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11/6/19

Via Electronic filing

November 6, 2019

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

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:

On behalf of Natural Resources Defense Council, please find enclosed for filing a *Proposed Litigation Schedule* for filing in the above-captioned proceeding. After conferring with the other parties, NRDC takes the position that the Commission's Order of October 17, 2019 contemplates a multi-phased proceeding: (1) A phase for the determination of the proper "scope of the proceeding"; and (2) in the event that the OALJ affirmatively determines that standard administrative-track proceedings are appropriate, a merits hearing. Our position is more fully detailed in the attached filing.

Copies of the enclosed filing are being served upon the persons and in the manner set forth on the enclosed Certificate of Service. Electronic copies are also being served.

Please let me know if you have any questions or concerns. I can be reached at (234) 334-0997.

Sincerely,

/s/ Andrew J. Karas
Andrew J. Karas, Esq.

cc: Hon. Mary D. Long, ALJ

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation for
Approval of Tariff Modification and Waivers of
Regulations Necessary to Implement its Distributed
Energy Resources Management Plan

Docket No. P-2019-3010128

PROPOSED LITIGATION SCHEDULE OF NATURAL RESOURCES DEFENSE COUNCIL

Natural Resources Defense Council (“NRDC”) provides this proposed litigation schedule pursuant to the Order of September 25, 2019 by Administrative Law Judge Emily DeVoe.

NRDC proposes that proceedings be segmented into two phases, in accordance with the Commission’s Opinion and Order of October 17, 2019, which ruled on Intervenors’ Petitions for Interlocutory Review and Answers to Material Questions. The Commission declined to answer the Intervenors’ proposed Material Questions. Instead, the Commission found the Intervenors’ Petitions premature because “the record before us is insufficient to support interlocutory review[.]”¹ Specifically, the Commission held that answering the Intervenor’s Material Questions would have required “a fully developed record on whether the scope of this proceeding should be considered on a utility-by-utility basis or on a statewide basis[.]” Consequently, the Commission returned the matter to the OALJ “for the development of the record and determination of the scope of the proceeding[.]”²

The Commission’s Opinion and Order contemplates that the scope of proceedings is a necessary threshold determination prior to reviewing PPL’s requested relief (*i.e.*, authorization to require customers seeking interconnection under the AEPS Act to install inverter equipment that does not comply with the

¹ October 17, 2019 Order, at 10.

² *Id.* at 12.

technical standards set forth in Chapter 75 of the Commission's regulations) on its merits.³ Initial deadlines should be established for development of "a record addressing the potential impact to the statewide goals intended under the provisions of the AEPS Act and Regulations, if the Commission approves PPL's request."⁴ Given the nature of the "statewide goals" that bear upon the proper scope of this proceeding (for instance, the requirement that a certain percentage of retail electricity supply be sourced from photovoltaic technology,⁵ or that utilities provide net-metering to customer generators at full retail value⁶), as well as the limited degree to which the facts surrounding the industry standards at issue are in dispute, Phased proceedings are sensible.

NRDC proposes that the litigation schedule at this time be limited to the development of a record and a determination on the scope of the proceeding. The following proposed litigation schedule will allow the parties to further develop the record on the question of the appropriate scope of the proceeding and for the OALJ to make a determination on this question as an initial Phase I determination."⁷ The proposed schedule allows the parties to issue discovery, submit initial and reply statements of position, and present oral argument on whether any or all of the issues should be addressed on a statewide basis or proceed pursuant to a standard administrative litigation process.

Only in the event that the OALJ's Phase I determination sets one or more issues for determination through a standard administrative litigation process, the issue or issues should be addressed in Phase II. Because the Order directs the development of a record and determination on the threshold question of the appropriate scope of the proceeding, NRDC respectfully submits that a schedule for Phase II should be developed only if necessary and after further development of the record on the appropriate scope and a ruling on this threshold question.

In accordance with the foregoing, Intervenors propose the following series of deadlines:

³ *Id.*

⁴ *Id.* at 11.

⁵ 73 P.S. § 1648.3(b)(2)

⁶ 73 P.S. § 1648.5

⁷ *Id.* at 12.

Phase I: Scope-of-proceedings determinations

| <u>EVENT</u> | <u>DATE</u> |
|--|-------------------|
| Deadline to serve discovery | November 27, 2019 |
| Responses to Discovery due | December 11, 2019 |
| Deadline for filing Statements of Position/Briefs | December 20, 2019 |
| Deadline for Reply Briefs to Statements of Position/Briefs | January 8, 2020 |
| Oral Argument | January 22, 2020 |
| OALJ Ruling | February 12, 2020 |

Phase II: Merits determinations

To be established as necessary, in the event the Phase I proceeding sets one or more issues for determination through the standard litigation process.

Dated: November 6, 2019

Respectfully Submitted,

/s/Andrew J. Karas

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Docket No. P-2019-3010128

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Proposed Litigation Schedule, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54:

Via First Class Mail

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|---|---|
| Devin T. Ryan, Esq. David B. MacGregor, Esq. Post & Schell, P.C. 17 North Second Street 12 th Floor Harrisburg, PA 17101-1601 | Kimberly A. Klock, Esq. Michael J. Schafer, Esq. PPL Electric Utilities Corporation 2 North 9 th Street Allentown, PA 18101-1179 |
| Ed Merrick, VP of Regulatory Affairs Trinity Solar 2211 Allenwood Rd Wall, NJ 07719 | Kenneth L. Mickens, Esq. 316 Yorkshire Drive Harrisburg, PA 17111-6933 |
| Phillip D. Demanchick, Esq. David T. Evrard, Esq. Office of Consumer Advocate 555 Walnut Street 5th Floor Forum Place Harrisburg, PA 17101 | Joseph Morinville, CEO Energy Independent Solutions, LLC. 2121 Noblestown Road Suite 222 Pittsburgh, P A 15205 |
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| <p>Sara Baldwin, VP Interstate Renewable Energy Council, Inc. 125 Wolf Road Suite 207 Albany, NY 12205</p> | <p>Sharon Pillar, President Solar Unified Network of Western PA 1435 Bedford Avenue Suite 140 Pittsburgh, PA 15143</p> |
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Dated: November 6, 2019

Respectfully submitted,

/s/Andrew J. Karas

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