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April 30, 2018

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 for filing with the Pennsylvania Public Utility Commission are the Exceptions of the PP&L Industrial Customer Alliance ("PPLICA") to the Recommended Decision of Administrative Law Judge Benjamin J. Myers issued in the above-captioned proceeding.

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

Very truly yours,

McNEES WALLACE & NURICK LLC

A handwritten signature in blue ink that reads 'Alessandra L. Hylander'.

By

Alessandra L. Hylander

Counsel to the PP&L Industrial Customer Alliance

Enclosure

c: Administrative Law Judge Benjamin J. Myers (via E-mail and First-Class Mail)
Certificate of Service
Office of Special Assistants (via E-mail)

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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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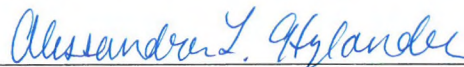
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Dated this 30th day of April, 2018, at Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :
for Approval of its Act 129 Phase III Energy : M-2015-2515642
Efficiency and Conservation Plan :
:

**EXCEPTIONS OF THE
PP&L INDUSTRIAL CUSTOMER ALLIANCE**

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Dated: April 30, 2018

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I. INTRODUCTION

On November 30, 2015, PPL Electric Utilities Corporation ("PPL" or "Company") filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") a Petition for approval of its Act 129 Phase III EE&C Plan ("Phase III Plan"). Multiple parties intervened in that proceeding, provided testimony, and participated in an evidentiary hearing on January 29, 2016.

On March 17, 2016, the PUC issued an Opinion and Order in the above-captioned proceeding that approved PPL's Phase III Plan with modifications.¹ In compliance, PPL filed a revised Phase III Plan with the Commission, which it approved on June 27, 2016.²

On September 21, 2016, PPL filed a Petition for Approval of a Minor Change to its Phase III Plan ("Minor Change Petition"). In its Minor Change Petition, PPL sought the Commission's approval to modify the eligibility requirements for measures implemented in the Custom Program of PPL's Phase III Plan. Several parties participated in the Minor Change Petition proceeding and filed comments responding to portions of PPL's proposal. On November 4, 2016, the PUC issued a Secretarial Letter that granted PPL's Minor Change Petition.

On June 6, 2017, PPL filed another Petition for Approval of Changes to its Act 129 Phase III EE&C Plan ("June 6 Petition"), in which the Company proposed 13 changes to its Phase III Plan. Several parties, including the PPL Industrial Customer Alliance ("PPLICA"), filed comments addressing the content and merit of PPL's various proposals. On November 21, 2017,

¹ *Petition of PPL Elec. Utils. Corp. for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan*, Docket No. M-2015-2515642 (Mar. 17, 2016).

² *Petition of PPL Elec. Utils. Corp. for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan*, Docket No. M-2015-2515641 (June 27, 2016).

the PUC entered an Opinion and Order granting PPL's June 6 Petition in part.³ Although granting many of PPL's proposed changes, that Opinion and Order referred the following issue to the Office of Administrative Law Judge for hearings and a recommended decision:

Proposed Change No. 10 – 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.⁴

On December 8, 2017, Administrative Law Judge ("ALJ") Benjamin J. Myers issued a Prehearing Conference Order scheduling a prehearing conference for this matter on February 7, 2018. Parties submitted prehearing memoranda in accordance with the ALJ's Prehearing Conference Order. PPLICA also served discovery upon PPL regarding the Enhanced Localized Incentives Pilot ("Pilot"). ALJ Myers cancelled the Prehearing Conference due to inclement weather. Around this time, PPL attempted settlement discussions with the other parties.

On February 8, 2018, the ALJ emailed the parties to note that PPL's prehearing memorandum reflected that PPL intended to withdraw the Pilot without prejudice to a future filing or proceeding. The ALJ asked (1) whether any parties opposed the Company's withdrawal; and (2) whether a Prehearing Conference was required at that time, given the pending withdrawal. PPLICA indicated it would object to PPL's request to the extent that PPL would seek to withdraw the proposed change without prejudice. PPL replied that it would file a petition to withdraw the proposed change by February 16, 2018, and did not believe that a Prehearing Conference would be necessary unless its request was denied.

³ *Petition of PPL Elec. Utils. Corp. for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan*, Docket No. M-2015-2515642 (Nov. 21, 2017).

⁴ *Id.* at pp. 32-37, 42.

On February 9, 2018, the ALJ notified the parties that a prehearing conference would not be rescheduled until after PPL's petition to withdraw had been decided. PPL subsequently filed a Petition for Leave to Withdraw Without Prejudice ("Petition to Withdraw") on February 16, 2018. On February 26, 2018, PPLICA filed an Answer to PPL's Petition to Withdraw ("PPLICA Answer") that indicated PPLICA did not object to the withdrawal in and of itself but did object to the withdrawal being without prejudice for the remainder of PPL's Phase III Plan.

On April 9, 2018, the ALJ issued a Recommended Decision ("R.D.") that suggested the PUC grant PPL's Petition to Withdraw. As discussed more fully below, PPLICA respectfully disagrees with the R.D. on the basis that granting PPL's Petition to Withdraw without prejudice would not serve the public interest. Accordingly, pursuant to Section 5.533 of the Commission's Regulations, 52 Pa. Code § 5.533, PPLICA hereby files these Exceptions to the R.D.

II. EXCEPTIONS

Exception No. 1: The R.D Erred in Alleging that PPLICA Advanced Contradictory Arguments. R.D., p. 9.

The R.D. states that it would be contradictory for a party to assert that a proposed change to the EE&C plan is unsound or otherwise contrary to the public interest and then argue that the withdrawal of that proposed change would also not be in that same interest. *Id.* To the extent this statement may be attributed to PPLICA's requested relief, the R.D. overlooks language in PPLICA's Answer to PPL's Petition to Withdraw clarifying that "PPL should be permitted to withdraw the proposed Pilot, but subject to a condition that it will not refile this proposal for the duration of its Phase III Plan, which ends on May 31, 2021." PPLICA Answer, p. 5. PPLICA requests only that the Commission deny PPL's request for a withdrawal *without prejudice*, PPLICA does not otherwise object to withdrawal of the proposed change.

Exception No. 2: The R.D. Unreasonably Overlooked PPLICA's Argument that a Withdrawal "With Prejudice" Would Appropriately Prevent PPL from Burdening Stakeholders with Duplicative Costs and Abusing the Plan Change Process. R.D., p. 9.

The R.D. fails to appropriately recognize the harm of rejecting PPLICA's request for withdrawal "with prejudice" and disregards the Commission's intent to reduce costs, time and resources related to litigating and administering Phase III EE&C plans. *See Phase III Final Implementation Order*, Energy Efficiency and Conservation Program, Docket No. M-2014-2424864 (June 19, 2015) ("*Phase III Final Implementation Order*"), p. 14.

Section 5.94 of the Commission's Regulations, 52 Pa. Code § 5.94, requires that the public interest be considered in determining whether to permit withdrawal of a pleading. The R.D. suggests that "PPLICA has... failed to demonstrate that its interest in not having to address this proposed change again until after May 31, 2021 [(i.e., Phase IV of PPL's EE&C Plan)] rises to the level of the public interest." R.D., p. 9. Accordingly, the R.D. errantly held that even if PPL files the same or similar change in the future, under PPLICA's scenario the only difference between a withdrawal with prejudice and one without prejudice would be whether that litigation ensues before or after the initiation of PPL's Phase IV EE&C Plan.

The R.D. overlooks the fact that withdrawing PPL's Petition "with prejudice" in this instance protects the public interest by preventing PPL from burdening both stakeholders and the Commission with duplicative expenditures of resources, consistent with the goals of the Commission's Phase III Final Implementation Order. In the Phase III Final Implementation Order, the PUC made the following findings:

[W]e believe a longer program term will aid in the implementation of more comprehensive programs. Furthermore, we find that a five-year program provides additional benefits, such as savings in costs, time and resources related to litigating and administering the EE&C plans. *Phase III Final Implementation Order*, p. 14.

Allowing PPL to continue proposing the same change throughout its Phase III Plan, thereby forcing parties to expend resources to mount the same challenges, would frustrate the intent of structuring an efficient Phase III process. In the context of PPL's proposed EE&C change, it is far more reasonable, efficient, and consistent with the public interest to limit resubmission of proposed changes to Phase IV of PPL's EE&C Plan.

In addition, allowing PPL to submit a plan change and then withdraw that change after the parties have submitted comments opposing the change subverts the Commission's stakeholder processes and encourages "trial balloon" proposals that are not fully supported or thought out. It is contrary to the public interest to allow the resubmission of this proposed change during Phase III and may rise to the level of abusing the plan change process. Conversely, granting PPL's Petition to Withdraw with prejudice would encourage PPL to conduct further study before proposing plan changes.

III. CONCLUSION

WHEREFORE, PPLICA respectfully requests that the Commission grant PPLICA's Exception to the R.D. and deny PPL's Petition to Withdraw without prejudice, and grant withdrawal of PPL's Petition with prejudice for the remainder of PPL's Phase III Plan.

Respectfully submitted,

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