

September 20, 2019

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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

**Petition of Sunrun Inc. for Interlocutory Commission Review and
Answer to Material Questions**

Secretary Chiavetta:

Enclosed please find the Petition of Sunrun Inc. for Interlocutory Commission Review and Answer to Material Questions for filing in the above-referenced proceeding. Please contact me if you have any questions concerning this matter.

Sincerely,

/s/ James M. Van Nostrand

James M. Van Nostrand
Keyes & Fox, LLP

Counsel to Sunrun Inc.

**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 Distributed	:	Docket No. P-2019-3010128
Energy Resources Management Plan	:	
	:	

**PETITION OF SUNRUN INC. FOR INTERLOCUTORY COMMISSION REVIEW AND ANSWER TO
MATERIAL QUESTIONS**

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DATED: September 20, 2019

Counsel to Sunrun Inc.

**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 Distributed :
Energy Resources Management Plan :
: Docket No. P-2019-3010128
:

**PETITION OF SUNRUN INC. FOR INTERLOCUTORY COMMISSION REVIEW AND ANSWER TO
MATERIAL QUESTIONS**

Pursuant to 52 Pa.Code § 5.302 and the directives of Administrative Law Judge DeVoe (“Judge DeVoe” or “Presiding Judge”) at the September 11, 2019 Prehearing Conference,¹ Sunrun Inc. (“Sunrun”) hereby submits this petition for interlocutory review and answer to material questions (“Petition for Review”). In support of this Petition for Review, Sunrun states the following.

1. The petition (“Petition”) of PPL Electric Utilities Corporation (“PPL” or “Company”) seeks Commission approval to require customers interconnecting new distributed energy resources (“DERs”) to (1) use Company-approved smart inverters compliant with IEEE Standard 1547-2018 and the yet to be finalized UL Standard 1741; and (2) install communication devices that enable PPL to monitor and control customers’ DERs.² The Petition asks the Commission to waive nine of its regulations governing technical standards for DERs and “any additional waivers of the Commission’s regulations” necessary to implement the Company’s DER Management Plan.³
2. All four intervenors in this proceeding recommended that the Commission deny PPL’s Petition or, in the alternative, investigate the issues raised in PPL’s Petition through a procedure applicable on a statewide basis.⁴ Seven non-intervenor entities filed comments supporting the Answer of Natural Resources Defense Council

¹ At the Prehearing Conference Judge DeVoe provided parties the opportunity to file by September 20, 2019 petitions for interlocutory review and answer to material questions regarding whether issues raised in PPL’s Petition should be addressed on a statewide basis.

² Docket No. P-2019-3010128, *Pet. of PPL Elec. Utils Corp. for Approval of Tariff Modifications and Waivers of Regulations Necessary to Implement its Distributed Energy Res. Mgmt. Plan* at pp. 22-25 (May 24, 2019) (“Pet. of PPL”).

³ *Id.* at p. 2 (requesting waiver of 52 Pa. Code §§ 75.13(c), 75.13(k), 75.22, 75.34, 75.35, 75.37, 75.38, 75.39, and 75.40).

⁴ Docket No. P-2019-3010128, *Answer of Sunrun Inc. to Pet. of PPL* (July 30, 2019); *Answer of Nat. Res. Def. Council to Pet. of PPL* (July 30, 2019); *Answer of the Office of Consumer Advocate to Pet. of PPL* (July 30, 2019). Sustainable Energy Fund’s late intervention was granted at the Prehearing Conference. SEF supports denial of the Petition or, in the alternative, investigation of issues raised in the Petition on a statewide basis.

(“NRDC”) and recommending that the Commission deny the Petition.⁵ This matter was assigned to the Office of Administrative Law Judge (“OALJ”) and the Office of Special Assistants on August 6, 2019.⁶

3. PPL requests extraordinary relief in seeking waiver of numerous Commission regulations that were adopted—at the direction of the legislature—pursuant to a statewide stakeholder process.⁷ The Company compounds its exceptional request by demanding that its Petition be considered in a “standard administrative litigation process,” asserting that it has a due process right to an evidentiary hearing.⁸ However, the Commission is under no obligation provide PPL an evidentiary hearing on its Petition and has the authority to dismiss the Petition outright inasmuch as questions of law, policy or discretion are involved.⁹ Nothing is more squarely within the Commission’s sole discretion than to deny a request for waiver of its duly adopted regulations. The Commission has a clear alternative path if it wishes to address issues raised in PPL’s Petition: dismiss the Petition and initiate a process to determine whether issues raised in the Petition are ripe for review, and if so, resolve such issues on a statewide basis.

4. Given the foregoing, it is entirely proper for the Commission to determine whether issues raised in PPL’s Petition should be addressed through a statewide proceeding or litigated on utility-by-utility basis for each utility in the Commonwealth. Indeed, these are questions the Commission is uniquely positioned to answer—and Sunrun respectfully submits *should* answer—before PPL’s Petition proceeds further through a standard administrative litigation process. Sunrun therefore seeks interlocutory review and answer to the following material questions which Sunrun submits should be answered in the affirmative.

- A. Does PPL’s Petition implicate technical and public policy questions of statewide concern?
- B. Should PPL’s Petition be denied in favor of addressing such issues on a statewide basis at a time deemed appropriate by the Commission?

⁵ See Docket No. P-2019-3010128.

⁶ See Docket No. P-2019-3010128; see also 66 Pa.C.S. § 331(b) (it is Sunrun’s understanding that as a matter of administrative practice pursuant to 66 Pa.C.S. § 331(b), PPL’s Petition and the parties’ answers protesting the Petition resulted in this docket being automatically designated as a contested case proceeding and thus assigned to the OALJ and to a Presiding Judge).

⁷ The Alternative Energy Portfolio Standards Act – the statute pursuant to which the Commission developed the very regulations for which PPL seeks waiver of compliance – directs the Commission to “convene a stakeholder process to develop Statewide technical and net metering rules for customer generators.” See Alternative Energy Portfolio Standards Act (“AEPS”) of 2004, 73 P.S. § 1648.5.

⁸ See Docket No. P-2019-3010128, *Letter of PPL Elec. Utils Corp. to Sec’y Chiavetta* (Aug. 22, 2019); *Answer of PPL to Motion For Leave to Reply & Reply of Nat. Res. Def. Council & Sunrun Inc.* (Sept. 9, 2019).

⁹ *Painter v. Pa. Pub. Util. Comm’n*, 116 A.3d 749 (Pa. Cmnlwth. 2015) (“It is a fundamental proposition of law that a hearing or trial procedure is necessary only to resolve disputed questions of fact and is not required to decide questions of law, policy or discretion.”).

C. Should the Commission initiate a separate statewide proceeding now to allow all interested stakeholders to provide input on whether current circumstances warrant addressing any or all of the issues raised in PPL's Petition?

5. Answering the above questions in the affirmative would prevent substantial prejudice to Sunrun and expedite the conduct of this proceeding. As a DER developer in PPL's and other utility territories in Pennsylvania, Sunrun's interests are directly affected by state policy on advanced inverter standards, DER communication protocols, compensation regimes for DER services, and related matters implicated by PPL's Petition. Addressing these issues on a utility-by-utility basis through a standard administrative litigation process would require Sunrun to participate in multiple litigated proceedings and would likely result in unpredictable and inconsistent regulatory requirements. Such a piecemeal approach to these highly consequential issues would insert significant uncertainty and have serious negative repercussions for the still nascent DER market in the state. Such an approach would be highly prejudicial to Sunrun.

6. Answering the above questions in the affirmative would also expedite the conduct of this proceeding. A statewide proceeding would (1) provide consistency across utilities for advanced inverter standards, DER compensation and grid service frameworks and other matters related to utility DER management plans, (2) expedite the identification and resolution of the full scope of issues implicated by PPL's Petition, (3) ensure an administratively efficient process to address these issues for all utilities across the Commonwealth, and (4) reduce the potential for additional litigation and revisions to PPL and other utility DER management plans, and related standards, likely to result as new information, policy implications, and other issues emerge if these issues are addressed on a utility-by-utility basis. The standard administrative litigation process PPL seeks would fail to provide DER developers, utilities and other stakeholders the finality and predictability required for a healthy DER market.

WHEREFORE, Sunrun respectfully requests the Commission undertake interlocutory review and answer the above material questions in the affirmative, and grant such further relief the Commission determines appropriate.

Respectfully submitted,

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DATED: September 20, 2019

Counsel to Sunrun Inc.

**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 :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the following document, the Petition of Sunrun Inc. for Interlocutory Commission Review and Answer to Material Questions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

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Dated this 20th day of September 2019.

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