electric is without sufficient knowledge or information to form an opinion as to the truth of the remainder of the averments contained in Paragraph 13, and therefore, they are denied. By way of further response, PPL Electric incorporates its responses to Paragraph 12 herein by reference as if stated in its entirety.

14. Denied. It is denied that this proceeding will determine the consumption reduction target in the PECO service territory. By way of further response, the Commission has expressly limited the scope of this proceeding to addressing PPL Electric's consumption reduction target. *Implementation Order* at 31. As addressed in Paragraph 10 above and incorporated herein by reference in its entirety, PPL Electric is not challenging the Phase II consumption reduction target set by the Commission in its *Implementation Order* but instead seeks to affirm that EDCs retain the right to challenge subsequent modifications to the Commission's TRM and to petition to modify their Phase II targets as a result of future changes to the TRM or other market changes that are not presently known. As Comverge's stated concerns relate solely to demand response programs, the determination as to whether EDCs may challenge subsequent modifications to the TRM or seek to modify their consumption reduction target in the future, is irrelevant to present or future EDC demand response programs.

15. Denied. PPL Electric is without sufficient knowledge or information to form an opinion as to the truth of the averments contained in Paragraph 15, and therefore, they are denied. By way of further response, based upon its representations it is clear that Comverge's sole interest in this proceeding is the continuation of demand response programs in PPL

Electric's Phase II EE&C Plan. However, as addressed previously, the Commission expressly declined to set peak demand reduction targets for the EDCs' Phase II EE&C Plans. In addition, the Commission stated that EDCs may voluntarily seek to offer demand response programs by filing petitions pursuant to 66 Pa. C.S. § 1505(b). Comverge's Petition should be denied as it has no interest, direct or otherwise, that can be affected by this proceeding in which it seeks to intervene.

16. Denied. PPL Electric is without sufficient knowledge or information to form an opinion as to the truth of the averments contained in Paragraph 16, and therefore, they are denied.

17. Denied. PPL Electric is without sufficient knowledge or information to form an opinion as to the truth of the averments contained in Paragraph 17, and therefore, they are denied. By way of further response, as Comverge's stated interests in this proceeding are limited to issues involving demand response programs, as such, Comverge has no interest, direct or otherwise, that can be affected by this proceeding in which it seeks to intervene. Moreover, based upon Comverge's representations, its participation is not in the public interest.

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that Petition to Intervene of Comverge, Inc., be denied.

Respectfully submitted,

Paul E. Russell (ID # 21643)
Associate General Counsel
PPL Services Corporation
Office of General Counsel
Two North Ninth Street
Allentown, PA 18106
Phone: 610-774-4254
Fax: 610-774-6726
E-mail: perussell@pplweb.com

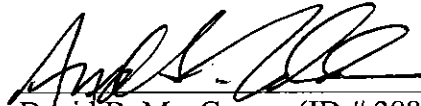
Matthew J. Agen
Post & Schell, P.C.
607 14th St. N.W.
Washington, DC 20005-2006
Phone: 202-347-1000
Fax: 202-661-6970
E-mail: matthewagen@postschell.com

Of Counsel:

Post & Schell, P.C.

Date: September 7, 2012

Attorneys for PPL Electric Utilities Corporation


David B. MacGregor (ID # 28804)
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
Phone: 215-587-1197
Fax: 215-320-4879
E-mail: dmacgregor@postschell.com

Andrew S. Tubbs (ID #80310)
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: atubbs@postschell.com