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February 16, 2018

VIA HAND DELIVERY

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 its Act 129 Phase III Energy Efficiency and Conservation Plan - Docket No. M-2015-2515642

Dear Secretary Chiavetta:

Enclosed for filing is the Petition of PPL Electric Utilities Corporation for Leave to Withdraw Without Prejudice the Remainder of its June 6, 2017 EE&C Plan Change Petition. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

Devin Ryan

DTR/jl
Enclosures

cc: Honorable Benjamin J. Myers
Certificate of Service

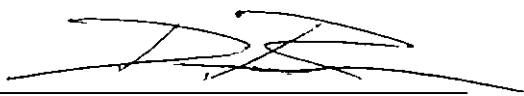
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.94(a), YOU MAY FILE A REPLY TO THE ENCLOSED PETITION WITHIN TEN (10) DAYS AFTER THE DATE OF SERVICE. YOUR REPLY SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY OF YOUR REPLY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

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Dated: February 16, 2018

Attorneys for PPL Electric Utilities Corporation

**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 :

**PETITION OF PPL ELECTRIC UTILITIES CORPORATION FOR
LEAVE TO WITHDRAW WITHOUT PREJUDICE THE REMAINDER OF ITS
JUNE 6, 2017 EE&C PLAN CHANGE PETITION**

TO ADMINISTRATIVE LAW JUDGE BENJAMIN J. MYERS:

Pursuant to 52 Pa. Code §§ 5.41 and 5.94, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), hereby respectfully submits the instant Petition for Leave to Withdraw without prejudice the Remainder of Its June 6, 2017 Energy Efficiency and Conservation (“EE&C”) Plan Change Petition. As explained herein, PPL Electric previously filed on June 6, 2017, a petition for approval of “major” and “minor” changes¹ to its Phase III EE&C Plan. Most of the changes were approved by the Pennsylvania Public Utility Commission (“Commission”). One change was referred for hearings and a recommended decision—a minor change permitting a pilot program that would offer enhanced incentives for localized energy efficiency and demand reduction (“Enhanced Localized Incentives Pilot”). The instant proceeding is intended to address this remaining proposal.

Upon further evaluation and based on the parties’ Comments concerning the proposed change, PPL Electric no longer wishes to proceed with the pilot at this time. Accordingly, PPL Electric respectfully requests leave to withdraw without prejudice the remainder of its June 6,

¹ “Major” and “minor” changes to EE&C Plans were defined in the Commission’s *Minor EE&C Plan Change Order. Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887, 2011 Pa. PUC LEXIS 1796, at *21-22 (Order entered June 10, 2011) (emphasis added) (“*Minor EE&C Plan Change Order*”).

2017 Petition, *i.e.*, the Enhanced Localized Incentives Pilot, without prejudice to a future filing or proceeding.

In support thereof, PPL Electric states as follows:

I. BACKGROUND

1. On November 30, 2015, PPL Electric filed its initial Phase III EE&C Plan with the Commission pursuant to Act 129 and various related Commission orders. The Commission approved PPL Electric's initial Phase III EE&C Plan, with modifications, on March 17, 2016.² Pursuant to the *March 2016 Order*, PPL Electric submitted a compliance filing on April 22, 2016. The Company subsequently filed an Errata to its compliance filing on May 24, 2016. The Commission approved PPL Electric's compliance filing, as amended, on June 27, 2016.³

2. On September 21, 2016, PPL Electric filed a petition for approval of a minor plan change to its Phase III EE&C Plan ("Revision I"). On November 4, 2016, the Commission issued a Secretarial Letter evidencing that its staff had approved of the minor plan change. On November 14, 2016, the PP&L Industrial Customer Alliance ("PPLICA") filed a petition for appeal of the Commission staff's decision. PPL Electric filed an answer to PPLICA's petition on November 28, 2016. On January 26, 2017, the Commission denied PPLICA's petition for appeal.

3. On June 6, 2017, PPL Electric filed a petition for approval of major and minor changes to its Phase III EE&C Plan ("Revision 2" or "June 6, 2017 Petition"). Because the June 6, 2017 Petition included both major and minor changes, the Company opted to proceed under

² See *Petition of PPL Elec. Utils. Corp. for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan*, Docket No. M-2015-2515642, pp. 57-61 (Order entered Mar. 17, 2016) ("*March 2016 Order*").

³ See *Petition of PPL Elec. Utils. Corp. for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan*, Docket No. M-2015-2515642 (June 27, 2016) (Secretarial Letter) ("*June 2016 Secretarial Letter*").

the Commission's review procedures for major changes.⁴ On November 21, 2017, the Commission entered its Order approving most of the proposed changes, as clarified by the Company.⁵ One proposed minor change—the Enhanced Localized Incentives Pilot—was referred to the Office of Administrative Law Judge (“OALJ”) for hearings and a recommended decision.⁶ Therefore, this proposed change is the only remaining aspect of the June 6, 2017 Petition pending before the Commission.

4. On December 7, 2017, a Notice was issued scheduling a prehearing conference for February 7, 2018, at 10:00 AM in Hearing Room 2 of the Commonwealth Keystone Building in Harrisburg, Pennsylvania.

5. On December 8, 2017, Administrative Law Judge Benjamin J. Myers (the “ALJ”) issued a Prehearing Conference Order directing the parties to file prehearing memoranda on or before January 31, 2018.

6. On January 25, 2018, PPLICA served its first set of interrogatories on PPL Electric concerning the Enhanced Localized Incentives Pilot.

7. On January 31, 2018, counsel for PPL Electric sent an email to the ALJ and the parties, requesting that the Company provide the ALJ with an update on settlement discussions by February 2, 2018, and that the parties submit prehearing memoranda on February 5, 2018. The ALJ responded with an email granting PPL Electric's request.

8. Also on January 31, 2018, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) filed its prehearing memo.

⁴ See June 6, 2017 Petition, p. 2; *Minor EE&C Plan Change Order*, 2011 Pa. PUC LEXIS 1796, at *31-33 (detailing the major plan change review procedures).

⁵ *Petition of PPL Elec. Utils. Corp. for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan*, Docket No. M-2015-2515642, pp. 41-42 (Order entered Nov. 21, 2017).

⁶ *Id.*, pp. 32-37, 42.

9. On February 5, 2018, prehearing memoranda were filed by PPL Electric, PPLICA, the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Commission on Economic Opportunity (“CEO”), and the Sustainable Energy Fund of Central Eastern Pennsylvania (“SEF”).

10. Due to inclement weather, the prehearing conference scheduled for February 7, 2018, was cancelled.

11. On February 8, 2018, the ALJ sent an email to the parties, noting PPL Electric’s statement in its prehearing memo that it intended to withdraw the Enhanced Localized Incentives Pilot without prejudice to a future filing or proceeding. The ALJ inquired as to: (1) whether any parties would oppose the Company’s withdrawal; and (2) whether a prehearing conference was necessary at this time, given the proposed withdrawal.

12. All of the following parties responded to the ALJ, indicating that they did not oppose the Company’s request: (1) OCA; (2) OSBA; (3) CAUSE-PA; (4) CEO; (5) SEF; (6) Wal-Mart Stores East, LP and Sam’s East, Inc. (collectively, “Walmart”); and (7) the Retail Energy Supply Association (“RESA”).

13. PPLICA responded that it would object to PPL Electric’s request to the extent the Company sought to withdraw the proposed change without prejudice.

14. PPL Electric responded that it would file a Petition to Withdraw the proposed change by February 16, 2018, and did not believe a prehearing conference was necessary unless its request were ultimately denied.

15. On February 9, 2018, the ALJ sent an email to the parties stating that a prehearing conference would not be rescheduled at this time.

II. STANDARD OF REVIEW

16. Under Section 5.94(a) of the Commission’s regulations, “a party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document.” 52 Pa. Code § 5.94(a). The petition must set forth the reasons for the withdrawal. *See id.* In ruling on the petition, the presiding officer or Commission may consider the petition, any objections thereto, and the public interest. *See id.*

III. THE PETITION FOR LEAVE TO WITHDRAW SHOULD BE GRANTED

17. PPL Electric respectfully requests that the ALJ grant the Company leave to withdraw the remainder of its June 6, 2017 EE&C Plan Change Petition without prejudice to a future filing or proceeding.

18. The Enhanced Localized Incentives Pilot is a proposed “minor” change, under which the Company would modify its Appliance Recycling, Energy Efficient Home, Demand Response, and Nonresidential Energy Efficiency Programs to enable the Company to potentially offer a pilot that would provide enhanced incentives for localized energy efficiency or demand reduction. These enhanced incentives would be offered, if necessary, as a pilot to specific locations 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.

19. Although the Keystone Energy Efficiency Alliance (“KEEA”) supported the minor change,⁷ other parties raised concerns about the Company’s proposal in their Comments.⁸

⁷ *See* KEEA Comments, pp. 4-6 (July 6, 2017).

⁸ *See* OCA Comments, pp. 9-10 (July 6, 2017); PPLICA Comments, pp. 3-4 (July 6, 2017); PPLICA Reply Comments, pp. 3-4 (July 26, 2017).

In particular, OCA stated that the pilot “could create some confusion and inequity for customers,” and PPLICA averred that the Enhanced Localized Incentives Pilot may have a discriminatory impact on customers.⁹

20. Given the opposition to the minor change and the issues and concerns raised by OCA and PPLICA, the Company has determined it would be prudent at this time to withdraw the Enhanced Localized Incentives Pilot without prejudice to a future filing or proceeding.

21. PPL Electric submits that withdrawing the minor change without prejudice is in the public interest and should be approved for several reasons.

22. First, PPL Electric’s request to withdraw the proposed change without prejudice is largely unopposed. Only PPLICA opposes the Company’s request to withdraw the proposed change without prejudice, even though PPLICA objected to the Enhanced Localized Incentives Pilot in its Comments and Reply Comments.

23. Second, withdrawing the minor change will prevent the parties and the Commission from incurring substantial time and expense to litigate a proposal: (1) that is not currently supported by the Company; and (2) about which parties have raised issues and concerns related to discriminatory service and rates. Although the parties have submitted limited Comments on the minor change,¹⁰ they would incur substantial costs if this case were to continue. The parties would have to appear at a prehearing conference, prepare and submit written testimony and exhibits, appear and participate in an evidentiary hearing, submit briefs, and exhaust any appellate rights. Moreover, the ALJ and the Commission would have to devote substantial time and resources to a fully litigated proceeding.

⁹ *Id.*

¹⁰ *See* note 8, *supra*.

24. Third, withdrawing the minor change without prejudice is consistent with Commission precedent. Absent an abuse of process or the litigation proceeding beyond the point of the evidentiary hearing, the Commission has generally allowed litigants to withdraw pleadings without prejudice.¹¹

25. Fourth, the Company's request is consistent with the Commission's *Minor EE&C Plan Change Order*. In that order, the Commission stated that if a proposed minor change is referred to the Office of Administrative Law Judge for hearings, "parties have the opportunity to request permission to withdraw their objection or the proposed change without prejudice after such referral, if they choose."¹²

26. Here, the Company is seeking to withdraw a minor change without prejudice after a referral to OALJ for hearings. Although the Company opted for the major plan change review process because the June 6, 2017 Petition contained both major and minor plan changes,¹³ it stands to reason that PPL Electric should be permitted to withdraw this minor change without prejudice after such referral, consistent with the Commission's pronouncement in the *Minor EE&C Plan Change Order*. The major and minor plan change review procedures are

¹¹ See, e.g., *In re Application of Dela. & Hudson Ry. Co., Inc.*, Docket No. A-00119606, 2014 Pa. PUC LEXIS 684, at *6-10 (Dec. 10, 2014) (Recommended Decision), *adopted*, (Order entered Jan. 29, 2015); *Pa. PUC v. Cawley Bros. Van Lines, Inc.*, Docket No. C-2011-2235323, 2013 Pa. PUC LEXIS 79, at *2-3 (Feb. 19, 2013) (Initial Decision), *became final without further action*, (Order entered May 2, 2013); *Phila. HGI Assocs., LP v. PECO Energy Co.*, Docket Nos. C-2008-2069070, *et al.*, 2014 Pa. PUC LEXIS 606, at *6-7 (Oct. 30, 2014) (Initial Decision), *became final without further action*, (Order entered Jan. 28, 2015); *Application of A Life Transition Serv., LLC*, Docket No. A-2014-2437543, 2015 Pa. PUC LEXIS 247, at *3-4 (Apr. 21, 2015) (Initial Decision), *became final without further action*, 2015 Pa. PUC LEXIS 325 (Order entered July 20, 2015); *cf. Phone Talk, Inc. v. The Bell Tele. Co. of Pa.*, Docket No. C-882009, *et al.*, 1992 Pa. PUC LEXIS 53, at *7-13 (Order entered June 19, 1992) (denying a joint motion to withdraw the complaint with prejudice after the rendering of a final Commission order, because granting such a motion after the Commission rendered a final decision on the merits would be a "manipulation of the administrative law process" and "totally unacceptable"); *Application of J. Andrews Assocs., Inc. d/b/a Seven-Utility Mgmt. Consultants, LLC*, Docket No. A-2011-2241747, 2012 Pa. PUC LEXIS 1832, at *9-13 (Order entered Dec. 20, 2012) (denying the petition for leave to withdraw application without prejudice because "[t]he Parties and the Commission . . . expended significant resources in litigating the proceeding to the point that the ALJ's Recommended Decision [was] now before [the Commission] for decision").

¹² *Minor EE&C Plan Change Order*, 2011 Pa. PUC LEXIS 1796, at *16 (emphasis added).

¹³ See June 6, 2017 Petition, p. 2.

substantially similar. Both involve the parties submitting comments on the proposed change and a referral to OALJ for hearings if deemed necessary.¹⁴ The only real differences are that the Commission's staff has been empowered to rule on minor plan changes and that the minor plan change process has a more expedited schedule.¹⁵ Neither of these differences should preclude the Company from withdrawing the proposed change without prejudice after the referral to OALJ.

27. Fifth, PPLICA's position contradicts its prior withdrawal of a pleading without prejudice despite PPL Electric's objection.¹⁶ On January 19, 2010, PPLICA filed a complaint against PPL Electric regarding its Transmission Service Charge ("TSC") Reconciliation for 2009 and the Final TSC for 2010.¹⁷ Over a year later, a prehearing conference was held on April 15, 2011, and a litigation schedule was established.¹⁸ On June 15, 2011, five days before PPLICA's direct testimony was due, PPLICA filed a Petition for Leave to Withdraw its Complaint without prejudice.¹⁹ PPL Electric objected and maintained that such withdrawal should be with prejudice because the parties were far along in the litigation.²⁰ Ultimately, PPLICA was able to withdraw its complaint without prejudice because in the Commission's view, "PPLICA's request to withdraw its Complaint should be viewed as a simple procedural request, and should be granted without conditions or Commission pronouncements related to the merits of the issues raised by the Complaint, or issues that may or may not be raised in other proceedings."²¹

¹⁴ See *Minor EE&C Plan Change Order*, at *28-33.

¹⁵ See *id.*

¹⁶ See *PPLICA v. PPL Elec. Utils. Corp.*, Docket No. C-2010-2153656, 2012 Pa. PUC LEXIS 39 (Order entered Jan. 12, 2012) ("*2010 TSC Complaint*").

¹⁷ *Id.* at *2.

¹⁸ *Id.* at *5.

¹⁹ *Id.*

²⁰ *Id.* at *6-7.

²¹ *Id.* at *14 (emphasis added).

28. Here, the parties' positions are reversed, where PPLICA objects to PPL Electric withdrawing the pleading without prejudice. PPLICA's position directly contradicts the relief it sought in the *2010 TSC Complaint* case. Moreover, the instant matter has not progressed as far as the *2010 TSC Complaint* proceeding, when PPLICA withdrew its complaint without prejudice. In contrast to the *2010 TSC Complaint* case, no prehearing conference has been held, no litigation schedule has been established, and no testimony is due in the near future. Therefore, in keeping with the Commission's decision in *2010 TSC Complaint*, PPL Electric's request to withdraw the Enhanced Localized Incentives Pilot should be viewed as a simple procedural request and granted without any conditions.

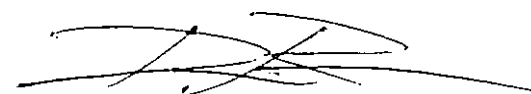
29. Finally, even assuming, *arguendo*, that PPL Electric were only allowed to withdraw the proposed change with prejudice for Phase III of Act 129, PPLICA would essentially be granted the relief it sought in its Comments—a denial of the proposed change for Phase III. Nothing would prohibit PPL Electric from proposing the Enhanced Localized Incentives Pilot as a part of its Phase IV EE&C Plan. The Phase IV EE&C Plan will be prepared in accordance with a new Implementation Order issued by the Commission and will be litigated in an entirely new proceeding. Therefore, the parties will have a full opportunity to challenge the EE&C programs and measures set forth in the Phase IV EE&C Plan. Thus, there is no difference between a denial of the proposed change and a withdrawal with prejudice for the remainder of Phase III.

30. For these reasons, PPL Electric maintains it is in the public interest to grant the instant Petition for Leave to Withdraw the Remainder of Its June 6, 2017 EE&C Plan Change Petition and allow the Company to withdraw the proposed minor change without prejudice to a future filing or proceeding.

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that Administrative Law Judge Benjamin J. Myers grant it leave to withdraw the remainder of the June 6, 2017 Petition for Approval of Changes to Its Act 129 Phase III Energy Efficiency and Conservation Plan without prejudice to a future filing or proceeding.

Respectfully submitted,



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Dated: February 16, 2018

Attorneys for PPL Electric Utilities Corporation

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

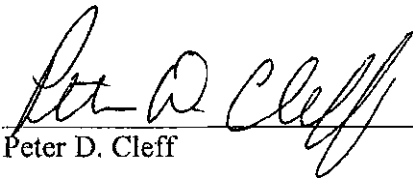
Petition of PPL Electric Utilities :
Corporation for Approval of its Act 129 : Docket No. M-2015-2515642
Phase III Energy Efficiency and :
Conservation Plan :

VERIFICATION

I, Peter D. Cleff, being the Manager-Energy Efficiency Evaluation and Performance at PPL Electric Utilities Corporation, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief, and that if asked orally at a hearing in this matter, my answers would be as set forth therein.

I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: February 16, 2018


Peter D. Cleff

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**CERTIFICATE OF SERVICE
(Docket No. M-2015-2515642)**

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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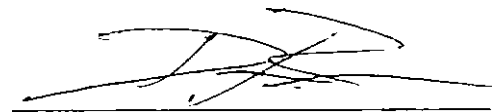
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