



*Via Electronic Filing*

September 10, 2019

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Docket No. P-2019-3010128, Petition of PPL Electric Utilities Corporation for  
Approval of Tariff Modifications Necessary to Implement its Distributed Energy  
Resources Management Plan**

Dear Secretary Chiavetta:

Please find enclosed the Prehearing Conference Memorandum of the Natural Resources Defense Council (NRDC) for filing in the above-referenced proceeding.

This filing was initially made yesterday, September 9, 2019, but was rejected because I inadvertently omitted the docket number from the subject line.

Please contact me if you have any questions concerning this matter.

Thank you very much.

Sincerely,

Mark C. Szybist  
Mark C. Szybist, Esq.  
NRDC

cc: The Honorable Emily I. DeVoe, ALJ

**CERTIFICATE OF SERVICE**

Petition of PPL Electric Utilities Corporation :  
for Approval of Tariff Modifications and :  
Waivers of Regulations Necessary to : Docket No. P-2019-3010128  
Implement its Distributed Energy Resources :  
Management Plan :

I hereby certify that this day I served a copy of NRDC's Prehearing Memorandum upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54.

***Via First Class Mail***

Devin T. Ryan, Esquire David B. MacGregor, Esquire Post & Schell, P.C. 17 North Second Street 12th Floor Harrisburg, PA 17101-1601	Kimberly A. Klock, Esquire Michael J. Shafer, Esquire PPL Electric Utilities Corporation 2 North 9th Street Allentown, PA 18101-1179
Ed Merrick, VP of Regulatory Affairs Trinity Solar 2211 Allenwood Road Wall, NJ 07719	Kenneth L. Mickens, Esquire 316 Yorkshire Drive Harrisburg, P A 1 7111-693 3
Phillip D. Demanchick, Esquire David T. Evrard, Esquire Office of Consumer Advocate 555 Walnut Street 5 <sup>th</sup> Floor Forum Place Harrisburg, PA 17101	Joseph Morinville, CEO Energy Independent Solutions, LLC. 2121 Noblestown Road Suite 222 Pittsburgh, P A 15205
Mark Bortman Exact Solar 1655 Fairfield Road Yardley, P A 19067	Ron Celentano, President P A Solar Energy Industries Association 7821 Flourtown A venue Wyndmoor, PA 19038

James Van Nostrand, Esquire Keyes & Fox LLP. 275 Orchard Drive Pittsburgh, P A 15228	Beren Argetsinger, Esquire Keyes & Fox LLP. P.O. Box 166 Burdett, NY 14818
Sara Baldwin, VP Interstate Renewable Energy Council, Inc. 125 Wolf Road Suite 207 Albany, NY 12205	Sharon Pillar, President Solar Unified Network of Western PA 1435 Bedford Avenue Suite 140 Pittsburgh, PA 15143
John Costlow, President Sustainable Energy Fund 4110 Independence Drive Suite 100 Schnecksville, P A 18078	Ric O'Connell Gridlab 20120 University Avenue Berkeley, CA 94 704

Date: September 9, 2019

/s/ Mark C. Szybist  
Mark C. Szybist, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation	:	
for Approval of Tariff Modifications and	:	
Waivers of Regulations Necessary to	:	Docket No. P-2019-3010128
Implement its Distributed Energy Resources	:	
Management Plan	:	

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**PREHEARING CONFERENCE MEMORANDUM OF  
NATURAL RESOURCES DEFENSE COUNCIL**

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Mark C. Szybist  
Pennsylvania Bar # 94112  
Natural Resources Defense Council  
1152 15<sup>th</sup> Street NW, Suite 300  
Washington, DC 20005  
Phone: (570) 447-4019  
Email: mszybist@nrdc.org

DATE: September 9, 2019

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities	:	
Corporation for Approval of Tariff	:	
Modifications and Waivers of	:	
Regulations Necessary to Implement its	:	Docket No. P-2019-3010128
Distributed Energy Resources	:	
Management Plan	:	

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**PREHEARING CONFERENCE MEMORANDUM OF  
NATURAL RESOURCES DEFENSE COUNCIL**

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Pursuant to 52 Pa. Code § 5.221 - § 5.223 and the August 28, 2019 Prehearing Conference Order (“Order”) of Administrative Law Judge DeVoe, the Natural Resources Defense Council (“NRDC”) submits this Prehearing Conference Memorandum.

**I. Procedural Background**

On May 24, 2019, PPL Electric Utilities Corporation (“PPL”) submitted a petition to the Public Utility Commission (“Commission”) titled *Petition of PPL Electric Utilities for Approval of Tariff Modifications and Waivers of Regulations Necessary to Implement its Distributed Energy Resources Management Plan* (“Petition”). The Petition requests that the Commission approve modifications to the net metering and interconnection provisions in PPL’s Distributed Energy Resources Management Plan and waive application of nine regulations promulgated by the Commission at 52 Pa. Code Chapter 75.<sup>1</sup>

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<sup>1</sup> Docket No. P-2019-3010128, *Petition of PPL Electric Utilities Corporation for Approval of Tariff Modifications and Waivers of Regulations Necessary to Implement its Distributed Energy Resources Management Plan* at p. 1 and p. 22 (May 24, 2019).

Should the Petition be granted, PPL’s modified Distributed Energy Resources Management Plan (“Plan”) would, among other things, require customers seeking to interconnect new distributed energy resources (DERs) to PPL’s distribution system to (1) use Company-approved smart inverters that are compliant with IEEE Standard 1547-2018 and forthcoming UL Standard 1741; and (2) install devices that enable PPL to monitor and proactively manage customers’ DERs.<sup>2</sup>

On July 30, 2019, NRDC, Sunrun, Inc. (“Sunrun”), and the Office of Consumer Advocate (“OCA”) filed motions to intervene and answers (“Answer” or “Answers”) to PPL’s Petition. The respective Answers of these parties (collectively, “Intervenors”) all opposed PPL’s Petition as premature, in light of the unfinished state of the technical standards that PPL seeks to implement, and inappropriate for adjudication in administrative litigation concerning a single electric distribution utility, given the statewide importance of the technical and policy issues raised by the Petition.

On July 29 and July 30, 2019, several parties filed comments in opposition to PPL’s Petition. These parties included the Sustainable Energy Fund; Grid Lab; Trinity Solar; the Solar Unified Network of Western Pennsylvania; Independent Energy Solutions, LLC; Interstate Renewable Energy Council, Inc.; the Pennsylvania Solar Energy Association; and Exact Solar.

On August 22, 2019, PPL filed a letter responding to the Answers of the Intervenors<sup>3</sup> and requesting that the Petition “be assigned for hearing and disposition

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<sup>2</sup> *Id.* at p. 2.

<sup>3</sup> At the time PPL’s letter was filed, the Intervenors’ petitions to intervene had not yet been granted.

before an administrative law judge without delay.”<sup>4</sup> PPL argued that the Intervenor’s concerns would be “best addressed through litigation of the Company’s DER Management Plan,” because “[i]n contrast to a statewide proceeding where parties submit comments, litigation would enable the parties to engage in discovery, submit testimony, cross-examine witnesses, and file briefs on the factual and legal issues.” PPL argued that litigation “would produce a clearer and more thorough record for the Commission to review when rendering its final decision.”

Subsequently on August 22, 2019, the petitions to intervene of Sunrun and NRDC were granted by Administrative Law Judge DeVoe.<sup>5</sup>

On August 28, 2019, Administrative Law Judge DeVoe issued a Notice of Prehearing Conference setting the prehearing conference date and a Prehearing Conference Order directing the parties to file prehearing conference memorandums.

On August 30, 2019, NRDC and Sunrun jointly filed Preliminary Objections to PPL’s Letter<sup>6</sup> and, in the alternative, a Motion for Leave to Reply and Reply to PPL’s Letter.

On September 3, 2019, Sustainable Energy Fund filed a petition to intervene.<sup>7</sup>

## **II. Position on How the Matter Should Proceed**

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<sup>4</sup> Docket No. P-2019-3010128, *Letter of PPL Electric Utilities Corporation to Secretary Chiavetta* (Aug. 22, 2019).

<sup>5</sup> Docket No. P-2019-3010128, *Interim Order Granting Petitions of Natural Resources Defense Council and Sunrun Inc. to Intervene* (Aug. 22, 2019).

<sup>6</sup> Docket No. P-2019-3010128, *Preliminary Objection of Sunrun Inc. and Natural Resources Defense Council to PPL Electric Utilities Corporation Letter Response and Request for Hearing* (Aug. 30, 2019).

<sup>7</sup> Docket No. P-2019-3010128, *Petition to Intervene of Sustainable Energy Fund* (Sept. 3, 2019).

As noted above and discussed at length in NRDC's Answer and Preliminary Objections, the important technical and policy issues raised in PPL's Petition are of statewide importance, and addressing them in the current proceeding would have statewide implications. Consequently, these issues warrant a full investigation by the Commission on a statewide basis to ensure regulatory consistency across the areas served by Pennsylvania's various electric distribution companies and accommodate participation by all interested stakeholders.

PPL's Petition is also premature because as NRDC, Sunrun, and the Office of Consumer Advocate have noted, the technical standards necessary to determine what kinds of smart inverters comply with the new IEEE 1547 standard have not been completed. Nor are the current and projected levels of DERs in Pennsylvania so high that they necessitate immediate changes to Pennsylvania's current interconnection standards.

For these reasons, it is NRDC's position that PPL's Petition should be summarily denied based on the record created in this matter so far. Accordingly, NRDC supports the position set forth in Sunrun's prehearing memorandum that the Prehearing Conference should include discussion of the request by NRDC and Sunrun that PPL's Petition be denied.<sup>8</sup> A ruling on this foundational issue now will expedite the orderly disposition of this proceeding and the furtherance of justice.

Alternatively, in the event that the Presiding Judge does not deny PPL's Petition based on the record developed so far, NRDC requests that, pursuant to 66 Pa.C.S. § 331(e), the Presiding Judge stay this matter and certify to the Commission the question of whether the important technical and policy questions raised by the Petition and the

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<sup>8</sup> See *supra* note 2.



Intervenors' Answers should be addressed through a statewide rulemaking proceeding, rather than an administrative litigation process, and if so what should be the timing and design of that process.

While PPL opines in its August 22 that administrative litigation “would produce a clearer and more thorough record for the Commission to review” than a statewide proceeding, the Pennsylvania General Assembly has previously determined that interconnection standards are better established on a statewide basis. Specifically, section 1648.5 of the Alternative Energy Portfolio Standards Act of 2004 (“AEPS”), 73 P.S. § 1648.5, provides:

Excess generation from net-metered customer-generators shall receive full retail value for all energy produced on an annual basis. The commission shall develop technical and net metering interconnection rules for customer-generators intending to operate renewable onsite generators in parallel with the electric utility grid, consistent with rules defined in other states within the service region of the regional transmission organization that manages the transmission system in any part of this Commonwealth. *The commission shall convene a stakeholder process to develop Statewide technical and net metering rules for customer-generators. The commission shall develop these rules within nine months of the effective date of this act.*

(Emphasis added). Upon information and belief, the Commission did in fact convene a stakeholder process pursuant to this statute, then developed and ultimately promulgated the regulations at 52 Pa. Code Chapter 75, including the nine regulations for which PPL seeks waivers, in accordance with the Pennsylvania Regulatory Review Act, 71 P.S. § 745.1 et seq. (“RRA”). The RRA establishes a multi-step process for the establishment of regulations in Pennsylvania and is based, in part, on the premise that “[t]he process by

which State regulations are developed and adopted should be reformed to require agencies to solicit the ideas and comments of small businesses, to examine the impact of proposed and existing rules on such businesses and to review the continued need for existing rules.” 71 P.S. § 745.2(c)(10).

The Commission’s regulations at 52 Pa. Code § 5.43(a) allow parties to seek waivers from existing regulations. NRDC submits, however, that it would be inconsistent with legislative intent, as expressed in the AEPS, for the Commission to waive in an administrative proceeding nine Chapter 75 regulations that were developed pursuant to a statewide stakeholder process explicitly directed by the General Assembly.

### **III. Proposed Procedural Schedule**

Assuming *arguendo* that the Presiding Judge does not deny PPL’s Petition on the basis of the record developed so far, NRDC respectfully submits that an administrative litigation schedule should not be established in this matter until after the Commission decides, following certification of the question by the Presiding Judge, that the issues raised in the Petition would be appropriately addressed in this litigation, rather than in a statewide proceeding.

Accordingly, NRDC supports the proposed procedural schedule set forth in the prehearing conference memorandum of Sunrun. NRDC reserves the right to propose a procedural schedule and comment on schedules proposed by other parties, in the event that NRDC and Sunrun’s recommendations are not adopted.

#### **IV. Proposed Plan and Schedule for Discovery**

NRDC respectfully submits that a plan and schedule for discovery should be established only after the issuance of a preliminary ruling addressing the foundational matters discussed in Section III above. NRDC reserves the right to propose and/or comment on any proposed plan and/or schedule for discovery in the event that these recommendations are not adopted.

#### **V. Proposed Witnesses and Subject of Testimony**

NRDC respectfully submits that a preliminary ruling addressing the foundational matters discussed in Section III above should be issued prior to the proposal of witnesses. NRDC reserves the right to identify a witness or witnesses to present testimony in the event that these recommendations are not adopted.

In the event that these recommendations are not adopted and the issues raised in PPL's Petition and the parties' Answers proceed pursuant to an administrative litigation process, NRDC anticipates addressing the following subjects in testimony. (The following is a preliminary list of subjects and NRDC reserves the right to modify this list as it deems appropriate to represent its interests.)

- Technical and public policy issues surrounding PPL's proposal to require new interconnecting DER customers to install advanced inverters prior to the finalization of IEEE 1547-2018 and UL 1741 advanced inverter standards and well ahead of other states contemplating adoption of these standards. This subject includes, but

is not limited to, the anticipated timeline for when DER inverters certified to the new standards will be available on the market.

- Technical and public policy issues surrounding PPL’s proposal to require new interconnecting DER customers to install a communication device to allow PPL to control customer-sited DERs. This subject includes, but is not limited to: (1) the technical capabilities of smart inverters to facilitate grid support functions from customer-sited DERs without the need for direct utility control; and (2) critical distinctions between the issue of adopting advanced inverter standards and the issue of direct-utility control of customer-sited DERs.
- Technical and public policy issues surrounding the compensation for grid services provided by customer and third-party owned DERs. This subject includes, but is not limited to, the need for statewide uniformity in valuation methodologies and pathways for customer-sited DERs to participate in energy markets and provide different grid support functions to foster a well-functioning DER market.
- Technical and public policy issues surrounding the importance of uniform rules for the roll-out of advanced inverter standards across the Commonwealth. This subject includes, but is not limited to, the significant DER market disruptions that would occur if advanced inverter standards are adopted on a utility-by-utility basis.
- Technical and public policy issues surrounding the adoption of advanced inverter standards. This subject includes, but is not limited to, category assignments and the level of performance for a technology-specific or use case-specific basis in the “normal” and “abnormal” operating performance categories; the advanced inverter functions to be utilized, which settings should be used, and how enabling

these functions will interact with interconnection rules and compensation mechanisms, among other considerations.

- Technical public policy issues concerning the current and projected penetration of distributed solar resources and other DERs in Pennsylvania.

## **VI. Designation of Lead Representative for Prehearing Conference**

NRDC hereby designates Mark C. Szybist as lead representative for the Prehearing Conference.

Mark C. Szybist  
Pennsylvania Bar # 94112  
Natural Resources Defense Council  
1152 15<sup>th</sup> Street NW, Suite 300  
Washington, DC 20005  
Phone: (570) 447-4019  
Email: mszybist@nrdc.org

## **VIII. Conclusion**

NRDC appreciates the opportunity to submit this Prehearing Conference Memorandum, and we look forward to further discussion to resolve the issues discussed herein.

Respectfully submitted this 9<sup>th</sup> day of September 2019.

/s/ Mark C. Szybist  
Mark C. Szybist  
Pennsylvania Bar # 94112  
Natural Resources Defense Council  
1152 15<sup>th</sup> Street NW, Suite 300  
Washington, DC 20005  
Phone: (570) 447-4019  
Email: mszybist@nrdc.org