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File #: 163476

May 16, 2017

VIA ELECTRONIC FILING

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 Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 through May 31, 2021 Docket No. P-2016-2526627

Dear Secretary Chiavetta:

PPL Electric Utilities Corporation (“PPL Electric”) respectfully submits this letter in response to the May 12, 2017 correspondence filed by the Retail Energy Supply Association (“RESA”). In its letter, RESA opposes PPL Electric’s Petition for Leave to Withdraw Its Petition to Amend the Implementation Date of the Customer Assistance Program Standard Offer Referral Program (“CAP-SOP”). RESA’s letter raises new, additional issues in opposition to the CAP-SOP and requests that the Pennsylvania Public Utility Commission (“Commission”) take further action and delay implementation of the CAP-SOP. RESA’s letter and new request for relief is without merit and should be denied.

On October, 27, 2016, the Commission entered an Opinion and Order in PPL Electric’s fourth Default Service Program and Procurement Plan (“DSP IV Program”) proceeding that approved a settlement and adopted the CAP-SOP. *See Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 through May 31, 2021*, Docket No. P-2016-2526627 (Order entered Oct. 27, 2016) (“*DSP IV Order*”).¹ The Commission directed that the CAP-SOP become effective June 1, 2017. *See DSP IV Order*, Ordering Paragraph 14.a.

¹ On November 14, 2016, RESA filed a Petition for Reconsideration, which was ultimately denied by Order entered January 26, 2017.

On March 10, 2017, PPL Electric filed a Petition to Amend, requesting that the implementation date of its CAP-SOP be modified from June 1, 2017 to September 1, 2017. As explained in the Petition to Amend, PPL Electric initially believed that additional time would be required to design, complete, and test the information technology (“IT”) and programmatic changes necessary to implement the CAP-SOP. As of the date of this filing, the Commission has not acted or otherwise ruled on the Petition to Amend.

On May 8, 2017, PPL Electric filed a Petition to withdraw the Petition to Amend the effective date of the CAP-SOP. As explained therein, PPL Electric has determined that it can fully complete and implement the CAP-SOP by the original June 1, 2017 effective date adopted in the DSP IV Order. As of the date of this filing, the Commission has not acted or otherwise ruled on the Petition to withdraw the Petition to Amend.

On May 12, 2017, RESA filed a letter opposing PPL Electric request to withdraw the Petition to Amend. In support of its letter, RESA raises new, additional “operational” issues related to the implementation of the CAP-SOP, and requests that the Commission delay the CAP-SOP and take further action. RESA’s newly raised issues and request for relief are untimely, improper, and should be rejected.

In its May 12, 2017 letter, as well as other pleadings filed with the Commission and the Commonwealth Court, RESA repeatedly asserts that existing CAP shopping contracts will be terminated and suppliers will be required to “drop” their current PPL Electric CAP customers upon the effective date of the CAP-SOP. RESA relies on its belief that CAP shopping customers will be “dropped” in support of its contention that the Commission must delay the implementation of the CAP-SOP and take further action. However, RESA’s contention that the existing CAP shopping contracts will be terminated is patently false and a complete mischaracterization of the CAP-SOP.

The Commission-approved CAP-SOP expressly provides, in pertinent part, as follows:

(g) All CAP customer shopping fixed-term contracts in effect as of the effective date of the CAP-SOP **will remain in place until the contract term expires and/or is terminated.**

(h) **Once the existing CAP customer shopping contract expires or is terminated,** the CAP customer will have the option to enroll in the CAP-SOP or return to default service, but in any event will only be permitted to shop through the CAP-SOP.

See DSP IV Order, Ordering Paragraphs 14(g) and (h) (emphasis added). Thus, contrary to RESA’s contention otherwise, the *DSP IV Order* unequivocally provides that all existing CAP shopping contracts will remain in place and effective until the contract term expires and/or is terminated. Consistent with the requirements of the Commission-approved CAP-SOP, PPL Electric is not and will not require any suppliers currently serving CAP customers under existing shopping contracts to “drop” their current PPL Electric CAP shopping customers as repeatedly

and incorrectly suggested by RESA. PPL Electric has consistently communicated this to the suppliers that serve its service territory, and specifically addressed this issue on a conference call with suppliers on April 25, 2017. This specific issue was also addressed during the stakeholder collaborative held on April 7, 2017, which was attended by suppliers, as well as a representative of RESA.

In further support of its request, RESA also raises new, additional “operational” issues that it asserts must be addressed before the CAP-SOP can be implemented.² RESA requests that the Commission take further action to address these operational issues, and delay the implementation of the CAP-SOP for a time sufficient for suppliers’ concerns to be addressed.³ RESA’s newly raised operational issues and request for relief are untimely and should be denied.

To the extent that RESA had operational or implementation concerns with the CAP-SOP, it was incumbent on RESA to timely raise such issues on the record before the Commission. However, the record in this matter has long-since closed. As such, RESA cannot now collaterally attack the Commission’s *DSP IV Order* approving the CAP-SOP by raising new, extra-record issues to support RESA’s opposition to the CAP-SOP.

RESA’s request that the Commission take further action to provide clarity on implementation issues must also be denied. Essentially, RESA requests that the Commission make new findings with respect to RESA’s extra-record operational issues and, based thereon, grant relief raised for the first time after the record closed. RESA certainly could have filed a request for rehearing or amendment of the *DSP IV Order* under 66 Pa.C.S. § 703. However, RESA has elected not to do so. Moreover, even if RESA had properly filed a request for rehearing or amendment, the Commission currently is without jurisdiction to take the further substantive action requested in RESA’s May 12, 2017 letter due to RESA’s own Petition for Review filed with the Commonwealth Court. *See* Pa. R.A.P. 1701(a).⁴

In further support of its request, RESA’s May 12, 2017 letter appears to suggest that suppliers will not participate in the CAP-SOP unless and until its newly raised “operational” issues have been addressed. Although RESA is clearly opposed to the CAP-SOP and believes that it cannot

² RESA similarly raised operational issues in a letter submitted on April 25, 2017, in support of PPL Electric’s request to extend the implementation date of the CAP-SOP. As noted in RESA’s May 12, 2017 letter, PPL Electric held a conference call with suppliers on April 25, 2017, to address and resolve concerns related to the implementation of the CAP-SOP, which included those issues raised in RESA’s April 27, 2017 letter. PPL Electric will continue to work with suppliers and other interested parties to address future concerns and questions, if any, regarding the implementation of the CAP-SOP.

³ In its letter, RESA suggests that the CAP-SOP implementation issues be delegated to the Commission’s Office of Competitive Market Oversight (“OCMO”) to address.

⁴ PPL Electric submits that the Commission has authority to rule on the Petition to Amend and, moreover, to rule on Petition to Withdraw, which clearly maintains the status quo. Although Pa. R.A.P. 1701(a) prohibits further action by a governmental agency after an appeal from a final order has been filed, Pa. R.A.P. 1701(b)(1) allows the governmental agency to take necessary action to preserve the status quo. *See, e.g., Pellizzeri v. Bureau of Prof'l & Occupational Affairs*, 856 A.2d 297, 2004 Pa. Commw. LEXIS 631 (Pa. Commw. Ct. 2004) (a supplemental order entered after an appeal was filed, which clarified the date on which the license revocations became effective, was authorized by Rule 1701(b)(1)). Clearly, withdrawing the Petition to Amend will maintain the status quo.

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be implemented, not all suppliers share RESA's concerns. Indeed, PPL Electric notes that multiple suppliers, including one of RESA's own members, have already signed up and intend to participate in the CAP-SOP once it becomes effective on June 1, 2017. Thus, despite RESA's assertion to the contrary, it appears that not all suppliers see RESA's extra-record operational issues as an impediment to implementing the CAP-SOP.

Finally, to the extent that RESA believes that the implementation date of the CAP-SOP should be delayed or otherwise stayed, RESA has an adequate legal remedy available. Indeed, RESA may file an appropriate application requesting a supersedeas or stay of the *DSP IV Order* pursuant to Pa. R.A.P. 1781. RESA, however, has declined to do so.

Based on the foregoing, RESA's new, extra-record "operational" issues related to the implementation of the CAP-SOP and request that the Commission delay the CAP-SOP and take further action should be rejected. Consistent with the Commission's *DSP IV Order*, PPL Electric is ready and prepared to implement the CAP-SOP by the June 1, 2017 effective date. PPL Electric will continue to work with suppliers and other interested parties to address future concerns and questions, if any, regarding the implementation of the CAP-SOP.

Copies of this letter are being served as set forth on the attached certificate of service. Should you have any questions concerning this matter, please contact Amy Hirakis at (610) 774-4254.

Respectfully submitted,


Christopher T. Wright

CTW/skr
Enclosure

cc: 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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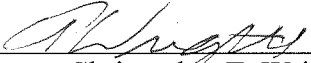
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Date: May 16, 2017



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