McNees
Wallace & Nurick LLC

100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166
Tel: 717.232.8000 • Fax: 717.237.5300

Adeolu A. Bakare
Direct Dial: 717.237.5290
Direct Fax: 717.260.1712
abakare@mcneeslaw.com

July 6, 2017

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:

Attached please find for filing with the Pennsylvania Public Utility 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 the proceeding are being served with a copy of this document. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By
Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

c: Office of Administrative Law Judge
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).

VIA E-MAIL AND FIRST-CLASS MAIL

Devin T. Ryan, Esq.
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
dryan@postschell.com

David B. MacGregor, Esq.
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
dmacgregor@postschell.com

Kimberly A. Klock, Esq.
PPL Electric Utilities Corporation
2 North Ninth Street
Allentown, PA 18101
kklock@pplweb.com

Lauren M. Burge, Esq.
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
lburge@paoca.org

Elizabeth Rose Triscari, Esq.
Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101
etriscari@pa.gov

Sarah C. Stoner, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
sstoner@eckertseamans.com
Counsel for Retail Energy Supply Association

Patrick M. Cicero, Esq.
Elizabeth R. Marx, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net
emarxpulp@palegalaid.net
Counsel for CAUSE-PA

Joseph L. Vullo, Esq.
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@aol.com
Counsel to Commission on Economic Opportunity

Derrick P. Williamson, Esq.
Barry A. Naum, Esq.
Spilman, Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
dwilliamson@spilmanlaw.com
bnaum@spilmanlaw.com
Counsel for Wal-Mart

Judith D. Cassel, Esq.
Micah R. Bucy, Esq.
Hawke McKeon and Sniscak, LLP
100 N. Tenth Street
Harrisburg, PA 17101
jdcassel@hmslegal.com
mrbucy@hmslegal.com
Counsel to Sustainable Energy Fund of Central Eastern PA

Scott H. DeBroff, Esq.
Clark Hill PLC
301 Grant Street, 14th Floor
Pittsburgh, PA 15219
sdebroff@clarkhill.com
Counsel to Nest Labs, Inc. and EnerNOC, Inc.

Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

Dated this 6th day of July, 2017, at Harrisburg, Pennsylvania

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF THE
PP&L INDUSTRIAL CUSTOMER ALLIANCE

I. INTRODUCTION

On October 15, 2009, Governor Rendell signed into law House Bill 2200, otherwise known as Act 129 of 2008 ("Act 129" or "Act"). Among other things, Act 129 expanded the Pennsylvania Public Utility Commission's ("PUC" or "Commission") oversight responsibilities and imposed new requirements on Electric Distribution Companies ("EDCs") regarding the reduction of energy consumption and demand. In accordance with the Act, on November 30, 2015, PPL Electric Utilities Corporation ("PPL" or "Company") filed a Petition for Approval of its Act 129 Phase III Energy Efficiency and Conservation ("EE&C") Plan ("Phase III Plan" or "Plan") at Docket No. M-2015-2515642.

The Commission approved PPL's initial Phase III EE&C Plan, with modifications, on March 17, 2016. Opinion and Order, *Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan*, Docket No. M-2015-2515642, pp. 57-61 (entered Mar. 17, 2016) ("March 2016 Order"). Pursuant to the March 2016 Order, PPL filed a compliance filing with the Commission on April 22, 2016, and subsequently filed an Errata to its compliance filing on May 24, 2016. By Secretarial Letter dated June 27, 2016, the Commission approved PPL's compliance filing, as amended. Secretarial Letter, *Petition of PPL*

Electric Utilities Corporation for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan, Docket No. M-2015-2515642, p. 1 (entered June 27, 2016).

On June 6, 2017, PPL submitted a Petition for Approval of Changes to Its Act 129 Phase III Energy Efficiency and Conservation Plan ("June 2017 Petition"), pursuant to the Commission's review process for approving EE&C plan changes proposed by EDCs.[1] The June 2017 Petition requests PUC approval of 13 modifications, both major and minor, to its Phase III Plan. Although some of the changes proposed in PPL's June 2017 Petition "constitute a 'minor' change," PPL requested that the Commission review all changes proposed in the June 2017 Petition "under the procedures for changes that do not meet the minor change criteria (*i.e.,* 'major changes') set forth in the Commission's *Minor Plan Change Order*." June 2017 Petition, p. 2. Accordingly, PPLICA hereby files the foregoing Comments in response to PPL's June 2017 Petition.

II. SUMMARY

Consistent with the expedited procedures set forth for qualifying changes in the *Minor Plan Change Order*, PPL requests that the Commission "resolve issues, if possible, on the basis of comments and replies to comments on the proposed modifications." *Id.* at pp. 2-3. PPL "respectfully request[ed] that the Commission review and approve of any proposed changes that no party opposes or about which the parties' comments fail to raise any legitimate issues of law or fact." *Id.* at p. 3.

Of the 13 proposed modifications to the Phase III Plan, PPLICA is particularly concerned with PPL's proposals to: (i) allow for enhanced incentives for localized energy efficiency or demand reduction to be offered as a pilot under the Appliance Recycling, Energy Efficient Home,

[1] *See Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order Entered June 10, 2011) ("Minor Plan Change Order"), p. 20. *See also Energy Efficiency and Conservation Program*, Docket No. M-2014-2424864, pp. 115-18 (Order Entered June 19, 2015) (determining that the PUC would continue to use the minor EE&C plan change approval process described in the Minor Plan Change Order in Phase III).

Demand Response, and Nonresidential Energy Efficiency Programs; and (ii) combine the budgets and savings for the Large Commercial and Industrial ("C&I") Custom and Efficient Equipment Programs and the Small C&I Custom and Efficient Equipment Programs into a single program. *Id.* at pp. 5-6, 12-13, and 16-18. PPLICA does not oppose PPL's request to proceed under the process for major plan changes. However, PPLICA opposes implementation of the two proposals highlighted above.

III. COMMENTS

A. The Commission Should Reject PPL's Proposal to Allow for Enhanced Incentives for Localized Energy Efficiency or Demand Reduction to be Offered as a Pilot under the Appliance Recycling, Energy Efficient Home, Demand Response, and Nonresidential Energy Efficiency Programs.

PPL seeks Commission approval to offer, on a pilot basis, enhanced incentives for localized energy efficiency or demand reduction under the Appliance Recycling, Energy Efficient Home, Demand Response, and Nonresidential Energy Efficiency Programs. *Id.* at pp. 6, 16-17. The Company indicated that these "enhanced incentives would be offered, if necessary, as a pilot to specific locations of the service territory to help PPL Electric evaluate how location-specific incentives influence customers' participation, how they impact grid operations, and whether they can be used to defer distribution system upgrades." *Id.* at p. 16. PPL indicated it would "review any enhanced incentives with stakeholders before they are implemented." *Id.* In addition, PPL proposed that those "enhanced incentives would be within the ranges in the EE&C Plan, will be higher than the 'standard' incentive in effect in non-targeted areas, and will not impact the cost or savings for any of these programs." *Id.* at pp. 16-17.

However, the June 2017 Petition overlooks the discriminatory impact of PPL's proposal upon customers. PPL's proposed "localized" enhanced incentives would take the form of higher incentives available only in specific locations within PPL's service territory. While the enhanced incentive levels would not exceed the maximum incentive levels approved by the Commission, customers would no longer be assured that the incentive they receive is fair and equivalent to similarly-situated customers. This concern is heightened for industries with direct competitors located in the PPL territory. Under PPL's proposed "pilot," two customers could propose identical projects, but receive different incentives based on whether they were located in the "pilot" region. As a result, PPL's proposal to localize incentives departs from the traditional and equitable method of paying incentive levels uniformly throughout its service territory. Distinguishing the incentives paid to Large C&I customers based solely on geographic location while charging uniform EE&C rate to Large C&I customers results in unreasonably discriminatory rates, contrary to Section 1304 of the Public Utility Code. 66 Pa. C.S. § 1304.

Consequently, the PUC should reject this proposed modification on the basis that it promotes inequities and unreasonable discrimination between similarly situated customers by offering higher incentives based on geographic location, while costs remain equally shared by all customers in their respective customer classes.

B. The PUC Should Reject PPL's Request to Combine the Separate Budgets and Savings for the Large C&I Custom and Efficient Equipment Programs, the Small C&I Custom and Efficient Equipment Programs, and the GNI Custom and Efficient Equipment Programs into a Single Programs.

PPL "proposes to combine the budgets and savings for the Custom and Efficient Equipment Programs into a single program entitled the 'Nonresidential Energy Efficiency Program.'" *Id.* at p. 12. Currently, PPL's Phase III Plan includes separate budgets for the following six programs components:

1. Small C&I Efficient Equipment
2. Small C&I Custom
3. Large C&I Efficient Equipment
4. Large C&I Custom

5. Government, Non-profit & Institutional ("GNI") Efficient Equipment
6. GNI Custom

The proposed modification would significantly erode the transparency of PPL's Phase III Plan by consolidating all Large C&I, Small C&I, and GNI program costs and savings into a single Nonresidential Program budget. Offering a single program available to all customers would reduce the transparency of PPL's administration of the EE&C Plan and invite potential for interclass subsidization through mistaken or inadvertent tracking of actual costs incurred by each customer class within the combined Program, or a subsequent proposal to combine the budgets as a "class" for a single uniform rate.

Customers have a clear interest in monitoring the actual costs of PPL's Phase III EE&C programs, which are currently budgeted based on projected costs for Residential, Low-Income, Small C&I, Large C&I, and GNI sectors, but still allocated to and recovered from the traditional Residential, Small C&I, and Large C&I customer classes. As a result, the relevant costs from a customer perspective are not the costs incurred by any single program sector, but the costs incurred on behalf of customers of each customer class. This is a particularly concerning issue for Large C&I customers, which are responsible for the costs budgeted for Large C&I programs and the corresponding share of GNI costs incurred on behalf of larger GNI customers.

To effectively monitor the costs incurred by the Large C&I customer class, customers depend on the Commission to ensure PPL transparently accounts for all costs incurred through its EE&C programs. From the beginning, when approving PPL's Phase I EE&C Plan, the Commission recognized the importance of cost transparency in directing PPL to bill EE&C costs as a separate line item for Small C&I and Large C&I customers as follows:

> We will, however, make an exception for both the large and small C&I customer classes. We are persuaded by the OSBA and the reasoning of PPLICA that because of the potentially sizeable increases associated with the ACR for these customer

> classes, a separate line delineation of these charges will provide transparency and clarity. In the current economic environment, the itemization and identification of costs is increasingly critical for businesses.

Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan, 2009 Pa. PUC LEXIS 2242, *76-77 (Pa. P.U.C. Oct. 26, 2009). Just as burying EE&C costs under the same line item as distribution rates would frustrate efforts to monitor the significant EE&C costs incurred by PPL's largest customers, conflating the Custom Program budget (which is primarily benefits Large C&I customers), with the Efficient Equipment Program budget (which primarily benefits Small C&I customers), would inhibit the ability of both Large C&I customers and Small C&I customers to identify and monitor the EE&C costs to be recovered from them. PPL's proffered benefits of additional programming flexibility and efficiency should not outweigh the Commission's obligation to protect customers' right to meaningfully track costs recovered though PPL's Act 129 Compliance Rider ("ACR"). The experience gained by PPL over the last eight years of projecting and tracking costs should result in more accuracy and transparency, not less. Accordingly, PPLICA requests that the Commission preserve separate budgets for the Efficient Equipment and Custom Programs.

In weighing this decision, the Commission should consider that PPL's history with automatic adjustment clause reconciliations favors erring on the side of caution and denying the proposed program consolidation. Just a few years ago, PPL implemented an interim rate adjustment to its Phase II ACR that raised Large C&I Act 129 ACR rates by approximately $25 million on short notice due to years of higher than projected GNI costs. Opinion and Order, *PP&L Industrial Customer Alliance v. PPL Electric Utilities Corporation*, Docket Nos. C-2013-2398440 and C-2013-2398442, pp. 8-10 (entered Apr. 23, 2015); *reconsideration denied* Opinion and Order, *PP&L Industrial Customer Alliance v. PPL Electric Utilities Corporation*, Docket Nos. C-2013-2398440 and C-2013-2398442 (entered July 8, 2015). While the Commission found the costs to be recoverable, the volatile rate changes implemented due to years of understated GNI costs attributable to Large C&I customers demonstrates that PPL should be encouraged to improve the segregation and tracking of its program costs, not weaken them by consolidating program budgets.

Similarly, PPL previously miscalculated transmission service costs resulting in over $10 million of over-collected revenues from Large C&I customers, which forced PPLICA members to expend resources over years of litigation efforts to obtain the refunds. Recommended Decision, *PPL Electric Utilities Corporation Proposed Transmission Service Charge for the Twelve Months Ending November 30, 2010* and *PPL Electric Utilities Corporation Transmission Service Charge Effective June 1, 2011*, Docket Nos. M-2010-2213754 and M-2011-2239805, p. 5 (issued July 2, 2014); *adopted in* Order, *PPL Electric Utilities Corporation Proposed Transmission Service Charge for the Twelve Months Ending November 30, 2010* and *PPL Electric Utilities Corporation Transmission Service Charge Effective June 1, 2011*, Docket Nos. M-2010-2213754 and M-2011-2239805, p. 1 (entered Aug. 22, 2014). While the transmission costs overruns were eventually resolved through litigation and negotiations, PPLICA urges the Commission to prioritize transparency of PPL's ACR costs to reduce the potential for similar ACR disputes. Combining the Efficient Equipment and Custom Program budgets would result in the opposite effect, as PPL has offered no guidance as to how customers could monitor their respective allocation of costs incurred under the proposed combined program. Customers should not bear the increased risk of engaging in additional costly and lengthy litigation in order to review and confirm accuracy of PPL's ACR cost allocations under a consolidated Nonresidential program budget.

Finally, PPLICA is concerned that the consolidation sought by PPL is the first step towards consolidating all non-residential customers for purposes of establishing and reconciling the ACR.

This would be highly inappropriate due to the divergent sizes and usage characteristics of a typical Small C&I customer in comparison to a typical Large C&I customer.

As a result, PPLICA opposes PPL's proposal to combine the budgets for the Custom and Efficient Equipment Programs into a single program and respectfully requests that the Commission reject this proposal. Transparency and accuracy for customers must trump PPL's desire for expediency and simplicity.

IV. CONCLUSION

WHEREFORE, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission:

1. Consider and adopt the foregoing Comments;

2. Deny PPL's requests to (i) allow for enhanced incentives for localized energy efficiency or demand reduction to be offered as a pilot under the Appliance Recycling, Energy Efficient Home, Demand Response, and Nonresidential Energy Efficiency Programs; and (ii) combine the separate budgets and savings for the Large C&I Custom and Efficient Equipment Programs and, the Small C&I Custom and Efficient Equipment Programs, and the GNI Custom and Efficient Equipment Programs into a single program; and

3. Take any other action as necessary and deemed appropriate.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By ______________________

Pamela C. Polacek (I.D. No. 78276)
Adeolu A. Bakare (I.D. No. 208541)
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300

Counsel to the PP&L Industrial Customer Alliance

Dated: July 6, 2017