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February 16, 2016

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 III Energy Efficiency and Conservation Plan; Docket No. M-2015-2515642

Dear Secretary Chiavetta:

Enclosed please find for filing with the Pennsylvania Public Utility Commission the PP&L Industrial Customer Alliance's ("PPLICA") Answer to PPL Electric Utilities Corporation's Motion to Strike Certain Portions of the Direct Testimony of the PP&L Industrial Customer Alliance, 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,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'A. Bakare', is written over a horizontal line.

Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

c: Administrative Law Judge Susan D. Colwell (via E-mail and First Class Mail)
Certificate of Service

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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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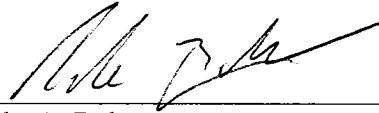
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Certificate of Service
Docket No. M-2015-2515642
Page 2

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Dated this 16th day of February, 2016, at Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :
For Approval of its Act 129 Phase III Energy : Docket No. M-2015-2515642
Efficiency and Conservation Plan :

**PP&L INDUSTRIAL CUSTOMER ALLIANCE ANSWER
TO PPL ELECTRIC UTILITIES CORPORATION'S MOTION
TO STRIKE CERTAIN PORTIONS OF THE DIRECT TESTIMONY
OF THE PP&L INDUSTRIAL CUSTOMER ALLIANCE**

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to Section 5.61(1) of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Regulations, 52 Pa. Code § 5.61(1), the PP&L Industrial Customer Alliance ("PPLICA") hereby files this Answer to PPL Electric Utilities Corporation's ("PPL" or "Company") Motion to Strike Certain Portions of the Direct Testimony of the PP&L Industrial Customer Alliance.

In support of this Answer, PPLICA states as follows:

I. BACKGROUND

1. On November 30, 2015, PPL Electric filed a petition for approval of its Phase III EE&C Plan.
2. On December 4, 2015, PPL Electric filed the written direct testimony of Peter Cleff, Hossein Haeri, and Bethany Johnson in support of its Phase III EE&C Plan.
3. On January 4, 2016, PPLICA filed an Answer and Petition to Intervene in the above-captioned proceeding.

4. By Scheduling Order dated January 7, 2016, Administrative Law Judge Susan D. Colwell (the "ALJ") granted PPLICA's Petition to Intervene.

5. On January 12, 2016, PPLICA served the written direct testimony of Michael K. Messer ("PPLICA Statement No. 1") in accordance with the Scheduling Order.

6. On January 26, 2016, PPL Electric filed a Motion to Strike Certain Portions of the Direct Testimony of the PP&L Industrial Customer Alliance ("PPL Motion").

II. ANSWER TO MOTION TO STRIKE

A. **PPLICA's TRC Issues Are Not Outside the Scope of This Proceeding.**

7. PPL generally argues that portions of PPLICA's testimony concerning PPL's calculations should be stricken as beyond the scope of this proceeding. Issues related to the assessment of PPL's Total Resource Cost ("TRC") test values are clearly relevant to the Commission's review of PPL's Phase III EE&C Plan and therefore admissible to the record in this proceeding. *See* 52 Pa. Code § 5.401. PPL's general assertions that it has complied with prior Commission directives does not eliminate a party's right to raise concerns arising from a specific analysis of PPL's prior TRC test results and propose beneficial modifications to PPL's and the Commission's review of PPL's Phase III TRC test values. *See generally* *2016 Total Resource Cost (TRC) Test*, Docket No. M-2015-2468992 (Order Entered June 22, 2015) ("TRC Test Order"). Particularly as PPLICA does not challenge the TRC calculations established in the TRC Test Order, but only proposes additional procedures designed to help the Commission and all interested stakeholders review TRC test values incorporating the most updated savings and cost information available, consistent with the stated intent of the TRC Test Order. *See* TRC Test Order, p. 18.

8. Because PPL's EE&C Plan can be modified during the 5-year term of Phase III, the additional comparison ensures that the programs are cost-effective based on periodic

adjustments to the energy markets. This is a more refined and accurate picture of the status of the Plan.

(a) *PPL incorrectly argues that PPLICA challenges the use of forecasted avoided energy costs in the TRC calculations.*

9. PPL's Motion states that "PPLICA challenges the use of forecasted avoided energy costs in the TRC calculation and proposes that the Commission require PPL Electric to true-up its calculations using actual avoided energy costs." See PPL Motion, p. 2. This allegation misstates PPLICA's testimony. PPLICA's testimony did not challenge the use of forecasted avoided energy costs in the TRC calculation of the filed Plan. The testimony only proposed that the TRC values based on forecasted values should periodically be compared to current market data. Therefore, with regard to the use of forecasted energy costs in PPL's TRC Calculation, PPLICA's testimony proposes no modification to the procedures set forth in the TRC Test Order.

(b) *PPLICA's proposal to require PPL to monitor actual benefits and true-up its TRC calculations using actual costs falls within the scope of this proceeding.*

10. PPLICA's testimony concerning the necessity to true-up forecasted avoided energy costs used in PPL's TRC calculations falls within the scope of this proceeding for at least three reasons. First, the matter is not inconsistent with any findings in the TRC Test Order. Second, even assuming, *arguendo*, that the Commission previously addressed whether TRC values should be true-up to reflect current avoided energy costs, the Commission also determined that TRC issues are ongoing and subject to additional stakeholder or Electric Distribution Company ("EDC") proposals. Third, PPLICA's position is based on trends observed in its analysis of PPL's EE&C Plans, based on data that was not previously available to the public, including PPLICA.

11. PPL argues that PPLICA's testimony proposing to true-up the Company's TRC values to incorporate current avoided energy costs should be stricken as beyond the scope of this proceeding because "[a]ny issues regarding the Commission's TRC test should have been raised at Docket No. M-2015-2468992, where the Commission received comments on the development of the TRC methodology to be used in the EDCs' Phase III EE&C Plans." *See* Motion, p. 3. This position suggests that PPLICA's proposal subverts or conflicts with the TRC Test Order, which is not the case. The TRC Test Order established that the TRC test ratios reported in an Act 129 Final Annual Report should be based on the "*latest available program savings and costs and the latest costs approved in the EDC's EE&C plan.*" TRC Test Order, p. 18. While the Commission has previously accepted TRC test results using the originally forecasted avoided energy costs as consistent with the TRC Test Order, PPLICA submits that examining both the original TRC and the actual TRC incorporating current avoided energy costs, more accurately complies with the TRC Test Order's requirement to use the latest available savings to evaluate cost-effectiveness of an EE&C Plan.

12. Even if PPLICA's proposal to monitor and true-up PPL's TRC values to reflect actual avoided energy costs conflicted with directives or findings in the TRC Test Order, the Commission has already recognized the importance of flexibility in assessing and reassessing its TRC methodologies. As set forth in Mr. Messer's testimony, the Commission's TRC Test Order established that "many issues involved in *the EE&C plans, program implementation, and operation of the TRC Test* are ongoing in nature, and future updates may be proposed by stakeholders or the Commission as needed." *See* TRC Test Order, p. 7; *see also* PPLICA Statement No. 1, p. 11. This is exactly what transpired in this proceeding. In reviewing PPL-specific data, PPLICA identified data indicating that the initial TRC ratios approved at the time

PPL files its EE&C Plans, including the Phase III Plan, may not accurately depict the true costs borne by PPL's customers due to the absence of trued-up TRC data. While PPL may differ as to the import or accuracy of PPLICA's findings, issues regarding the cost-effectiveness of PPL's Phase III Plan are clearly relevant to the Commission's disposition of the filing.

13. Finally, PPL further argues that the matter of trued-up TRC tests must be deemed outside the scope of this proceeding because it raises issues of statewide importance. Mr. Messer would welcome an examination of this issue for every EDC; however, this does not diminish the accuracy or relevancy of the analysis that he performed regarding PPL. Most importantly, the information needed for this analysis was not publicly available for Phase I and had to be obtained from PPL through discovery in this proceeding. To the extent the Commission determines that the issues raised by PPLICA have statewide implications, the Commission may further address the matter on a statewide basis preceding completion of the Phase III Plan on May 31, 2021. However, the potential for future statewide impact should not preclude the Commission from reviewing and addressing the PPL- specific observations raised by PPLICA concerning whether the methodology for assessing cost-effectiveness of PPL's Phase III EE&C Plan are consistent with the TRC Test Order or otherwise reasonable in light of the evidence set forth in PPLICA's testimony.

(c) PPLICA's proposal to terminate certain programs when the TRC value, adjusted for current market prices, falls below 1.0 over 12 months falls within the scope of this proceeding.

14. PPL claims PPLICA waived its right to propose use of updated TRC values to assess cost effectiveness of EE&C programs as part of PPL's annual reconciliation process by not raising such issues in Comments to the TRC Test Order. As discussed above, PPLICA's

proposal is not inconsistent with the TRC Test Order and therefore not beyond the scope of this proceeding or irrelevant to this proceeding. *See* PPL Motion, p. 3.

15. PPLICA's proposal concerns Section 2806.1(b)(2) of the Public Utility Code, which authorizes the Commission to terminate an EE&C program that fails to produce a cost-effective TRC after implementation. *See* 66 Pa. C.S. § 2806.1(b)(2); *see also* PPLICA Statement No. 1, p. 11. Although the Public Utility Code grants such authority to the Commission, nothing in the Public Utility Code addresses the circumstances under which the Commission should invoke such authority. The TRC Test Order supports PPLICA's proposal by explicitly clarifying the Commission's authority to invoke 66 Pa. C.S. § 2806.1(b)(2), but declining to prescribe specific procedures as to when or how the TRC test should be applied to such end. *See* TRC Test Order, pp. 17-18. Similarly, as also referenced above, the Commission affirmed that issues involved in EE&C Plan administration and the TRC test are ongoing in nature. *See* TRC Test Order, p. 7. Therefore, the Commission fully contemplated that implementation of EE&C Plans may present circumstances warranting consideration and review of TRC-related matters, particularly with regard to its reservation of authority to reject EE&C programs pursuant to Section 2806.1(b)(2).

(d) Admission of PPLICA's testimony on TRC matters will not confuse the record in this proceeding.

16. PPL's allegations that admission of PPLICA's testimony will confuse the record are exaggerated. *See* PPL Motion, p. 5. The Commission and its staff are highly familiar with TRC matters and well-positioned to expeditiously weigh the evidence by PPLICA and issue an appropriate decision. Accordingly, the probative value of admitting PPLICA's evidence is not outweighed by any potential for confusion of issues or waste of time. *See* 52 Pa. Code § 5.401.

(e) *Procedurally, the ALJ and Commission should apply a liberal standard for admission of testimony in this proceeding.*

17. Finally, the ALJ should consider that the Commission's findings in the TRC Test Order were based on written comments rather than testimony and hearings. The Commission did not assign the TRC Test Order to the Office of Administrative Law Judge for hearings. Accordingly, the first and only opportunity for any party to conduct discovery and present testimony on any issues related to an EDC's TRC calculations would be in response to the specific EE&C Plan filed by an EDC and assigned to an ALJ for hearings by the Commission. PPLICA submits that the Commission recognized the importance to allow parties an opportunity to be heard on issues related to an EDC's TRC calculations by declaring that the "many issues involved in the EE&C plans, program implementation, and operation of the TRC Test are ongoing in nature, and future updates may be proposed by stakeholders or the Commission as needed." *See* TRC Test Order, p. 7; *see also* PPLICA Statement No. 1, p. 11. The Commission further acknowledged the necessity to continually revise its administration of EE&C Plans in its Phase III Implementation Order,¹ affirming that approval of EE&C Plans shall not establish immutable guidelines because "the EE&C Plans were evolutionary in nature as the Act provides for modification of those plans after approval." *See* Phase III Implementation Order, p. 89.

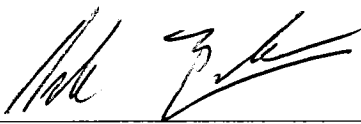
¹ *Energy Efficiency and Conservation Program*, Docket No. M-2014-2424864 (Implementation Order Entered June 19, 2015) ("Phase III Implementation Order").

III. CONCLUSION

WHEREFORE, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission deny PPL Electric Utilities Corporation's Motion to Strike Certain Portions of the Direct Testimony of the PP&L Industrial Customer Alliance, and grant such other relief as it deems necessary.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

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