# PENNSYLVANIA

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held November 8, 2018

Commissioners Present:

Gladys M. Brown, Chairman

Andrew G. Place, Vice Chairman

Norman J. Kennard

David W. Sweet

John F. Coleman, Jr.

Petition of PPL Electric Utilities M-2015-2515642

Corporation for Approval of its Act 129

Phase III Energy Efficiency and

Conservation Plan

**OPINION AND ORDER**

**BY THE COMMISSION:**

 Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of the PP&L Industrial Customer Alliance (PPLICA or Complainant), filed on April 30, 2018, to the Recommended Decision Granting Petition for Leave to Withdraw Without Prejudice (R.D.) of Administrative Law Judge (ALJ) Benjamin J. Myers, issued on April 9, 2018. PPL Electric Utilities Corporation (PPL or the Company) filed Replies to Exceptions on May 10, 2018. For the reasons stated below, we will deny the Exceptions of PPLICA and adopt the ALJ’s Recommended Decision, consistent with this Opinion and Order.

**History of the Proceeding**

On November 30, 2015, PPL filed its initial Phase III Energy Efficiency and Conservation Plan (EE&C Plan) with the Commission pursuant to Act 129 and various related Commission orders. On March 17, 2016 (*March 2016 Order*), the Commission approved PPL’s initial Phase III EE&C Plan with certain modifications. Pursuant to the Commission’s *March 2016 Order*, PPL submitted a compliance filing on April 22, 2016, as well as an amendment to its filing on May 24, 2016. The Commission approved PPL’s compliance filing, as amended, on June 27, 2016. R.D. at 1.

On September 21, 2016, PPL filed a petition for approval of a minor plan change to its Phase III EE&C Plan. On November 4, 2016, the Commission issued a Secretarial Letter advising that Commission staff approved 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 filed an answer to PPLICA’s petition on November 28, 2016. On January 26, 2017, the Commission denied PPLICA’s petition for appeal. R.D. at 1.

On June 6, 2017, PPL filed a petition for approval of major and minor changes to its Phase III EE&C Plan (*June 2017 Petition*). Because the *June 2017 Petition* included both major and minor changes, PPL opted to proceed under the Commission’s review procedures for major changes. R.D. at 2.

On November 21, 2017, the Commission entered an Opinion and Order (*November 2017 Order*) approving most of the proposed changes, as clarified by PPL. One proposed minor change however, Proposed Change No. 10, the Enhanced Localized Incentives Pilot (Pilot Program), was referred to the Office of Administrative Law Judge (OALJ) for hearings and a recommended decision. The pertinent discussion of the Commission pertaining to the Proposed Change No. 10 is reprinted below:

 Upon our consideration of PPL’s [Pilot Program] proposal and the Comments of the Parties, as well as the Replies thereto, we conclude that based upon PPLICA’s significant opposition to this PPL [Pilot Program] proposal we cannot approve this Minor Change without further analysis and development of the issues expressed within PPLICA’s Comments. Based on PPLICA’s concerns regarding potential discriminatory rates, PPL’s [Pilot Program] proposal does not appear to fit neatly into the Minor Change category. As such, we shall refer this PPL proposed change, along with the other referrals herein, to the Office of Administrative Law Judge for hearings and a recommended decision.

*November 2017 Order* at 37.

The above-referenced proposed minor change is the only remaining aspect of the *June 2017 Petition* pending before the Commission. R.D. at 2. Thereafter, the outstanding matter involving the Pilot Program was assigned to presiding ALJ Myers. A prehearing conference was scheduled and a prehearing conference order directing the filing of pre-hearing memoranda was issued providing for the filing of memoranda on, or before, January 31, 2018. R.D. at 2.

On February 5, 2018, prehearing memoranda were field by PPL, 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). R.D. at 2. The Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA) filed its prehearing memorandum, January 31, 2018. *Id*.

On February 8, 2018, the presiding ALJ sent an email to the Parties, advising them that PPL, in its prehearing memorandum, expressed its intent to withdraw the Pilot Program, without prejudice to a possible future filing or proceeding. *See* Petition at 4; R.D. at 3.

The following Parties responded by indicating that they did not oppose PPL’s withdrawal: (1) the OCA; (2) the OSBA; (3) CAUSE-PA; (4) CEO; (5) SEF; (6) Wal-Mart Store East, LP and Sam’s East, Inc. (collectively Walmart); and (7) the Retail Energy Supply Association (RESA). PPLICA responded that it would object to the PPL withdrawal of the proposed Pilot Program change to the extent that PPL sought to withdraw the proposal, without prejudice. R.D. at. 3.

On February 16, 2018, PPL filed a *Petition of PPL Electric Utilities Corporation For Leave to Withdraw* *Without Prejudice the Remainder of Its June 6, 2017 EE&C Plan Change Petition* (*Petition for Leave to Withdraw*) – that remainder being the proposed minor change relating to the Pilot Program. R.D. at 3.

PPL made several arguments in support of allowing the withdrawal, without prejudice. In addition to saving additional time and expense associated with litigation, PPL argued that the withdrawal of the Pilot Program minor change, without prejudice, would be consistent with Commission precedent and would be consistent with the Commission’s *Minor EE&C Plan Change Order*, *supra.* PPL asserted that if a proposed minor change is referred to the OALJ for hearings, “parties have the opportunity to request permission to withdraw their objection or [*sic*] the proposed change without prejudice after such referral, if they choose.” R.D. at 3-4, citing *Minor EE&C Plan Change Order*, Docket No. M‑2008-2069887 (Order entered June 10, 2011).

PPL’s also argued that PPLICA’s opposition to the withdrawal of the minor change without prejudice was contrary to substantially similar relief PPLICA sought in another proceeding. *See* R.D. at 4. In this regard, PPL explained that on January 19, 2010, PPLICA filed a complaint against PPL regarding its Transmission Service Charge (TSC) Reconciliation for 2009 and the Final TSC for 2010. A prehearing conference in that matter was held on April 15, 2011, and a litigation schedule was established at that time. PPL continued that on June 15, 2011, five days before PPLICA’s direct testimony in that matter was due, PPLICA filed a petition for leave to withdraw its complaint, without prejudice. PPL objected and argued that such withdrawal should be with prejudice because of how far along the parties had reached in the litigation process. PPLICA was, however, permitted to withdraw its complaint without prejudice. 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.” R.D. at 4, citing *PPLICA v. PPL Elec. Util. Corp.*, Docket No. C-2010­2153656 (Order entered January 12, 2012). PPL argued that similar to the result in the *PPLICA v. PPL Elec. Util. Corp.* matter, its request to withdraw the remaining minor change should be granted without prejudice. *Id*.

4

On February 26, 2018, PPLICA filed its Answer to PPL’s Petition. In its Answer, PPLICA indicated that it did not object to the withdrawal of PPL’s remaining proposed minor change in and of itself. However, PPLICA objected to the withdrawal being without prejudice. Answer at 4. PPLICA took the position that if the remaining proposed minor change was withdrawn without prejudice, the parties would be without assurance that they would not be forced to relitigate the proposed minor change as part of another PPL petition for EE&C plan changes. *Id*. PPLICA further argued that PPL should be permitted to withdraw its proposed minor change under the condition that it would not refile a proposal relating to the Pilot Program during the remainder of its Phase III Plan which is scheduled to end on May 31, 2021. PPLICA further asserted that it and “other” parties have expended resources to file comments (comments to the originally proposed concept), propound discovery,[[1]](#footnote-2) secure witnesses, and otherwise, participate in the proceedings. PPLICA submits that exposing parties to the risk of expending duplicative resources runs contrary to the public interest and principles of judicial economy. *Id*.; R.D. at 4-5.

The record closed on February 26, 2018, the date PPLICA filed its Answer to PPL’s *Petition for Leave to Withdraw*.

On April 9, 2018, the Recommended Decision of ALJ Benjamin J. Myers was issued by the Commission. ALJ Myers recommended that PPL’s *Petition For Leave to Withdraw* be granted, and that the proposed Pilot Program be withdrawn without prejudice. PPLICA filed Exceptions on April 30, 2018. PPL filed Replies to Exceptions on May 10, 2018.

We note that PPL filed a Petition for Approval of Changes to its EE&C Plan on July 20, 2018. Comments were filed on August 20, 2018 by the OCA, PPLICA, CAUSE-PA and SEF. On September 10, 2018, Reply Comments were filed by PPL. The Petition for Approval of Changes to its EE&C Plan is pending before the Commission and will be addressed as a separate matter at today’s Public Meeting.

**Discussion**

Before addressing the Exceptions of PPLICA, we note that any issue or Exception that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. It is well settled that we are not required to consider, expressly or at length, each contention or argument raised by the parties. [*Consolidated Rail Corp. v. Pa. PUC,* 625 A.2d 741 (Pa. Cmwlth. 1993);](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=5&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b625%20A.2d%20741%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=ad2b02d95c2a9216e83b92a3570d4785) *also see, generally,* [*University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=6&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b485%20A.2d%201217%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=9b1cc8319afd12440738bb82d74455ef)

**The ALJ’s Initial Decision**

In the Recommended Decision, the ALJ made seven Findings of Fact and reached three Conclusions of Law. I.D. at 5-6 and 10. We shall adopt and incorporate herein by reference the ALJ’s Findings of Fact and Conclusions of Law unless they are either expressly or by necessary implication overruled or modified by this Opinion and Order.

The ALJ acknowledged that the Commission’s Rules of Practice and Procedure at 52 Pa. Code §5.94 permit parties to withdraw pleadings in a “contested” proceeding. The provision at 52 Pa. Code §5.94(a) allows withdrawal of pleadings by filing a petition for leave to withdraw the pleading. The petition is granted only by permission of the presiding officer or the Commission. The presiding officer or Commission must consider the petition, any objections thereto, and the public interest in determining whether to permit withdrawal of the pleading. R.D. at 6.

The ALJ noted that PPLICA is the only party to raise any objections to PPL’s withdrawal of its remaining minor change concerning the Pilot Program. PPLICA’s objection, as noted, is not to the withdrawal itself - but to PPL’s request that it be withdrawn without prejudice. R.D. at 6.

ALJ Myers observed that the Commission has addressed requests for leave to withdraw pleadings with or without prejudice in the context of consumer complaint proceedings, most notably where a putative consumer complainant fails to appear for a duly scheduled hearing on a complaint or, otherwise, fails to prosecute the complaint. *See* R.D. at 7. The Commission has considered petitions to withdraw, with or without prejudice, in matters other than consumer complaint proceedings. *Id*., citing *Application of Comfort Trans, LLC*, Docket No. A-2016-2549430 (Order entered January 6, 2017); *Application of Blessed Transportation, LLC,* Docket No. A-2015-2549943 (Order entered January 6, 2017).

Factors to consider when determining whether a pleading may be withdrawn and whether it will be with or without prejudice, include: (1) the behavior of a party, (2) the timing of the request, and (3) whether Commission processes may be abused. The pertinent reasoning of ALJ Myers is reprinted below:

 Based on this limited precedent, factors to consider when determining whether a pleading may be withdrawn and whether it will be with or without prejudice, include: (1) the behavior of a party, (2) the timing of the request, and (3) whether Commission processes may be abused. Here, no such red flags have been raised by PPL during the Phase III approval process.

\* \* \*

 Commission precedent relating to the withdrawal of a pleading and whether it should be with or without prejudice, however entails a much larger and more general picture than whether two cases have identical, or even similar, procedural histories. That precedent prescribes that such a picture is painted by a number of factors including the behavior of a party, the timing of the request and whether Commission processes may be abused. The picture must then be viewed as a simple procedural request shaded by those factors. While differences in procedural history may be present, it is merely one factor of several that must be considered.

 Last, 52 Pa.Code §5.94 requires that the public interest be considered in determining whether to permit withdrawal of the pleading and whether that withdrawal should be with or without prejudice. PPLICA argues that the withdrawal of PPL’s remaining proposed change should be granted, but with prejudice. At the heart of this argument is that if PPL’s remaining proposed change is withdrawn without prejudice, PPL could propose this same change again, possibly within one year. PPLICA argues that it would not be in the public interest to allow such a withdrawal only to have the parties face this same or a similar proposed change again in the near future. PPLICA argues that PPL should be permitted to withdraw its proposed change but with prejudice for the remainder of the Phase III Plan – which is scheduled to end on May 31, 2021. After that date, PPL would be permitted to once again propose the same or a similar change as part of its Phase IV Plan.[[2]](#footnote-3)

8

9

 PPLICA has however failed to demonstrate that its interest in not having to address this proposed change again until after May 31, 2021 rises to the level of the public interest. As previously indicated, public interest must ultimately be considered in determining whether PPL’s withdrawal should be with or without prejudice. It would be somewhat contradictory for a party on one hand to make an argument that a proposed change to the EE&C plan is not sound or otherwise in the public interest and then argue that the withdrawal of that proposed change would also not be in that same interest. It is understandable that PPLICA does not wish to fight the same battle again if PPL decides to request a similar minor change to its EE&C plan at some future date. However even if PPLICA is correct and the same or similar change is proposed by PPL in the future, under PPLICA’s scenario the only difference between a withdrawal with prejudice and a withdrawal without, would be whether that battle is fought before or after May 31, 2021. This fails to establish how a withdrawal of PPL’s remaining proposed change without prejudice would be counter to public interest.

Having reviewed the request to withdraw, any objections to the request and the public interest, it is therefore recommended that PPL’s request to withdraw its remaining proposed minor change should be granted without prejudice.

R.D. at 7-9.

In the present case, while recognizing the potential for the additional expenditure of resources on the part of interested parties should PPL propose a similar program or pilot in the future, ALJ Myers did not discern any factors that substantially militated in favor of PPLICA’s position concerning the withdrawal, without prejudice. R.D. at 7. In light of the foregoing, he granted the PPL Petition.

**Exceptions and Replies**

In its first Exception, PPLICA argues “[t]he ALJ erred in alleging that PPLICA advanced contradictory arguments.” PPLICA avers that the ALJ overlooked language in PPLICA’s Answer to PPL’s *Petition for Leave to Withdraw*, clarifying that “PPL should be permitted to withdraw the proposed Pilot Program, 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.” Exc. at 3 (citing R.D. at 9, PPLICA Answer at 5).

In reply, PPL provides that PPLICA’s argument fails because the record shows that the ALJ accurately described PPLICA’s request for relief and position on the Company’s proposed withdrawal. R.Exc. at 5 (citing R.D. at 5-9).

PPL also notes that the ALJ did not state that PPLICA’s position was contradictory. Rather, ALJ Myers stated that it would be somewhat contradictory for a party to oppose an EE&C Plan change and then oppose any withdrawal of the change. R.Exc. at 5 (citing R.D. at 9). PPL explains that the ALJ observed that even if PPLICA’s request was granted, nothing would prevent PPL from “propos[ing] the same or a similar change as part of its Phase IV Plan.” R.Exc. at 6 (citing R.D. at 9).

In the second Exception, PPLICA avers that the ALJ’s Recommended Decision 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. Exc. at 4. PPLICA explains that 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. PPLICA avers that 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. Exc. at 5.

PPL disagrees with PPLICA’s position and asserts that the Recommended Decision correctly found that all of the factors for determining if a pleading should be withdrawn, either with or without prejudice, weighed in favor of PPL. R.Exc. at 6 (citing R.D. at 7-9). PPL contends that its actions were reasonable because it sought to withdraw the proposed change after engaging in settlement negotiations with parties to try to “avoid the time and expense of a prehearing conference and subsequent litigation.” R.Exc. at 7 (citing R.D. at 8). PPL states that the litigation never progressed to a point where a withdrawal without prejudice would be considered unreasonable and that the alleged harm expressed by PPLICA is entirely speculative, as it is dependent on PPL proposing the same or a similar minor plan change before the end of Phase III. R.Exc. at 7-8.

**Disposition**

On consideration of the positions of the Parties, we shall adopt the ALJ Meyers’ Recommended Decision.

As a threshold consideration, we observe that the reasoning of ALJ Myers is sound, as there is no single, determinative factor for our consideration and disposition regarding a petition to withdraw a pleading, with or without prejudice. Our Regulation at 52 Pa. Code § 5.94(a) provides, as follows:

#### § 5.94. Withdrawal of pleadings in a contested proceeding.

 (a)  Except as provided in subsection (b), a party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document with the Commission and serve it upon the other parties. The petition must set forth the reasons for the withdrawal. A party may object to the petition within 10 days of service. After considering the petition, an objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted. (emphasis supplied)

ALJ Meyers’ determination to grant PPL’s request to withdraw the remainder of its EE&C Plan Change Petition is consistent and in accord with our consideration of requests to withdraw and whether such a withdrawal should be permitted, without, prejudice. *See, e.g., Richard Kaufman v. Verizon Pennsylvania Inc.*, Docket No. C‑20055680 (Order entered November 19, 2008). The guiding principle will be a balancing of the factors in any given case to ascertain whether the withdrawal will be contrary to the public interest or substantially prejudicial to a party. By way of comparison to civil practice, the withdrawal of a pleading is an attempt to obtain the general effect of a discontinuance, which will terminate the action without an adjudication of the merits and to place the plaintiff in the same position as if the action had never been instituted. *See* [*Motley Crew, LLC v. Bonner Chevrolet Co., Inc.*, 93 A.3d 474, 476 (Pa. Super. 2014)](https://advance.lexis.com/document/?pdmfid=1000516&crid=f05c295c-91ce-4b72-884c-71bb64174f2f&pddocfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A5MW1-JGT1-F0CM-R044-00000-00&pddocid=urn%3AcontentItem%3A5MW1-JGT1-F0CM-R044-00000-00&pdcontentcomponentid=422175&pdshepid=urn%3AcontentItem%3A5MWF-FJN1-J9X6-H08D-00000-00&pdteaserkey=sr2&pditab=allpods&ecomp=5pkLk&earg=sr2&prid=bb769a31-936c-4818-929f-7967ee21f55d), citing 1 *Goodrich—Amram* 2d § 229:4.

In its first Exception, PPLICA contends that the ALJ erred by alleging that PPLICA’s arguments were contradictory. The ALJ stated, “It would be *somewhat contradictory* for a party on one hand to make an argument that a proposed change to the EE&C plan is not sound or otherwise in the public interest and then argue that the withdrawal of that proposed change would also not be in that same interest.” *See* R.D. at 9 (emphasis added).

In its Answer to PPL’s Petition, PPLICA noted that it filed Comments to the originally proposed Pilot Program asking the Commission to deny the proposal due to the potential for interclass cost subsidization and the unfairness and discriminatory practice of offering customers different rebate levels under the same program based on geographical location. Answer at 4, citing PPLICA Comments at 4. PPLICA has been consistent in its opposition, in principle, to the Pilot Program.

We also note that PPLICA, in its Answer, raised a public interest concern that the withdrawal could expose parties to a risk of expending duplicative resources that is contrary to the public interest and principles of judicial economy. *See* Answer at 5. While PPLICA raises matters of concern, we find its position of alleged harm to the public interest to be speculative. Contrary to the position of PPLICA, the withdrawal of the Petition at this time will militate in favor of administrative and judicial economy as the majority of the participants do not oppose withdrawal of the Petition, without prejudice, and have not expressed a decision to expend resources to further participate in the proceeding. The record does not indicate the extent of resources expended thus far by PPLICA and others in anticipation of litigating the Pilot Program proposal according to the procedural schedule to be established.[[3]](#footnote-4) However, the withdrawal – without prejudice – places the Parties in essentially the same position as they were prior to the proposed minor change, Change No. 10.

Regarding the Complainant’s second Exception, we note that the ALJ concluded that PPL’s conduct in the proceeding did not evidence a course of conduct or abuse of Commission processes that in other matters warranted the Commission’s denial of the withdrawal of a pleading or the dismissal of a pleading with prejudice. We agree and conclude that PPL’s withdrawal does not appear to be in bad faith. As such, we do not find substantial prejudice to the positions of the Parties to permit withdrawal, without prejudice.

PPL proposed its Pilot Program and engaged in discussions with the Parties in an attempt to resolve various issues in conjunction with the convening of a prehearing conference. When the discussions did not prove fruitful, PPL requested that the proposed EE&C plan change be withdrawn.

Upon our review and consideration of the record and positions of PPLICA and PPL, we agree with the ALJ that PPL’s actions were reasonable in trying to obtain agreement on the proposed minor change and when agreement could not be reached, PPL sought to withdraw the proposed minor change to its EE&C Plan. We conclude that PPL’s Petition to Withdraw should be granted.

In addition to the specific circumstances of the need for the initial referral of this matter to the OALJ, consistent with the procedures for adopting minor changes to a Plan, we are disposed to err on the side of the party having the burden of proof before the Commission. [66 Pa. C.S. § 332(a)](https://advance.lexis.com/document/?pdmfid=1000516&crid=09bba89c-4f29-4ecd-8280-4ed91548fd10&pddocfullpath=%2Fshared%2Fdocument%2Fadministrative-materials%2Furn%3AcontentItem%3A54C5-M020-00T9-91BK-00000-00&pddocid=urn%3AcontentItem%3A54C5-M020-00T9-91BK-00000-00&pdcontentcomponentid=139838&pdteaserkey=sr7&pditab=allpods&ecomp=5pkLk&earg=sr7&prid=5f099289-ada4-4fc4-8b6a-f3667d9b0499). PPL, as proponent of the Pilot Program, had the burden of proof and will continue to have such burden for any forthcoming proposal.

C**onclusion**

Based on our review of the record, the Exceptions, and the positions of the Parties, we shall we shall deny the Exceptions of PPLICA and adopt the Recommended Decision of ALJ Myers that grants, without prejudice, PPL’s *Petition for Leave to Withdraw;* **THEREFORE,**

**IT IS ORDERED:**

1. That the Exceptions filed by the PP&L Industrial Customer Alliance on April 30, 2018, are denied, consistent with this Opinion and Order.
2. That the Recommended Decision of Administrative Law Judge Benjamin J. Myers, issued on April 9, 2018, is adopted, consistent with this Opinion and Order.
3. That 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 filed by PPL Electric Utilities Corporation on February 16, 2018, is, hereby, granted.
4. That PPL Electric Utilities Corporation’s Proposed Change No. 10 to its Phase III EE&C Plan, the Enhanced Localized Incentives Pilot, is hereby permitted to be withdrawn without prejudice to a future filing or proceeding.

** BY THE COMMISSION,**

 Rosemary Chiavetta

 Secretary

(SEAL)

ORDER ADOPTED: November 8, 2018

ORDER ENTERED: November 8, 2018

1. PPLICA propounded a first set of interrogatories to PPL. R.D. at 2. [↑](#footnote-ref-2)
2. PPLICA expressed a concern that at a December 13, 2017 EE&C Plan Stakeholder Meeting, PPL informed participants of its intention to file a third Petition for Plan Change in 2018. PPLICA Answer at 5. [↑](#footnote-ref-3)
3. A prehearing conference scheduled for February 7, 2018, was continued due to inclement weather. And, as noted, on February 8, 2018, notice of PPL’s intent to withdraw was provided to the Parties. R.D. at 2-3. [↑](#footnote-ref-4)