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September 10, 2012

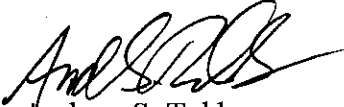
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

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 Clean Air Council and The Pennsylvania Chapter of the Sierra Club 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).

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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 CLEAN AIR COUNCIL AND THE
PENNSYLVANIA CHAPTER OF THE SIERRA CLUB.**

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 Clean Air Council (“CAC”) and the Pennsylvania Chapter of the Sierra Club (“Sierra Club”) (collectively referred to as “Petitioners”). The Petitioners seek 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 the Petitioners’ intervention in this proceeding because they have failed to comply with the Commission’s regulations regarding petitions to intervene, and have failed to allege sufficient facts to support their standing to participate in this proceeding. PPL Electric answers each of the separately numbered paragraphs of the Petition as follows:

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*”).

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.

2. Denied. PPL Electric is without sufficient knowledge or information to form an opinion as to the truth of the averments contained in Paragraph 2, and therefore, they are denied.

3. Admitted.

4. Admitted in part. It is admitted that the CAC and the Sierra Club filed comments on June 25, 2012. 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 4, and therefore, they are denied.

5. Denied. Based upon the findings of the statewide evaluator (“SWE”), as set forth in the SWE’s Market Potential Study, the Commission found that the benefits of a Phase II Act 129 program will exceed the costs. *Implementation Order* at 13. Therefore, the Commission adopted additional incremental consumption reduction targets in accordance with Act 129.

6. Admitted.

7. Admitted in part and denied in part. It is admitted that the CAC and the Sierra Club filed comments and reply comments at Docket No. M-2012-2289411. 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. Admitted in part and denied in part. It is admitted that that the Commission entered its *Implementation Order* on August 3, 2012. By way of further response, the Commission’s *Implementation Order* established individual consumption reduction targets for each electric distribution company (“EDC”). 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 8 relative to the factors relied upon by the Commission for setting the individual EDC consumption reduction targets, and therefore, they are denied.

It is also admitted that the Commission's *Implementation Order* provided EDCs with the ability to voluntarily continue demand response programs but that the Commission declined to set demand reduction targets as part of the Phase II EE&C Plans. 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.

Implementation Order at 42. Indeed, the Commission expressly rejected requests to mandate peak demand reduction targets in the EDC's Phase II EE&C Plans. 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.

9. Admitted. By way of further response, PPL Electric is not challenging the Phase II consumption reduction target set by the Commission in its *Implementation Order*. 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 targets as a result of future changes to the TRM or other market changes that are not presently known. 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.

10. Denied. The averments set forth in Paragraph 10 of the Petition are denied. The Petitioners have failed to sufficiently show that they have an adequate interest in this proceeding. 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).

Based on the representations made in the Petition, the Petitioners have no interest, direct or otherwise, that can be affected by this proceeding in which it seeks to intervene. Neither CAC nor the Sierra Club assert that they are customers of PPL Electric, consequently, there is no factual basis on which CAC or the Sierra Club can assert that their interests are or could be

affected by the outcome of this proceeding. In the absence of such an interest, CAC and the Sierra Club are not eligible to intervene in this proceeding. See 52 Pa. Code § 5.72(a). Therefore, because the Petition contains no statement of any interest, direct or otherwise, that could be affected by the outcome of this proceeding, the Petition does not comply with 52 Pa. Code § 5.73 and, on that basis alone, should be denied.

Instead, both the CAC and the Sierra Club purport to obtain standing through their members that reside within PPL Electric's service territory and are customers of PPL Electric. However, the Petition fails to comply with the requirements for representational standing. An association may have standing solely as a representative of its members. *Tripps Park v. Pa. PUC*, 415 A2d 967 (Pa. Cmwlth. 1980). However, to have representational standing before the Commission, the association must not only demonstrate an immediate direct and substantial interest or injury, it must also demonstrate either: (a) the representative will fairly and adequately represent those who have a sufficient interest, and that those entitled to complain are unable to adequately pursue their interests; or (b) there is a showing that the allowance of the representative's participation will aid the Commission in the development of facts necessary for a proper disposition of the proceedings. *Manufacturers Association of Erie v. The City of Erie-Bureau of Water*, Docket No. 20518, 50 Pa. PUC 43, 1976 Pa. PUC LEXIS 79 (1976). On the facts alleged, neither the CAC nor the Sierra Club have representational standing to represent the interests of customers in PPL Electric's service territory. Further, the Petition fails to allege how the Petitioner's participation will aid the Commission in the development of the facts necessary in this proceeding.

Moreover, the Petition fails to comply with the Commission's regulations regarding representational standing. Section 5.73(b) of the Commission's regulations provide that:

When circumstances warrant, petitions to intervene filed on behalf of more than one person may be required to list those persons and entities comprising the represented group.

52 Pa. Code § 5.73(b). Although the Petitioners have each attached a declaration by representatives of their respective organizations, both the CAC and the Sierra Club have failed to provide a list of its members as envisioned by the Commission's regulations. Therefore, consistent with 52 Pa. Code § 5.73(b), to the extent that the CAC and the Sierra Club claim to represent more than one person, the organizations should be required to list those persons and entities comprising the represented group, confirm whether the members are members of CAC or the Sierra Club, confirm that identified members are customers of PPL Electric, and confirm that it is authorized to represent the interests of those individuals in this proceedings.

11. Denied. The averments set forth in Paragraph 11 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.

12. Denied. The averments set forth in Paragraph 12 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.

13. Denied. The averments set forth in Paragraph 13 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.

14. Admitted.

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, PPL Electric incorporates its response to Paragraph 10 herein by reference as if stated in their entirety.

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 15, and therefore, they are denied. By way of further response, PPL Electric incorporates its response to Paragraph 10 herein by reference as if stated in their entirety.

18. Denied. PPL Electric is without sufficient knowledge or information to form an opinion as to the truth of the averments contained in Paragraph 18, and therefore, they are denied. By way of further response, PPL Electric incorporates its response to Paragraph 10 herein by reference as if stated in their entirety.

19. Denied. PPL Electric is without sufficient knowledge or information to form an opinion as to the truth of the averments contained in Paragraph 19, and therefore, they are denied. By way of further response, PPL Electric incorporates its responses to Paragraphs 9, 10 and 18 herein by reference as if stated in their entirety. Again, PPL Electric has not challenged its Phase II consumption reduction target as set by the Commission in its *Implementation Order*. Instead, the Company has raised issues concerning issues of material fact relied upon the Commission in making this determination – whether EDCs retain the right to challenge subsequent modifications to the TRM, and if EDCs are prohibited from requesting that its Phase II consumption reduction target be modified. Based on the representations made in the Petition,

the Petitioners have failed to state an interest, direct or otherwise, that can be affected by this proceeding in which it seeks to intervene.

20. Denied. The averments of Paragraph 20 of the Petition contain statements of the Petitioners' subjective intent in this proceeding. As such, they are not averments of facts, and therefore, no response is required. To the extent that a response is deemed necessary, PPL Electric denies the same. By way of further response, the Petition fails to provide, beyond a general statement of disagreement, any clear statement of interest to justify intervention in this proceeding. The Petitioner's bare assertion of general disagreement fails to meet the "clear and concise" standard set forth in Section 5.73(a) of the Commission's regulations.

21. Denied. PPL Electric is without sufficient knowledge or information to form an opinion as to the truth of the averments contained in Paragraph 21, and therefore, they are denied.


22. Denied. It is denied that no other active party represents the interests of the public in this proceeding. The Pennsylvania Office of Consumer Advocate intervened and has been active in this proceeding advocating on behalf of all PPL Electric's residential customers. In addition, the PP&L Industrial Customer Alliance has intervened and has been active in this proceeding advocating on behalf of PPL Electric's large industrial commercial and industrial customers. By way of further response, PPL Electric incorporates its response to Paragraph 9 herein by reference as if stated in their entirety.

23. Denied. It is specifically denied the CAC or the Sierra Club have sufficiently shown that they have an adequate interest in this proceeding. Moreover, as addressed in Paragraph 10 above, both the CAC and the Sierra Club have failed to comply with the requirements for representational standing.

24. Denied. Paragraph 24 of the Petition identifies the Petitioners' counsel in this proceeding, to which no response is required. To the extent a response is deemed necessary, PPL Electric denies the same.

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that Petition to Intervene of Clean Air Council and the Pennsylvania Chapter of the Sierra Club, be denied.

Respectfully submitted,



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Of Counsel:

Post & Schell, P.C.

Date: September 7, 2012

Attorneys for PPL Electric Utilities Corporation