



January 6, 2021

**Via Electronic Filing**

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

**RE: Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase IV Energy Efficiency and Conservation Plan / Docket No. M-2020-3020824**

Secretary Chiavetta:

Enclosed for filing please find a Prehearing Conference Memorandum, on behalf of Natural Resources Defense Council, in the above-captioned proceeding.

Copies will be circulated in accordance with the attached Certificate of Service.

Sincerely,

/s/ James M. Van Nostrand

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*Counsel to Natural Resources Defense Council*

*Enclosures*

cc: Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :  
for Approval of its Act 129 Phase IV Energy : M-2020-3020824  
Efficiency and Conservation Plan :

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

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DATE: January 6, 2021

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities	:	
Corporation for Approval of its Act 129	:	
Phase IV Energy Efficiency and	:	M-2020-3020824
Conservation 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 Prehearing Conference Order (“Order”) issued December 30, 2020 by Deputy Chief Administrative Law Judge Mark A. Hoyer (“Judge Hoyer”), Natural Resources Defense Council (“NRDC”) hereby submits this Prehearing Conference Memorandum.

**I. Procedural Background**

On November 30, 2019, PPL Electric Utilities Corporation (“PPL”) submitted its *Petition for Approval of Its Act 129 Phase IV Energy Efficiency and Conservation Plan* (“Phase IV Plan”). The Phase IV Plan was filed pursuant to Act 129 of 2008 (“Act 129”), P.L. 1592, 66 Pa.C.S. §2806.1 and 2806.2, and the Commission’s Implementation Order entered on June 18, 2020 at Docket No. M-2020-3015228.

Eight days later, on December 8, 2020, the filing was posted to the Commission’s website. Thirty-three days after filing, on January 2, 2021, a formal Public Notice of the PPL Phase IV Plan was published in the *Pennsylvania Bulletin*, 51 Pa.B. 116, and established a January 22, 2021 due date for filing comments. The publication of the Formal Notice also triggered the twenty (20) day period for parties to seek intervention in the proceeding, which ends on January 22, 2021.

Petitions to Intervene were filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), the Commission on Economic Opportunity (“CEO”), Sustainable Energy Fund of Central Eastern Pennsylvania (“SEF”), and NRDC. Notices of Intervention were filed by the Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”).

On December 30, 2020, Judge Hoyer issued a Notice of Prehearing Conference setting the prehearing conference date and a Prehearing Conference Order directing the parties to file prehearing conference memoranda. On January 6, 2021, the Commission issued a Judge Addition Notice advising the parties that Administrative Law Judge Emily DeVoe would be joining Judge Hoyer on the case.

## **II. Proposed Procedural Schedule**

Counsel for PPL proposed the following procedural schedule:

<b>Date</b>	<b>Action</b>
January 12, 2021	Other Parties’ Direct Testimony
January 14, 2021	Settlement Discussions
January 20, 2021	Rebuttal Testimony
January 21, 2021	Evidentiary Hearing
January 22, 2021	Comments
January 29, 2021	Main Briefs
February 10, 2021	Reply Comments/Revised Plan
February 11, 2021	Record Certification

This schedule apparently was developed to accommodate a Commission-imposed deadline for issuance of an order on or before 120 days after filing of the Phase IV Plan. Although 66 Pa. C.S. 2806.1(e) provides a 120-day period for litigation of Phase I EE&C Plans, that deadline does not apply to Phase IV Plans. Nor does imposition of the 120-day limit make sense given the inexplicable 14-day delay between when the Official Notice

should have been published in the Pennsylvania Bulletin—December 19, 2020—and the actual day it was published—January 2, 2021. NRDC cannot agree to any procedural schedule that calls for hearings to occur prior to the deadline for intervention in the proceeding (January 22, 2021). At a minimum, the procedural schedule should be slipped by fourteen (14) days, to match the 14-day delay in the publication date of the Official Notice. That would acknowledge (albeit without sufficiently addressing) the fundamental due process issues associated with holding a hearing before the deadline for submitting interventions in the case. The resulting procedural schedule would be as follows:

<b>Date</b>	<b>Action</b>
January 22, 2021	Answer and Comments
January 26, 2021	Other Parties' Direct Testimony
January 28, 2021	Settlement Discussions
February 3, 2021	Rebuttal Testimony
February 4, 2021	Evidentiary Hearing
February 12, 2021	Main Briefs
February 24, 2021	Reply Comments/Revised Plan
February 25, 2021	Record Certification

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

Counsel for PPL proposed the following schedule and process for discovery:

- Answers to written interrogatories shall be served in-hand within five (5) calendar days of service of the interrogatories.
- Objections to interrogatories shall be communicated orally within two (2) calendar days of service of the interrogatories. Unresolved objections shall be served in writing within three (3) calendar days of service of the interrogatories.
- Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.
- Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
- Rulings on such motions shall be issued, if possible, within seven (7) calendar days of the filing of the motions.

- Requests for admissions will be deemed admitted unless answered within five (5) calendar days or objected to within three (3) calendar days of service of the requests.
- Any discovery served after 12:00 PM on a Friday will be deemed to have been served on the following business day.
- All discovery due dates be “in-hand.” Electronic or fax service on the due date will satisfy the “in-hand” requirement.

The proposed schedule and process for discovery are geared toward a January 21, 2021 hearing date, to which NRDC objects for the reasons stated above. If the hearing date is extended beyond January 21, this schedule and process may need to be revisited and adjusted accordingly.

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

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 determines appropriate to represent its interests and as warranted by information gained through discovery.)

- Projected performance and budget of programs and components. NRDC will examine savings, participation, and budgets for the proposed EE&C programs and components.
- Program comprehensiveness. NRDC’s review will include identifying further opportunities for comprehensive savings under the EE&C Plan. NRDC will also consider the equity of savings opportunities across rate classes.
- Fuel switching. NRDC will review offerings for fuel switching measures and their impacts on energy savings and emissions.
- Reporting practices. NRDC will consider changes in reporting practices to improve the transparency of the EE&C programs.
- Program design and analysis framework. NRDC will consider changes to benefit cost analysis and funding to better support EE&C programs and to align outcomes with other public policy goals.

NRDC has engaged Synapse Energy Economics, Inc. to provide analysis and expert testimony in this proceeding, and the witnesses will include Alice Napoleon, Courtney Lane, and Kenji Takahashi.

**V. Designation of Lead Representative for Prehearing Conference**

NRDC hereby designates James M. Van Nostrand as lead representative for the Prehearing Conference.

**VI. Settlement**

NRDC expresses its willingness to participate in settlement discussions in this proceeding, and supports inclusion of a designated date for Settlement Discussions in the procedural schedule.

**VII. Conclusion**

NRDC appreciates the opportunity to submit this Prehearing Conference Memorandum and looks forward to further discussion of the issues presented herein at the Prehearing Conference.

Respectfully submitted this 6<sup>th</sup> day of January, 2021.

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## CERTIFICATE OF SERVICE

Petition of PPL Electric Utilities Corporation :  
for Approval of its Act 129 Phase IV Energy : Docket No. M-2020-3020824  
Efficiency and Conservation Plan :

I hereby certify that this day I served a copy of Natural Resource Defense Council's Prehearing Conference Memorandum in accordance with the requirements of 52 Pa. Code § 1.54 and consistent with the Commission's March 20 Emergency Order at Docket M-2020-3019262.

### *Via Electronic Mail*

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*Witness for OSBA*

Date: January 6, 2021

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