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VIA EMAIL

August 25, 2020

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

**Re: Public Utility Service Termination
 Proclamation of Disaster Emergency COVID-19
 Docket No. M-2020-3019244**

Dear Secretary Chiavetta:

Enclosed for filing on behalf of PPL Electric Utilities Corporation (“PPL Electric”) is the Answer of PPL Electric Utilities Corporation to the Joint Petition of CAUSE-PA and TURN et al. for Due Process Relief. Copies will be provided as indicated on the Certificate of Service.

If you have any questions regarding the enclosed filing, please call me at 610-774-2599.

Very truly yours,

Michael J. Shafer

Enclosures

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Emergency Order

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:
:

Docket No. M-2020-3019244

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO THE
JOINT PETITION OF CAUSE-PA AND TURN ET AL. FOR DUE PROCESS RELIEF**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to Section 5.61 of the Pennsylvania Public Utility Commission's ("Commission") regulations, 52 Pa. Code § 5.61, PPL Electric Utilities Corporation ("PPL Electric" or the "Company") hereby files this Answer to the Joint Petition of Tenant Union Representative Network ("TURN"), Action Alliance of Senior Citizens of Greater Philadelphia, and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") (collectively, "Low Income Advocates") for Due Process Relief, which was filed on August 5, 2020, in the above-captioned proceeding.

The Low Income Advocates' Joint Petition should be denied. On August 10, 2020, *i.e.*, five days after the Joint Petition was filed, Chairman Brown Dutrieuille issued a letter at this docket requesting Comments about the termination moratorium and the customer protections for at-risk customers should the termination moratorium be lifted. Many interested parties, including PPL Electric and the Low Income Advocates, filed Comments in response. By reviewing and considering these Comments, the Commission will have more than sufficient information to decide whether it should lift the Emergency Order. Due process also does not require a separate on-the-record proceeding and an evidentiary hearing to determine whether the

Commission's Emergency Order should be lifted. In fact, the decision to lift the Emergency Order is a policy matter within the Commission's discretion and, therefore, does not require an evidentiary hearing. *See Lehigh Valley Power Committee v. Pa. PUC*, 563 A.2d 548, 556 (Pa. Cmwlth. 1989).

Thus, for these reasons, and as further explained in the Answer filed by the Energy Association of Pennsylvania ("EAP"), the Low Income Advocates' Joint Petition should be denied.

I. BACKGROUND

1. PPL Electric is public utility and an electric distribution company ("EDC") as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 102, 2803, PPL Electric furnishes electric distribution, transmission, and default supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of 29 counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

2. On March 13, 2020, Chairman Brown Dutrieuille issued an Emergency Order prohibiting public utilities in Pennsylvania from terminating service and directing them to reconnect customers' service that was previously terminated, provided that such reconnections could be safely performed. The Emergency Order was ratified by the Commission at the March 26, 2020 public meeting.

3. Since March 13, 2020, PPL Electric has not terminated any customer's electric service and worked diligently to reconnect customers' service that was previously terminated in a safe and reasonable manner.

4. On August 5, 2020, the Low Income Advocates filed their Joint Petition for Due Process Relief, requesting that the Commission initiate a separate on-the-record proceeding to

investigate whether the termination moratorium should continue and to address the related impacts of the coronavirus (“COVID-19”).

5. On August 10, 2020, Chairman Brown Dutrieuille issued a letter at Docket No. M-2020-3019244, requesting comments about the termination moratorium and the customer protections for at-risk customers should the termination moratorium be lifted.

6. On or about August 18, 2020, PPL Electric and several other interested parties, including the Low Income Advocates, filed Comments in response to the August 10, 2020 letter.

II. ANSWER TO THE JOINT PETITION

7. The Low Income Advocates’ Joint Petition should be denied for several reasons.

8. First, the Commission’s Comment review process is more than sufficient for the Commission to make an informed decision on whether to lift its Emergency Order. Over 30 interested parties filed Comments in response to Chairmain Brown Dutrieuille’s letter about whether the termination moratorium and the customer protections for at-risk customers that would be in place if the termination moratorium were lifted. A wide cross-section of interested parties submitted Comments, including public utilities, the statutory advocates, low-income customer advocate groups, environmental groups, Attorney General Josh Shapiro, Governor Tom Wolf.

9. By reviewing and considering these Comments, the Commission will have more than sufficient information to decide whether it should lift the Emergency Order. For example, in PPL Electric’s Comments, the Company provided detailed information on, among other things: (1) its efforts to blunt the financial impact of COVID-19 on customers; and (2) the substantial decrease in OnTrack enrollments due to the termination moratorium remaining in place. EAP also filed Comments setting forth how its members’ arrearage totals increased substantially from March 2020 to June 30, 2020, while the termination moratorium remained in

place. Based on the Comments submitted, the Commission can make an informed decision whether to lift the Emergency Order.

10. Second, due process does not require a separate on-the-record proceeding and an evidentiary hearing to determine whether the Commission's Emergency Order should be lifted. "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." *Lehigh Valley Power Committee v. Pa. PUC*, 563 A.2d 548, 556 (Pa. Cmwlth. 1989). Like the original decision to impose the termination moratorium, the decision to lift it is a policy matter within the Commission's discretion. Such a matter does not require an evidentiary hearing to be resolved. *See id.*

11. Third, due process is satisfied when parties are provided notice and an opportunity to be heard. *See Schneider v. Pa. PUC*, 479 A.2d 10, 15 (Pa. Cmwlth. 1984) (citation omitted); *see also Allegheny Ludlum Steel Corp. v. Pa. PUC*, 459 A.2d 1218, 1220-21 (Pa. 1983) ("Procedural due process does not require notice and a hearing in every conceivable situation involving administration action.") (quotation omitted). In this case, by virtue of Chairman Brown Dutrieuille's August 10, 2020 letter, the Low Income Advocates and all other interested parties were provided with notice and an opportunity to be heard on whether the Emergency Order should be lifted. Indeed, the Commission routinely issues orders based upon comments filed by interested parties. *See, e.g., ARIPPA v. Pa. PUC*, 792 A.2d 636, 660-61 (Pa. Cmwlth. 2002) (rejecting the claim that the Commission violated the intervenors' due process rights because the Commission provided notice and an opportunity for them to file comments on the non-unanimous settlement stipulation).

12. Further, the Commission recently declared that “an allegation of inadequate process, must, at a minimum, assert some basis to conclude that the opportunity to comment, rather than present testimony, caused a deprivation of due process. *Investigation Instituted per Section 529 Into Whether the Commission Shall Order a Capable Public Utility to Acquire Delaware Sewer Co.*, 2020 Pa. PUC LEXIS 401, at *15 (Order entered Mar. 26, 2020). Here, as explained previously, the Comments filed by the interested parties provide more than sufficient information for the Commission to determine whether to lift the Emergency Order. The Low Income Advocates also had a full and fair opportunity to advocate why the termination moratorium should remain in place. Thus, to the extent that the Low Income Advocates were entitled to due process under these circumstances, they received more than enough due process.

13. For these reasons, and as further explained in the Answer filed by EAP, the Low Income Advocates’ Joint Petition should be denied.

III. CONCLUSION

For the reasons set forth above, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny the Joint Petition for Due Process Relief filed by the Tenant Union Representative Network, Action Alliance of Senior Citizens of Greater Philadelphia, and the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania.

Respectfully submitted,



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Date: August 25, 2020

Attorneys for PPL Electric Utilities Corporation

VERIFICATION

I, Michael J. Shafer, being Senior Counsel at PPL Services Corporation, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief, and that if asked orally at a hearing in this matter, my answers would be as set forth therein.

I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: August 25, 2020



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CERTIFICATE OF SERVICE

(Docket No. M-2020-3019244)

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: August 25, 2020



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