Via electronic service only due to Emergency Order at M-2020-3019262

**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation for : P-2019-3010128

Approval of Tariff Modifications and Waivers of :

Regulations Necessary to Implement its :

Distributed Energy Resources Management Plan :

**INTERIM ORDER**

**RESCHEDULING EVIDENTIARY HEARING**

On May 24, 2019, PPL Electric Utilities Corporation (PPL) filed a Petition for Approval of Tariff Modifications and Waivers of Regulations Necessary to Implement its Distributed Energy Resources Management Plan (Petition) with the Public Utility Commission (Commission). On July 30, 2019, the Office of the Consumer Advocate (OCA) filed an Answer to the Petition. Also, on July 30, 2019, the Natural Resources Defense Council (NRDC) and Sunrun Inc. (Sunrun) filed petitions to intervene, as well as an Answer to PPL’s Petition.

On August 22, 2019, PPL filed correspondence in response to other parties’ arguments that the Petition be denied or that the issues be addressed in a statewide proceeding. PPL argues, *inter alia*, the Commission should review its Petition through the standard administrative litigation process. It argues the issues raised in the Petition are ripe for review, the parties’ questions are best addressed through litigation, litigation would produce a clearer and more thorough record for the Commission to review when rendering its final decision, and a statewide proceeding inaccurately assumes that all Pennsylvania electric distribution companies (EDCs) face the same challenges presented by distributed energy resources (DERs) and need to address them in the same manner. PPL requests that the matter be assigned for hearing and disposition before an administrative law judge without delay.

On August 22, 2019, the ALJ DeVoe issued an Interim Order granting the Petitions to Intervene filed by NRDC and Sunrun.

On August 30, 2019, NRDC and Sunrun jointly filed a Preliminary Objection to PPL’s August 22, 2019, correspondence, arguing the August 22, 2019 correspondence is not authorized by the Commission’s rules of procedure and should be stricken from the record pursuant to Pa.Code § 5.101(b).

On August 30, 2019, NRDC and Sunrun also jointly filed a Motion for Leave to Reply and Reply to PPL’s August 22, 2019 correspondence. In their Reply, NRDC and Sunrun request, *inter alia*, that the Commission or the presiding officer issue a “preliminary ruling” addressing whether PPL’s Petition should be denied, and if not, whether the issues raised in the Petition should be addressed in a statewide rulemaking proceeding or proceed pursuant to an administrative litigation process.

On September 3, 2019, the Sustainable Energy Fund (SEF) filed a Petition to Intervene in these proceedings.

On September 9, 2019, PPL filed an Answer to the Preliminary Objection, arguing, *inter alia*, the August 22, 2019 correspondence is not a pleading to which a party can file a preliminary objection under the Commission’s regulations, correspondence such as the August 22, 2019 letter is routinely filed in Commission proceedings, and the filing of the August 22, 2019 letter did not affect any party’s substantive rights in this matter.

On September 9, 2019, PPL filed an Answer to NRDC and Sunrun’s Motion for Leave to Reply and Reply, arguing, *inter alia*, NRDC and Sunrun’s request for a “preliminary ruling” on the merits of PPL’s Petition without an evidentiary hearing is inappropriate and unlawful and that if PPL’s Petition were referred to a statewide proceeding, it would be denied due process.

A prehearing conference was convened on September 11, 2019. PPL, OCA, NRDC, Sunrun, and SEF were present and represented by counsel. ALJ DeVoe granted SEF’s petition to intervene, without objection from any party.

Then, the parties argued their positions regarding whether the issues raised in the Petition and Answers should proceed through a standard administrative litigation process before an administrative law judge or whether they should be considered by the Commission in a state-wide proceeding. After providing each party an opportunity to state its position and provide its argument, the undersigned presiding officer advised that any party wishing to file a petition for interlocutory review under 52 Pa.Code § 302 must do so by September 20, 2019. The parties were further directed to submit a proposed litigation schedule by September 27, 2019.

NRDC, Sunrun and OCA each filed petitions for interlocutory review by the Commission on September 20, 2019. By Interim Order entered September 25, 2019, the time to submit a litigation schedule was extended to November 6, 2019. The preliminary objections filed by NRDC and Sunrun and the Motion for Leave to Reply filed by NRDC and Sunrun were held in abeyance.

By Opinion and Order entered October 17, 2019, the Commission determined that the petitions were improperly before the Commission as premature and returned the matter to the Office of Administrative Law Judge (OALJ).[[1]](#footnote-1)

PPL presented a joint proposed litigation schedule as directed by email dated November 6, 2019. OCA and SEF did not oppose PPL’s proposed schedule. Sunrun and NRDC also submitted a proposed litigation schedule which contemplated a multi-phased proceeding. The first phase would develop a record to determine whether PPL’s petition is premature and should be addressed in a statewide rulemaking proceeding. The second phase would develop a record on the merits of the technical issues of the petition.

At the request of Sunrun and NRDC, a further prehearing conference was convened on November 15, 2019. The parties argued their positions regarding the competing proposals for a litigation schedule. After consideration of the arguments made by each party, Judge Long presided and determined that the litigation schedule proposed by PPL was reasonable and will create a complete record for the Commission’s consideration of both the policy issues raised by Sunrun and NRDC, and also give PPL the opportunity to develop a full evidentiary record in support of its petition.

On November 18, 2019, a Prehearing Order was entered, setting a litigation schedule, dismissing the Preliminary Objection filed by NRDC and Sunrun on August 30, 2019, as moot, and scheduling evidentiary hearings for April 8 and 9, 2020.

On January 13, 2020, PPL filed a Motion for a Protective Order, which was granted on January 16, 2020.

On March 17, 2020, the Commission issued a Notice cancelling the evidentiary hearings scheduled for April 8 and 9, 2020. Subsequently, the parties were in contact with the presiding officers via email regarding the rescheduling of the hearing. The parties eventually agreed to reschedule the hearing for September 2 and 3, 2020.

PPL served direct testimony on December 11, 2019, and OCA, NRDC, and SEF served written direct on February 5, 2020. PPL served rebuttal testimony on March 4, 2020 and was the only party to do so. On March 19, 2020, OCA, NRDC, and SEF served written surrebuttal testimony.

The filing of briefs will be discussed at the evidentiary hearing.

Hearings will begin promptly at **10:00 a.m. on September 2, 2020.** The parties must confer before commencement of the hearings to schedule their witnesses so as to avoid “holes” or “dead time” during the hearings.

THEREFORE,

IT IS ORDERED:

1. That the evidentiary hearings in this matter are rescheduled for **September 2 and 3, 2020, at 10:00 a.m.**
2. That to participate in the hearing, participants must dial the toll-free number listed below. Participants will be prompted to enter a PIN number, which is also listed below. Participants will be asked to speak their name and then the telephone system will connect them to the hearing.

Toll-free Bridge Number: 888-604-9366

PIN Number: 8179473

1. That all filings made with the Commission’s Secretary’s Bureau shall be e-filed.
2. That service upon the presiding officers shall be made electronically via email at [edevoe@pa.gov](mailto:edevoe@pa.gov) and [malong@pa.gov](mailto:malong@pa.gov). Parties do not need to follow up with a hard copy.
3. That the parties shall serve an oral rejoinder outline no later than 12:00 noon on August 26, 2020.
4. That the parties shall serve a witness matrix no later than 12:00 noon on September 1, 2020.
5. That in the event that a partial settlement is achieved, the parties shall be prepared to proceed on the first scheduled day of hearing to present evidence on the non-resolved issues.
6. That the Parties shall comply with the terms of the Prehearing Order entered November 18, 2019, which are not inconsistent with this Order.

Date: July 23, 2020 /s/

Emily I. DeVoe

Administrative Law Judge

/s/

Mary D. Long

Administrative Law Judge

**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**

*Revised 11/18/19*

\*DEVIN T RYAN ESQUIREDAVID B MACGREGOR ESQUIRE

POST AND SCHELL17 NORTH 2ND STREET12TH FLOORHARRISBURG PA 17101-1601**717.612.6052**

**215-587-1197**[DMACGREGOR@POSTSCHELL.COM](mailto:dmacgregor@postschell.com) *Via e-mail only due to Emergency Order at M-2020-3019262*   
\* Accepts eService

*REPRESENTING PPL ELECTRIC UTILITIES CORPORATION*

\*KIMBERLY A KLOCK ESQUIRE

MICHAEL J. SHAFER ESQUIREPPL SERVICES CORP2 N 9TH STREET ALLENTOWN PA 18101**610.774.5696**[MJSHAFER@PPLWEB.COM](mailto:mjshafer@pplweb.com)  
*Via e-mail only due to Emergency Order at M-2020-3019262* \* Accepts eService

\* PHILLIP D DEMANCHICK ESQUIRE \*DARRYL A LAWRENCE ESQUIREDAVID T EVRARD ESQUIREOFFICE OF CONSUMER ADVOCATE5TH FLOOR FORUM PLACE555 WALNUT STREET HARRISBURG PA 17101-1923**717-783-5048**  
[DEVRARD@PAOCA.ORG](mailto:devrard@paoca.org)  
*Via e-mail only due to Emergency Order at M-2020-3019262*

\* Accepts eService

JAMES VAN NOSTRAND ESQUIREKEYES & FOX LLP275 ORCHARD DRIVEPITTSBURGH PA 15228**304-777-6050**

Accepts eService

*REPRESENTING SUNRUN INC.*

BEREN ARGETSINGER ESQUIRE

KEYES & FOX LLP

PO BOX 166

BURDETT NY 14818

**914-409-8915**

Accepts eService

*REPRESENTING SUNRUN INC.*

MARK SZYBIST ESQUIRENATURAL RESOURCES DEFENSE COUNCIL1152 15TH STREET NWSUITE 300WASHINGTON DC 20005**202-289-2422** Accepts eService

*REPRESENTING NATURAL RESOURCES DEFENSE COUNCIL*

\*ANDREW J. KARAS ESQUIRE

EMILY COLLINS ESQUIRE

FAIR SHAKE ENVIRONMENTAL LEGAL SERVICES

647 E. MARKET STREET

AKRON, OH 44304

**234-334-0997**

**234-742-4615**

***\****Accepts eService

*REPRESENTING NATURAL RESOURCES DEFENSE COUNCIL*

KENNETH L MICKENS ESQUIREKENNETH L MICKENS ESQ LLC316 YORKSHIRE DRIVEHARRISBURG PA 17111-6933**717-657-0938** Accepts eService

*REPRESENTING THE SUSTAINABLE ENERGY FUND OF CENTRAL EASTERN PENNSYLVANIA*

1. Judge Long was assigned to co-preside over this matter along with ALJ DeVoe on November 1, 2019. [↑](#footnote-ref-1)