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December 21, 2012

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

VIA ELECTRONIC FILING

RE: Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan; Docket No. M-2012-2334388

Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the Comments of the PP&L Industrial Customer Alliance ("PPLICA") in the above-referenced proceeding.

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

Sincerely,

McNEES WALLACE & NURICK LLC

By

Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

c: Administrative Law Judge Dennis J. Buckley (via First Class Mail and 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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Dated this 21st day of December, 2012, at Harrisburg, Pennsylvania

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	: : :	Docket No. M-2012-2334388

COMMENTS OF THE
PP&L INDUSTRIAL CUSTOMER ALLIANCE

I. INTRODUCTION

A. Act 129 History

On October 15, 2008, Governor Rendell signed into law House Bill 2200, or Act 129 of 2008 ("Act 129" or "Act"). Among other things, Act 129 expands the Pennsylvania Public Utility Commission's ("PUC" or "Commission") oversight responsibilities and sets forth new requirements on electric distribution companies ("EDCs")[1] for energy conservation, default service procurements, and the expansion of alternative energy sources.

Specifically, with regard to energy efficiency and conservation, Act 129 required EDCs to adopt a plan, approved by the Commission, to reduce electric consumption by at least 1% by May 1, 2011, and by at least 3% by May 31, 2013, adjusted for weather and extraordinary loads. 66 Pa. C.S. § 2806.1(c). In addition, by May 31, 2013, peak demand was to be reduced by a minimum of 4.5% 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 of June 1, 2007 through May 31, 2008. *See id.* § 2806.1(d). By November 30, 2013, Act 129 further required the Commission to evaluate the cost-effectiveness of EE&C programs. *See id.* § 2806.1(c)(3). If the benefits of the

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[1] As articulated in the Act, only EDCs with at least 100,000 customers are required to submit energy efficiency and conservation programs. *See* 66 Pa. C.S. § 2806.1, *et seq.*

programs exceeded the costs, then the Commission would impose additional reductions on the eligible EDCs. *See id.*

Consistent with the Act's requirements, on July 1, 2009, the largest Pennsylvania EDCs, including PPL Electric Utilities Inc. ("PPL" or "Company") filed energy efficiency and conservation ("EE&C") plans (*i.e.*, "Phase I EE&C plans") with the Commission. PPL's Phase I EE&C plan was adopted on October 26, 2009.

B. PUC Phase II Implementation Order

On August 2, 2012, the Commission issued an Implementation Order establishing the procedural and substantive requirements for EDCs' Phase II EE&C plans. Importantly, the Commission held that energy efficiency programs should continue into Phase II based on the SWE Market Potential Study showing that energy efficiency programs were cost-effective for consumers. Implementation Order, p. 12. The Commission further held that mandatory demand reduction programs should not be included in Phase II plans, because the cost-effectiveness of Phase I demand reduction programs could not be evaluated before Phase II implementation. Implementation Order, p. 40. In addition, the Commission stressed the importance of developing balanced Phase II EE&C plans, *i.e.*, plans that do not disproportionately impact specific customer classes. Implementation Order, p. 87. Finally, the Commission outlined the following plan in its Implementation Order:

> The Commission will publish a notice of each proposed plan in the *Pennsylvania Bulletin* within 20 days of its filing. In addition, the Commission will post each proposed plan on its website. An answer *along with comments* and recommendations are to be filed within 20 days of the publication of the notice in the *Pennsylvania Bulletin*. Each plan will be referred to an Administrative Law Judge (ALJ), who will establish a discovery schedule and hold a public input hearing(s) in the EDC's service territory upon request of any party, as well as an evidentiary hearing(s) on issues related to the EE&C plan. Such hearings are to be completed on or before the 65th day after a plan is filed, after which, the parties will have

> 10 days to file briefs. The EDC will then have 10 days to submit a revised plan or reply comments or both. The ALJ will then certify the record to the Commission.

Id. at 62 (emphasis added).

C. Brief Summary of PPL's Phase II EE&C Plan

On November 15, 2012, PPL petitioned the Commission for approval of its Phase II EE&C Plan ("Petition"). PPL's Phase II EE&C plan proposes to fulfill the requirements of Act 129 through the implementation of 17 energy efficiency programs for four of the Company's customer sectors – Residential, Small Commercial and Industrial ("C&I"), Large C&I,[2] and Governmental/Non-Profit/Institutional ("GNI"). *See* PPL Phase II EE&C Plan, pp. 23-25. Specifically, the Company has targeted eight programs for the residential sector, two programs for the Small C&I sector, two programs for the Large C&I sector, and five programs for Government/Non-profit customers. *See id.* PPL anticipates meeting its mandated Act 129 energy reduction of 821,072 MWh at a total overall cost to the Company's customers of approximately $186.7 million over the life of the Phase II Plan, which represents approximately two percent of the Company's annual revenue as of December 31, 2006 ($61.5 million) for each Program Year, plus a projected $3 million in expenses for the Commission-appointed Statewide Evaluator ("SWE"). *See* Petition at 7; *see also* PPL Phase II EE&C Plan, pp. 6, 177.

On December 6, 2012, the PP&L Industrial Customer Alliance ("PPLICA") filed a Petition to Intervene in this proceeding in order to protect its members' interests. PLLICA's Petition to Intervene was granted by ALJ Dennis J. Buckley at the December 10, 2012, Prehearing Conference.

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[2] Large C&I customers are defined by PPL as "those customers served at primary and transmission voltage levels through Rate Schedules LP-4, LP-5, LP-6, IS-P, IS-T, LPEP, ISA, PR-1 and PR-2." Petition, p. 11.

PPLICA is an *ad hoc* association of energy-intensive commercial and industrial customers receiving electric service in PPL's service territory. PPLICA members purchase service from PPL primarily under Rate Schedules LP-4, LP-5, LP-6, IS-P, and IS-T, as well as available riders.[3] PPLICA members collectively consume approximately 1.17 billion kWh of electricity annually in manufacturing and other operational processes, and electricity costs comprise a significant portion of their production costs. PPLICA members are therefore concerned with issues regarding the rates, terms and quality of their electricity service and, as a result, have been actively involved in numerous PPL proceedings, including litigated proceedings and stakeholder review of PPL's Phase I EE&C Plan.

Consistent with the process outlined in the Implementation Order and approved at the Prehearing Conference, PPLICA is submitting these Comments in order to address its preliminary positions and concerns regarding PPLICA's proposed EE&C Plan.[4] As an intervenor in the Commission's investigation of PPL's Phase II EE&C Plan, PPLICA intends to review the evidence set forth through discovery, testimony, and evidentiary hearings, and further substantiate its positions in a post-hearing brief. In addition, PPLICA reserves the opportunity to respond to issues raised by other parties in this matter.

[3] Some PPLICA members also have accounts on Rate Schedules GS-1 and GS-3.

[4] In energy-intensive industries, customers have an economic interest in ensuring that their facilities use electricity as efficiently as possible. As a result, larger customers like PPLICA's members have been pursuing efficiency initiatives for years, in many instances without government or ratepayer subsidies. Programs such as Act 129 introduce the possibility that manufacturers and businesses are paying mandatory surcharges to subsidize efficiency projects that are being pursued by their competitors and may interfere with the marketplace. As a result, PPLICA's Comments should not be construed as an agreement by any individual member that the underlying government mandate contained in Act 129 is appropriate.

II. COMMENTS

A. PPL's Phase II EE&C Plan Must Be Closely Monitored to Ensure Compliance With the Act 129 Requirements to Offer Energy Efficiency Programs to Customer Classes in an Equitable Manner.

Act 129 requires the Commission to establish "[s]tandards to ensure that each plan includes a variety of energy efficiency and conservation measures and will provide the measures equitably to all classes of customers." 66 Pa. C.S. § 2806.1(a)(5). In the Implementation Order, the Commission interpreted this mandate as requiring that "EDCs must offer a well-reasoned and balanced set of measures that are tailored to usage and to the potential for savings and reductions for each customer class." Implementation Order, p. 87. Fundamentally, it is important that classes neither receive a disproportionate share of EE&C Plan benefits nor bear a disproportionate cost burden in relation to the overall plan. To achieve this objective, PPL's Phase II EE&C Plan should reflect a reasonable balance between the revenues received from a customer class and the Phase II EE&C Plan budget allocated to such customer class.

With regards to the Large C&I customer class, PPL's proposed Phase II EE&C Plan appears reasonably balanced from a cost allocation standpoint. The costs associated with PPL's two Large C&I programs total approximately $38.2 million, comprising 20% of PPL's total program budget. PPL Phase II EE&C Plan, p. 26. This allocation reasonably aligns with cost causation principles, as PPL collects approximately 23% of total revenues from Large C&I customers.

However, the reasonableness of PPL's budget allocation cannot be conclusively determined at this time due to the unclear cost recovery methodology for cost allocated to GNI programs. GNI program costs total approximately $28.7 million, comprising 15% of PPL's Phase II EE&C budget. PPL Phase II EE&C Plan, p. 26. As indicated in the Phase II Plan and clarified in PPL's direct testimony, GNI costs are recovered from both Large C&I and Small C&I customers. *Id.*; *see also* PPL Stmt. No. 3., p. 7. Therefore, the $38.2 million allocation to Large C&I customers represents only part of the true allocation as Large C&I customers are also allocated a percentage of the $28.7 million GNI program budget.

In addition, the proposed Plan acquisition cost should closely track the service territory acquisition cost that was used by the Statewide Evaluator ("SWE") to develop the savings targets. This may help to ensure that a Plan is not overly reliant on a certain customer class. According to Table 5a, PPL's proposed Plan reflects an overall acquisition cost of $0.22 per kWh, which is roughly equivalent to the SWE's assumption. PPL Phase II EE&C Plan, p. 27.

This significant expenses proposed to be collected through PPL's Phase II EE&C Plan warrant scrupulous review of cost allocation methodologies to ensure that customers pay for Act 129 program expenses in proportion to their available benefits. Although EE&C Plans are primarily governed by statute, the Commission and all stakeholders should remain cognizant of the enormity of collecting an additional $61.5 million annually on top of traditional electric distribution rates. While PPL's Phase II EE&C Plan appears to follow the cost causation principles set forth in Act 129, PPLICA encourages the Commission to closely monitor PPL's cost allocation methodologies to ensure that implementation of PPL's Phase II EE&C does not create interclass subsidization.

B. The Cost Effectiveness of PPL's Proposed Phase II EE&C Plan and Individual Programs Remains Uncertain Due to the Pending SWE Audit and Commission Investigation into PPL's Currently Active Phase I EE&C Plan.

As acknowledged in the Implementation Order, the Commission faces the difficult task of structuring Phase II EE&C Plans prior to completion of the inaugural Phase I EE&C Plans. In assessing the cost effectiveness of Phase I EE&C Plans, the Commission relied upon the SWE

Market Potential Study based on "national trends in energy efficiency programs, Pennsylvania-specific circumstances and forward-looking cost estimates... ." Implementation Order, p. 14. Although the Commission adopted the Market Potential Study's finding that the "benefits of a Phase II Act 129 program will exceed the costs," the Commission also noted that "we cannot definitively determine whether the benefits of the Phase I EE&C Program exceeded its costs, as Phase I is not yet complete." *Id.* at 13. PPLICA agrees with the Commission's acknowledgement that the cost effectiveness of Phase I EE&C Plans remains uncertain and submits that any assessment of Phase II costs and benefits remains necessarily tenuous. Similarly, the cost effectiveness and design of the Phase I programs, many of which are being continued in Phase II, is uncertain at this time. Accordingly, with appreciation of the tremendous revenues associated with PPL's Phase II EE&C Plan, PPLICA fully intends to monitor the Commission's review of PPL's Phase I Plan and programs, and reserves all rights to Petition for changes to PPL's Phase II EE&C Plan.

In addition to the Market Potential Study relied upon by the Implementation Order, the Commission should condition any findings with regards to PPL's Phase II EE&C Plan upon the potential for further modification based upon its forthcoming SWE audit and Commission evaluation of Phase I EE&C Plans. On or around June 1, 2013. the SWE will audit all Phase I energy efficiency programs, including those within PPL's Phase I Plan that may be continued for Phase II. *See* Implementation Order, p. 70. Additionally, the Commission will complete an evaluation of Phase I EE&C Plans by November 30, 2013 and, as required by Act 129, determine "how the plan will be adjusted on a going-forward basis as a result of the evaluation." *Id.* at 13; *see also* 66 Pa. C.S. § 2806.1(b)(1)(i)(J). With Phase I continuing through May 31, 2013, the Phase I EE&C Plans, including PPL's, cannot be evaluated in their entirety prior to completion of this proceeding. As a result, the SWE audit and/or the Commission's evaluation may provide critical information regarding cost-effectiveness of these programs that has yet to be made available to stakeholders.

To ensure that PPL's Phase II Plan appropriately reflects any relevant findings from the SWE audit or the Commission's pending evaluation of Phase I EE&C Plans, PPLICA intends to review the SWE analysis related to the Large C&I programs. PPLICA will assess the cost-benefit results of the Large C&I programs based on actual results, and may, in the future, argue that the program design was inappropriate and contrary to the Act 129 requirements and goals. Accordingly, PPLICA reserves the right to challenge any such PPL programs based on the results of the 2013 SWE audit and Commission evaluation.

C. PPL's Cost Recovery Mechanism for Large C&I Customers Remains Appropriate.

PPL proposed to continue the Phase I cost recovery methodology during Phase II for Large C&I customers, clarifying that "[f]or large commercial and industrial ("Large C&I"), the cost recovery mechanism will be applied as a $/kW charge, as a separate line item on the customer's bill, where the demand (kW) is the customer's PJM Interconnection LLC Peak Load Contribution which may change yearly." PPL Stmt. No. 3, p. 7.

PPLICA supports PPL's proposed cost recovery mechanism and is satisfied that the demand charge approach for Large C&I customers is an appropriate, non-discriminatory mechanism for these large, energy-intensive customers. Furthermore, because the costs of the EE&C Plan are allocated based on customer class through Rate Schedule designations, the implementation of a per kW demand charge for the Large C&I class will not impact the cost allocation to other customer classes.

With respect to the calculation of Large C&I customer demand for purposes of PPL's Act 129 Cost Recovery ("ACR") charge, PPLICA also concurs with PPL's utilization of the PJM Interconnection, LLC ("PJM") Peak Load Contribution ("PLC") in order to provide consistent charges to customers as well as further encourage peak load reduction by both EE&C Plan participants and non-participants. Finally, because PLCs are determined once annually, a demand charge based on the PLC provides a consistent charge to customers and constant, reliable cost recovery for EDCs.

D. PPL's Phase II EE&C Plan Warrants Further Review to Evaluate the Reasonableness of Revenues Recovered From Customers and Allocated towards Non-Incentive Costs.

Act 129 includes various protections collectively designed to deliver customer benefits, including not only the aforementioned cost causation and cost effectiveness provisions, but also a related requirement that each EE&C Plan include an analysis of its administrative costs. While the Commission has adopted the Total Resource Cost ("TRC") Test as the cost/benefit metric for EE&C Plans, PPLICA submits that the Commission should additionally consider the ratio of customer incentive expenses to administrative or third-party expenses. In the case of PPL's Phase II EE&C Plan, it appears that the non-incentive costs comprise a significant percentage of PPL's program expenditures.

The ratio of customer incentives to overall program budgets for PPL's Phase II EE&C Plan raises questions regarding the overall program benefit flowing to customers. Through the proposed Phase II EE&C Plan, PPL anticipates providing customer incentives totaling \$91.7 million, while collecting \$186.7 million from customers. PPL Phase II EE&C Plan, p. 174. On a percentage basis, the customer incentives amount to 49% of PPL's Phase II expenditures. The remaining EE&C revenues from customers are allocated amongst the following cost elements of PPL's Phase II Plan: (1) \$6.5 million for PPL's labor, materials, and supplies costs; (2) \$33.4

million in common costs; and (3) $55 million for contractor labor, materials, and supplies. *Id.* In other words, half of the $186.7 million dollars that will be collected during PPL's Phase II Plan is going to new PPL activities that did not exist prior to Act 129 or subsidizing the business endeavors of the third party contractors.

The level of incentive benefits provided to customers is particularly concerning due to the high levels of participant costs paid by Large C&I customers in addition to the EE&C rates collected through PPL's ACR charge. Of the $91.7 million in customer incentive payments projected for PPL's Phase II EE&C, $21.1 million will benefit Large C&I customers. PPL Phase II EE&C Plan, p. 173. However, since the TRC includes all costs, whether funded by program incentive payments or customer (participant) contributions, PPL provides the anticipated participant contributions of each customer class. The below table compiles data from Table 6A in PPL's Phase II Plan to illustrate the apparent disparity between Large C&I incentive payments and participant contributions:

	Incentive Payments from PPL's Phase II EE&C Plan	**Participant Contribution**	**Ratio of Participant Contribution to Incentive Payments**
		$ Millions	
Residential	25.6	29.6	116%
Small C&I	27.4	29.3	107%
Large C&I	21.1	**59.4**	**282%**

According to PPL's projections, Large C&I customers will pay $60 million dollars in participant contributions, which equates to 282% more than the $21.1 million incentive payments to be received through PPL's Phase II programs. *Id.* By way of comparison, projected Small C&I and

Residential class participant contributions total 107% and 116% of their projected incentive payments. *Id.* at 172-73.

PPLICA appreciates the statutory mandates binding the Commission and PPL with regards to administration of Act 129 and compliance with the established energy reductions. Nevertheless, as a general matter of public interest, it is critical that PPL utilize funds collected through its Phase II EE&C program as efficiently as possible with as much flowing back through customer incentives as possible in order to mitigate the economic impact of collecting such substantial revenues from customers over an additional three years.

E. PPL's Phase II EE&C Plan Should Reflect the Joint Petition for Settlement at Docket No. M-2009-2093216.

On April 30, 2012, PPL, PPLICA, and the Sustainable Energy Fund of Central Eastern Pennsylvania ("SEF") entered into a Joint Petition for Settlement ("Settlement") resolving issues raised in response to a Petition of for Approval of Changes to PPL's Phase I EE&C Plan filed with the Commission on February 2, 2012, at Docket No. M-2009-2093216 ("Petition for Phase I Changes"). PPLICA, SEF, and other parties filed Comments to the Petition for Phase I Changes on March 7, 2012. PPLICA's Comments expressed concerns with several proposed modifications to PPL's Phase I Plan and specifically alleged that PPL's proposal to modify the rebate and eligibility requirements for its C&I Custom Incentive Program technical studies resulted in inequitable rebates for Large C&I customers. Due to the limited duration and funding remaining for PPL's Phase I C&I Custom Incentive Program, PPLICA and PPL consented to address PPLICA's concerns within the context of PPL's Phase II EE&C Plan.

Through the Settlement filed with the Commission on August 30, 2012, PPLICA and PPL agreed to consider PPLICA proposals regarding appropriate rebates for technical studies as part PPL's Phase II Plan. Specifically, the Settlement provides that:

> [I]n preparing for its potential Phase Two EE&C Plan, PPL Electric agrees to discuss with representatives of the PP&L Industrial Customer Alliance potential modifications to rebate and eligibility requirements to reflect the costs incurred by a participating customer when in-house personnel are used to study and develop a project.

Settlement, p. 6. PPLICA and PPL have commenced the discussions contemplated by the Settlement. PPLICA anticipates that discussions will continue in a good-faith effort to provide equitable rebates for certain Phase II EE&C project tasks regardless of whether a customer utilizes an outside contractor or internal personnel.

III. CONCLUSION

WHEREFORE, the PP&L Industrial Customer Alliance respectfully request that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, the foregoing Comments.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By ____________________________

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Dated: December 21, 2012