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February 18, 2021

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
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400 North Street, 2nd Floor North
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**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**

Dear Secretary Chiavetta:

Enclosed is the Main Brief of PPL Electric Utilities Corporation for filing in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,


Devin Ryan

DTR/jl
Enclosures

cc: Certificate of Service
Honorable Mark A. Hoyer
Honorable Emily DeVoe

**CERTIFICATE OF SERVICE
(Docket No. M-2020-3020824)**

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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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**MAIN BRIEF OF
PPL ELECTRIC UTILITIES CORPORATION**

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I. INTRODUCTION

This proceeding was initiated on November 30, 2020, when PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) filed the above-captioned Petition with the Pennsylvania Public Utility Commission (“Commission”). This filing was made 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, 2020.¹ In its Petition, PPL Electric requested Commission approval of PPL Electric’s Phase IV Energy Efficiency and Conservation Plan (“Phase IV EE&C Plan” or “EE&C Plan”). Several parties, including the PP&L Industrial Customer Alliance (“PPLICA”), intervened in the proceeding and presented testimony. All parties reached a Settlement of all issues, except for PPLICA’s proposal that the Commission reject or significantly reduce, by an unspecified amount, PPL Electric’s peak demand reduction compliance target, which was established in the *Implementation Order*.

PPLICA previously raised concerns about the peak demand reduction compliance target in its Comments on the Commission’s *Tentative Implementation Order*.² The Commission took those Comments into consideration and, ultimately, reduced the peak demand reduction compliance target for PPL Electric. Now, in this single EE&C Plan proceeding, PPLICA argues that the Commission did not go far enough in its *Implementation Order* and should either reject or significantly reduce, by an unspecified amount, the Company’s peak demand reduction compliance target.

For the reasons explained below, PPLICA’s proposal should be denied because it: (1) is outside the scope of this proceeding; (2) conflicts with the Commission-established processes for

¹ *Energy Efficiency and Conservation Program*, Docket No. M-2020-3015228 (Order entered June 18, 2020) (“*Implementation Order*”).

² *Energy Efficiency and Conservation Program*, Docket No. M-2020-3015228 (Order entered Mar. 12, 2020) (“*Tentative Implementation Order*”).

challenging peak demand reduction compliance targets and modifying the *Implementation Order*; and (3) is without merit and unsupported by credible record evidence.

II. STATEMENT OF THE CASE

On November 30, 2020, PPL Electric filed the above-captioned Petition with the Commission pursuant to Act 129 and the Commission's *Implementation Order*. In its Petition, PPL Electric requested Commission approval of the Company's Phase IV EE&C Plan. The Phase IV EE&C Plan includes a broad portfolio of energy efficiency programs, conservation practices, and energy education initiatives. These integrated programs are designed to meet the goals established by Sections 2806.1 and 2806.2 of Act 129 and the Commission's *Implementation Order*, including the overall electric consumption and peak demand reduction compliance targets. As part of the November 30, 2020 Petition, PPL Electric submitted its written direct testimony and exhibits.

On December 11, 2020, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") filed a Petition to Intervene.

On December 16, 2020, the Commission on Economic Opportunity ("CEO") filed a Petition to Intervene.

On December 18, 2020, the Sustainable Energy Fund ("SEF") filed a Petition to Intervene.

On December 21, 2020, the Office of Small Business Advocate ("OSBA") filed a Notice of Intervention, Public Statement, and Verification, as well as a Notice of Appearance.

On December 23, 2020, the Office of Consumer Advocate ("OCA") filed a Notice of Intervention and Public Statement.

On December 29, 2020, the Natural Resources Defense Council ("NRDC") filed a Petition to Intervene.

On December 30, 2020, a Notice was issued scheduling a prehearing conference for January 7, 2021. Also, a Prehearing Conference Order was issued.

On January 6, 2021, the PP&L Industrial Customer Alliance (“PPLICA”) filed a Petition to Intervene. Further, a Judge Addition Notice was issued adding Administrative Law Judge (“ALJ”) Emily I. DeVoe as an additional ALJ in this proceeding.

On January 7, 2021, a prehearing conference was held as scheduled. PPL Electric, OCA, OSBA, CAUSE-PA, CEO, NRDC, SEF, and PPLICA were represented at the conference. No party objected to the Petitions to Intervene, and the Petitions were granted during the prehearing conference. The parties also discussed discovery rule modifications and the litigation schedule.

A Prehearing Order was entered on January 8, 2021, which, among other things, established a litigation schedule and modified the discovery rules. Also, the Commission issued a Notice scheduling an evidentiary hearing for January 21, 2021. Furthermore, CAUSE-PA, NRDC, OCA, OSBA, CEO, and SEF filed a Joint Expedited Motion for Extension of Procedural Schedule, seeking an extension of a procedural schedule set out in the Prehearing Order.

On January 11, 2021, the ALJs issued an Interim Order directing the parties to respond to the Joint Expedited Motion and the Office of Administrative Law Judge’s (“OALJ”) proposed revised schedule.

On January 13, 2021, OCA, CAUSE-PA, SEF, CEO, and NRDC served their written direct testimony and exhibits.

On January 14, 2021, Chief Administrative Law Judge Charles E. Rainey, Jr. issued an Order denying the Joint Expedited Motion for Extension of Procedural Schedule and adopting OALJ’s proposed revised schedule.

On January 22, 2021, PPL Electric served its written rebuttal testimony and exhibit.

On January 27, 2021, PPLICA and SEF served their written supplemental direct testimony and exhibits.

On February 3, 2021, PPL Electric filed served its written supplemental rebuttal testimony and exhibit.

On February 5, 2021, PPLICA filed an Errata to PPLICA Statement No. 1, the supplemental direct testimony of Jeffry Pollock.

On February 8, 2021, PPL Electric filed an Errata to PPL Electric Statement No. 1-R, the rebuttal testimony of Dirk Chiles.

Subsequently, on February 8, 2021, the evidentiary hearing was held as scheduled, and the parties' written testimony and exhibits were moved into the record by stipulation.

The active parties engaged in formal and informal discovery throughout the proceeding.

As a result of extensive settlement discussions, the active parties were able to reach a Settlement on all issues, except for PPLICA's proposal to reduce PPL Electric's peak demand reduction compliance target. On or before February 26, 2021, PPL Electric will be filing a Joint Petition for Partial Settlement ("Settlement") on behalf of other parties in this proceeding, as well as a Statement in Support. For the reasons detailed in the Settlement and the Statement in Support, PPL Electric's Phase IV EE&C Plan should be approved subject to the terms and conditions of the Settlement.

PPL Electric herein submits this Main Brief, which is focused on the single issue reserved for litigation—PPLICA's proposal to reject or significantly reduce, by an unspecified amount, the Commission-established peak demand reduction compliance target for PPL Electric. As explained in more detail below, PPLICA's proposal: (1) is outside the scope of this proceeding; (2) conflicts with the Commission-established processes for challenging peak demand reduction compliance

targets and modifying the *Implementation Order*; and (3) is without merit and unsupported by credible record evidence. Therefore, PPLICA’s proposal should be denied.

III. QUESTIONS PRESENTED

1. Whether PPLICA’s proposal to reduce the peak demand reduction compliance target for PPL Electric is outside the scope of this proceeding.

Suggested answer: *in the affirmative*.

2. Whether PPLICA’s proposal to reduce the Commission-established peak demand reduction compliance target for PPL Electric conflicts with the Commission-established processes for challenging peak demand reduction compliance targets and modifying the *Implementation Order*.

Suggested answer: *in the affirmative*.

3. Whether PPLICA’s proposal to reduce the Commission-established peak demand reduction compliance target for PPL Electric is without merit and unsupported by credible record evidence.

Suggested answer: *in the affirmative*.

IV. LEGAL STANDARDS

Act 129 became effective on November 14, 2008. Act 129 directed, among other things, that each electric distribution company (“EDC”) with at least 100,000 customers implement a plan to reduce energy demand and consumption within its service territory. For Phase IV of the Act 129 EE&C program, the Commission issued its *2021 TRM Order*,³ *2021 TRC Test Order*,⁴ and

³ *Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources – Technical Reference Manual 2021 Update*, Docket No. M-2019-3006867 (Order entered Aug. 8, 2019) (“*2021 TRM Order*”), amended, *Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources – Technical Reference Manual 2021 Update*, Docket No. M-2019-3006867 (Order entered Feb. 4, 2021) (“*2021 TRM Amendment Final Order*”).

⁴ *2021 Total Resource Cost (TRC) Test*, Docket No. M-2019-3006868 (Order entered Dec. 19, 2019) (“*2021 TRC Test Order*”).

Implementation Order (collectively, “*Phase IV Orders*”) to guide and set the parameters for the EDCs’ Phase IV EE&C Plans. To be approved by the Commission, an EDC’s Phase IV EE&C Plan must meet all of the requirements of Act 129 and the Commission’s *Phase IV Orders*, including being designed to achieve the overall electric consumption and peak demand reduction compliance targets established in the *Implementation Order*.

Any interested parties were able to participate in the *Phase IV Orders*’ proceedings. The Commission’s *Phase IV Orders* were only issued after careful consideration and disposition of the parties’ Comments. Such orders were subject to parties seeking reconsideration and clarification, and they remain subject to parties requesting rescission or amendment of those orders. See 52 Pa. Code § 5.572; 66 Pa. C.S. § 703(g).

The Commission also established a process for EDCs to challenge the electric consumption target, the peak demand reduction target, or both. Specifically, under the *Implementation Order*, an EDC could file a petition within 15 days after the *Implementation Order* was issued, which would trigger an expedited proceeding and hearings where the EDC “would have the opportunity to present evidence and argument as to its reasonable consumption and peak demand reduction requirements for Phase IV.” *Implementation Order*, p. 47. PPL Electric did not file such a petition. (PPL Electric St. No. 1-R (Supp), p. 5.) Consequently, the Company is “deemed to have accepted the facts and will be bound by the consumption and peak demand reduction requirements contained in that order for that EDC as there would be no remaining disputed facts.” *Id.* As a result, PPL Electric was required to develop and propose a Phase IV EE&C Plan that is designed to meet both of those compliance targets and all of the other requirements set forth in the *Implementation Order*.

Through the instant proceeding, PPLICA has proposed that the Commission reject or significantly reduce, by an unspecified amount, the peak demand reduction compliance target for

PPL Electric. (PPLICA St. No. 1, pp. 2, 11.) By proposing to modify PPL Electric’s peak demand reduction compliance target that the Commission established in its *Implementation Order*, PPLICA is the proponent of a rule or order under Section 332(a) of the Public Utility Code. *See* 66 Pa. C.S. § 332(a). Therefore, although PPL Electric bears the burden to prove that its Phase IV EE&C Plan meets the requirements of Act 129 and the Commission’s *Phase IV Orders*, PPLICA bears the burden of proof concerning its proposal that the Commission reject or significantly reduce the peak demand reduction compliance target for PPL Electric. *See id.*; *Red Lion Mun. Auth. v. Pa. PUC*, 219 A.3d 730 (Pa. Cmwlth. 2019); *NRG Energy, Inc. v. Pa. PUC*, 233 A.3d 936, 949-51 (Pa. Cmwlth. 2020), *allocatur denied*, 2021 Pa. LEXIS 150 (Pa. 2021). Indeed, under the *Implementation Order*, when an EDC files a petition requesting an evidentiary hearing on its electric consumption and peak demand reduction requirements, “[t]he EDC contesting the consumption and peak demand reduction requirements shall have the burden of proof.” *Implementation Order*, p. 47. As the party challenging the Commission’s peak demand reduction requirements here, PPLICA consequently should bear the burden of proof. Thus, it cannot and should not be the burden of PPL Electric to prove that the Commission properly determined the Company’s peak demand reduction compliance target.

V. SUMMARY OF ARGUMENT

PPLICA’s proposal that the Commission either reject or significantly reduce, by an unspecified amount, the Company’s peak demand reduction compliance target is severely flawed and should be rejected. First and foremost, this proposal is not properly before the Commission. The proposal is outside the scope of this proceeding, which is limited to determining whether PPL Electric’s proposed Phase IV EE&C Plan meets all of the requirements under Act 129 and the Commission’s *Phase IV Orders* and should be approved. The instant proceeding is not another

opportunity for PPLICA to re-litigate the peak demand reduction compliance target established in the Commission's *Implementation Order*. PPLICA voiced its concerns about the peak demand reduction target when it jointly filed Comments with other industrial customer groups on the *Tentative Implementation Order*. The Commission considered those and other stakeholders' Comments and, ultimately, reduced PPL Electric's peak demand reduction compliance target.

Now is not the time or place to revisit that determination. If PPLICA wanted to dispute the peak demand reduction target established in the *Implementation Order*, it should have filed a petition for reconsideration, amendment, or rescission of the *Implementation Order*. This Phase IV EE&C Plan proceeding, however, is not the appropriate proceeding to make such a proposal.

Even if PPLICA's proposal were properly before the Commission, which it is not, the proposal completely lacks merit and supporting credible record evidence. PPLICA never presented a specific reduction to the Company's peak demand reduction compliance target. It only argued that the target should be rejected or significantly reduced by an unspecified amount. This is akin to a party in a base rate proceeding generally alleging that the proposed revenue requirement should be lower but never actually stating, let alone demonstrating, what that revenue requirement should be. For that reason alone, PPLICA's proposal should be completely disregarded.

PPLICA also never conducted or presented any study or evaluation of the proposal's impact on the Phase IV EE&C Plan's programs, cost-effectiveness, savings, or costs. PPLICA's witness who presented this proposal also lacks experience and knowledge about EE&C Plan design and implementation. He never even reviewed the Commission's *2021 TRC Test Order*, *2021 TRM Order*, or the 2021 TRM before submitting his testimony.

Furthermore, PPLICA's arguments against the peak demand reduction target center around its purported impact on the Large Commercial and Industrial ("C&I") sector's rates. Not only

does PPLICA exaggerate the purported rate impact, but it completely fails to dispute a critical underpinning of the peak demand reduction compliance target—the Statewide Evaluator’s (“SWE”) energy efficiency and peak demand reduction (“EEPDR”) potential study. Additionally, the Commission already considered and rejected concerns about the impact of the coronavirus disease 2019 (“COVID-19”) pandemic in its *Implementation Order*.

For these reasons, and as explained in more detail in the following sections, the Commission should deny PPLICA’s proposal to reject or significantly reduce, by an unspecified amount, the peak demand reduction compliance target for PPL Electric.

VI. ARGUMENT

A. PPLICA’S PROPOSAL TO REDUCE THE COMMISSION-ESTABLISHED PEAK DEMAND REDUCTION COMPLIANCE TARGET FOR PPL ELECTRIC

The Commission should deny PPLICA’s proposal to “either reject or significantly reduce,” by an unspecified amount, the peak demand reduction compliance target for PPL Electric. (PPLICA St. No. 1, p. 2.) As explained in the following sections, PPLICA’s proposal is legally flawed and unsupported by credible record evidence. Thus, in its Order approving PPL Electric’s Phase IV EE&C Plan as modified by the Joint Petition for Partial Settlement, the Commission should wholly reject PPLICA’s proposal to reject or significantly reduce, by an unspecified amount, the peak demand reduction compliance target.

1. PPLICA’s Proposal Is Outside the Scope of this Proceeding

The scope of this proceeding is limited to determining whether PPL Electric’s Phase IV EE&C Plan meets the requirements under Act 129 and the Commission’s *Implementation Order*. *Implementation Order*, p. 88. As explained by the Commission, the EE&C Plan “must set forth the manner in which the EDC will meet the required reductions in consumption under subsections

(c) and (d) of the Act” and must “outlin[e]” how the EDC “will implement measures/programs necessary to attain the consumption and peak demand reduction targets proposed” in the *Implementation Order*. *Id.* Since Phase I of Act 129, the EE&C Plan litigation and comment process has been designed “to provide all interested parties with an opportunity to be heard,” while recognizing “the need to complete the process within the statutory time constraints.” *Id.*, pp. 86-88.

Here, PPLICA does not dispute that PPL Electric’s Phase IV EE&C Plan, including the proposed measures and programs, are designed to meet the peak demand reduction compliance target. Nor does PPLICA allege that the proposed Phase IV EE&C Plan fails to meet any of the requirements of Act 129 or the *Phase IV Orders*. Instead, PPLICA proposes that the Commission “either reject or significantly reduce,” by an unspecified amount, the peak demand reductions that PPL Electric must achieve in Phase IV. (PPLICA St. No. 1, pp. 2, 11.)

PPLICA’s proposal is completely outside the scope of this proceeding. By requesting that the Commission modify the Company’s peak demand reduction compliance target, PPLICA seeks to transform this individual Phase IV EE&C Plan proceeding into a re-litigation of the Commission’s *Implementation Order*. (PPL Electric St. No. 1-R (Supp), p. 4.) However, the proper time to raise concerns about the peak demand reduction target was in Comments on the Commission’s *Tentative Implementation Order*. In fact, PPLICA jointly filed Comments with other industrial customer groups, in which they asked for clarification on the assumptions used to arrive at the proposed peak demand reduction targets, criticized an apparent lack of detail supporting those targets, and supported the complete removal of peak demand reduction targets

for the Act 129 EDCs. *Implementation Order*, pp. 6, 76.⁵ Meanwhile, PPL Electric supported other commenters’ “request for reduction of consumption and [peak demand reduction] targets due to the loss of residential lighting savings and anticipated depressed economic conditions.” *Id.*, p. 76. The Company also observed that “more funding will have to be allocated to C&I to meet the [peak demand reduction] targets, resulting in less funding for residential and low-income customers.” *Id.* The Commission considered these concerns and then reduced PPL Electric’s peak demand reduction target from 244 MW to 229 MW. *Id.*, p. 80.

The *Implementation Order* was the proper time to raise concerns about the peak demand reductions that the Commission would require PPL Electric to achieve in Phase IV, not in this proceeding after PPL Electric’s team already worked with The Cadmus Group LLC to design and develop an EE&C Plan that meets that target, the electric consumption reduction target, and all of the other requirements in the Commission’s *Implementation Order*. (PPL Electric St. No. 1-R (Supp), pp. 4-5.)

PPLICA may try to justify making its proposal in this proceeding by alleging that the precise rate impact on Large C&I customers was not known at the time of the *Implementation Order*. (PPLICA St. No. 1, p. 7.) Although no party could ever know the precise rate impact on a customer class until the actual EE&C Plan is designed and proposed, PPLICA knew or should have known that the Commission’s programmatic changes for Phase IV would lead to a general increase in Large C&I customers’ costs under the Phase IV EE&C Plan. (PPL Electric St. No. 1-R (Supp), p. 13.) And once the overall compliance targets were established, PPL Electric and the other Act 129 EDCs were required to develop and propose EE&C Plans that are designed to

⁵ PPL Electric supported other commenters’ “request for reduction of consumption and [peak demand reduction] targets due to the loss of residential lighting savings and anticipated depressed economic conditions.” *Implementation Order*, p. 76. The Company also observed that “more funding will have to be allocated to C&I to meet the [peak demand reduction] targets, resulting in less funding for residential and low-income customers.” *Id.*

achieve those targets. (See PPL Electric St. No. 1-R (Supp), pp. 4-5.) If PPLICA’s approach is adopted here, the Commission would upend all of its work in establishing the peak demand reduction targets in the *Implementation Order* and would reverse the Commission’s established and sound processes for determining the overall savings targets and approving EDCs’ Act 129 EE&C Plans. (PPL Electric St. No. 1-R (Supp), p. 14.) Thus, the Commission should reject PPLICA’s proposal.

2. PPLICA’s Proposal Conflicts with the Commission-Established Processes for Challenging the Amount of the Peak Demand Reduction Compliance Target and Modifying the *Implementation Order*

Another substantial flaw with PPLICA’s proposal is that it conflicts with the Commission-established processes for challenging the amount of the peak demand reduction compliance target and modifying the *Implementation Order*. Both the Section 703(g) of the Public Utility Code and Section 5.572 of the Commission’s regulations set forth that parties can file petitions for reconsideration, amendment, or rescission of Commission orders. See 52 Pa. Code § 5.572; 66 Pa. C.S. § 703(g).⁶ If PPLICA wished to dispute the peak demand reduction compliance target for PPL Electric, PPLICA could have sought reconsideration of the *Implementation Order* or filed a petition to modify the *Implementation Order*. See 52 Pa. Code § 5.572; 66 Pa. C.S. § 703(g). Either one of those options would have enabled interested parties who participated in the *Implementation Order* proceeding to respond to PPLICA’s proposal.

⁶ As noted previously, the Commission also established a process in its *Implementation Order* for PPL Electric and other EDCs to challenge the electric consumption target the peak demand reduction target, or both. Specifically, PPL Electric would have had to file a petition within 15 days after the *Implementation Order*, which would trigger an expedited proceeding and hearings where the Company “would have the opportunity to present evidence and argument as to its reasonable consumption and peak demand reduction requirements for Phase IV.” *Implementation Order*, p. 47. If PPL Electric had filed such a petition, “any other party” could have “intervene[d] in the EDC-requested hearing and present[ed] evidence.” *Id.* Also, during that expedited proceeding, “administrative counsel from the Commission’s Law Bureau” would “represent the SWE” would “introduce relevant SWE studies into the record,” and would “assist the SWE in discovery matters.” *Id.*, p. 48. No such proceeding was initiated because PPL Electric did not file a petition to dispute the compliance targets. (PPL Electric St. No. 1-R (Supp), p. 5.)

PPLICA never filed a petition for reconsideration, rescission, or amendment of the *Implementation Order*. PPLICA cannot cure its failure to take advantage of these options by using the instant proceeding to challenge the Company’s peak demand reduction target. Moreover, by not taking advantage of the Commission’s established processes for seeking reconsideration, amendment, or rescission of the *Implementation Order*, PPLICA has denied due process to all interested parties who did not intervene in this specific EE&C Plan proceeding and receive service of PPLICA’s testimony.⁷ Therefore, the Commission should deny PPLICA’s proposal to reject the peak demand reduction target or significantly reduce it by an unspecified amount.

3. PPLICA’s Proposal Is Without Merit and Unsupported by Credible Record Evidence

Even assuming *arguendo* that PPLICA’s proposal is properly before the Commission, the proposal completely lacks merit and credible record evidence in support. PPLICA contends that its proposal should be adopted because the peak demand reduction target will purportedly: (1) cause Large C&I customers to experience a “massive rate increase” under the proposed Act 129 Compliance Rider – Phase 4 (“ACR-4”); and (2) result in a “substantial realignment of costs between Phase III and Phase IV,” due to the Phase IV peak demand reduction target being higher than the Phase III target. (PPLICA St. No. 1, pp. 2, 5-6, 8, 11.) As alleged support, PPLICA compared the current year’s Act 129 Compliance Rider – Phase 3 (“ACR-3”) rates to the projected ACR-4 rates effective June 1, 2021, claiming that the ACR rate for Large C&I customers would increase from \$0.505 per kilowatt (“kW”) to \$1.021 per kW. (PPLICA St. No. 1, p. 7.) PPLICA also compared the Phase III and Phase IV EE&C Plan budgets and averred that the Large C&I

⁷ See, e.g., *Hess v. Pa. PUC*, 107 A.3d 246, 266 (Pa. Cmwlth. 2014) (stating that “[a]mong the requirements of due process are notice and an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal”), *appeal denied*, 2015 Pa. LEXIS 1457 (Pa. 2015).

sector's projected budget would increase by 77%. (PPLICA St. No. 1, p. 6.) These increases were attributed to the Commission-established peak demand reduction compliance target. (PPLICA St. No. 1, p. 7.) Further, PPLICA argued that such a rate increase would be “questionable policy and problematic” during COVID-19. (PPLICA St. No. 1, p. 8.) All of PPLICA's arguments should be rejected.

First, PPLICA never actually proposed a specific reduction of the peak demand reduction compliance target. PPLICA simply argued that the Commission should “either reject or significantly reduce” that target. (PPLICA St. No. 1, p. 2.) PPLICA never presented a potential study supporting its proposal to reduce the Company's peak demand reduction compliance target, nor did it even dispute the Commission's finding that there is cost-effective peak demand reduction potential in the Company's service territory. (PPL Electric St. No. 1-R (Supp), p. 5.) In contrast, the Commission established the peak demand reduction compliance target based on the SWE's EEPDR potential study as well as the Comments filed in response to the Commission's *Tentative Implementation Order*. See *Implementation Order*, pp. 74-80. As a result, PPLICA's proposal is akin to a party in a base rate proceeding generally alleging that the proposed revenue requirement should be lower but never actually stating, let alone demonstrating, what that revenue requirement should be. On this ground alone, PPLICA's proposal should be completely disregarded.

Second, PPLICA's witness, Mr. Jeffry Pollock, never conducted any study or evaluation on how his proposal would affect the individual programs' cost-effectiveness, the overall portfolio's cost-effectiveness, the savings for all customer sectors and programs, or the costs for all sectors and programs. (PPL Electric St. No. 1-R (Supp), pp. 2-3, 15; PPL Electric Exhibit DC-2R [PPL to PPLICA-I-3].) In all likelihood, Mr. Pollock did not perform such a study or evaluation because: (1) he has zero experience in designing, developing, administering, or implementing an

EE&C Plan (PPL Electric Exhibit DC-2R [PPL to PPLICA-I-10 and 11]); and (2) prior to submitting his testimony, Mr. Pollock never reviewed the Commission’s *2021 TRC Test Order*, the *2021 TRM Order*, the *2021 TRM Amendment Tentative Order*,⁸ or the 2021 TRM itself. (PPL Electric Exhibit DC-2R [PPL to PPLICA-5, 6, and 7].) These critical gaps in Mr. Pollock’s experience and knowledge further highlight the glaring issues with PPLICA’s proposal.

Third, it is completely unreasonable to modify the peak demand reduction compliance target only a few months before Phase IV begins on June 1, 2021. PPLICA’s proposal would throw the Company’s design of its Phase IV EE&C Plan into disarray only a few months before Phase IV begins, leaving insufficient time for PPL Electric to rework its entire Phase IV EE&C Plan and potentially issue new Requests for Proposal to the program implementation Conservation Service Providers (“CSPs”). (PPL Electric St. No. 1-R (Supp), p. 14.) The Commission is already well aware of the issues created by modifying the overall compliance targets after the EE&C Plan is designed and filed. When the Commission established the expedited hearing process for challenges to the overall compliance targets, it did so because issues regarding those fundamental requirements need to be litigated before the EDC files its Phase IV EE&C Plan. *See Implementation Order*, p. 47. Accordingly, PPLICA’s proposal is untimely and would place PPL Electric in an untenable position of having to redesign and resubmit its Phase IV EE&C Plan and to rebid its CSP Contracts all before June 1, 2021. (PPL Electric St. No. 1-R (Supp), p. 14.)

Fourth, PPLICA has exaggerated the projected incremental rate impact of the ACR-4 on Large C&I customers. (PPL Electric St. No. 1-R (Supp), p. 12.) The ACR rate fluctuates based on the actual costs incurred by the customer classes for the prior program year (trued up in the E-

⁸ *Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources – Technical Reference Manual 2021 Update*, Docket No. M-2019-3006867 (Tentative Order entered Oct. 29, 2020) (“*2021 TRM Amendment Tentative Order*”); *see 2021 TRM Amendment Final Order*.

Factor) and the budgeted costs for the upcoming program year (included in the C-Factor). (PPL Electric St. No. 1-R (Supp), p. 12.) In his supplemental direct testimony, PPLICA witness Pollock compared the projected ACR-4 Large C&I rate that will be effective the first program year of Phase IV against the ACR-3 Large C&I rate that has been effective in the final program year of Phase III. (PPLICA St. No. 1, p. 7.) However, the final ACR-3 rates are generally lower due to: (1) the Company being in the final program year of Phase III when programs are winding down; and (2) the adverse impact of COVID-19 on customers' willingness and ability to implement EE&C measures. (PPL Electric St. No. 1-R (Supp), p. 13.) A better measure of the projected rate difference would be to compare a three-year average of the ACR-3 Large C&I rate against the projected ACR-4 Large C&I rate for the first program year of Phase IV. (PPL Electric St. No. 1-R (Supp), p. 13.) As explained by the Company, such a comparison shows that the Large C&I class's three-year average ACR-3 rate is \$0.778 per kW, which is much higher than the current ACR-3 rate of \$0.505 per kW and much closer to the ACR-4 rate for first program year of Phase IV of \$1.021 per kW. (PPL Electric St. No. 1-R (Supp), p. 13.) The difference in the ACR-3 and ACR-4 Large C&I rates is even smaller when excluding the final Phase III year's ACR-3 rate. For example, from June 2019 to May 2020, the ACR-3 Large C&I rate was \$0.901 per kW, and from June 2018 to May 2019, it was \$0.928 per kW. (PPL Electric St. No. 1-R (Supp), p. 13.) Thus, the purported rate impact is not nearly as significant as PPLICA alleges.

Fifth, PPLICA's comparison of the peak demand reduction targets in Phase III and Phase IV does not provide a complete picture. PPLICA witness Pollock failed to realize that his comparison of the Phase III and Phase IV peak demand reduction targets was not an apples-to-apples comparison because the Phase III target was "at the meter-level," while the Phase IV target was "at the system-level, meaning" that it includes "line losses." (PPL Electric St. No. 1-R (Supp),

p. 6) (citing *Implementation Order*, p. 77). The inclusion of line losses naturally increases the peak demand reductions that are projected and measured, so the Phase IV peak demand reduction target is higher for that reason alone. (PPL Electric St. No. 1-R (Supp), p. 6.) Moreover, PPL Electric had to achieve its Phase III peak demand reduction target through dispatchable demand response exclusively. (PPL Electric St. No. 1-R (Supp), p. 6.) The increase in the peak demand reduction target from Phase III to Phase IV also reflects how the EDCs in Phase IV will rely on PJM Interconnection LLC (“PJM”) accepted energy efficiency measures to produce peak demand reductions, which greatly expands the number of measures that can contribute peak demand reductions toward that compliance target. (PPL Electric St. No. 1-R (Supp), p. 6.)

PPLICA witness Pollock also overlooked how the elimination of Residential lighting measures greatly contributed to the shift in focus toward the Small C&I and Large C&I sectors in the Phase IV EE&C Plan. (PPL Electric St. No. 1-R (Supp), p. 8.) In Phase III, PPL Electric’s Residential lighting measures produced 56.83 MW of peak demand reductions on their own, which equates to roughly 25% of PPL Electric’s Phase IV peak demand reduction target of 229 MW. (PPL Electric St. No. 1-R (Supp), pp. 4, 8.) Without Residential lighting, PPL Electric must shift its focus to obtaining peak demand reductions through energy efficiency measures implemented by the Small C&I and Large C&I sectors. (PPL Electric St. No. 1-R (Supp), p. 8.) Thus, Mr. Pollock’s comparison of the peak demand reduction targets in Phases III and IV overlooks several key elements.

Finally, the Commission should soundly reject PPLICA’s argument that it is “questionable policy and problematic” to increase the Large C&I sector’s ACR rates during the COVID-19 pandemic. In its *Implementation Order*, the Commission considered and rejected commenters’ arguments about the impact of COVID-19. *See Implementation Order*, pp. 144-45. Specifically,

the Commission stated that “comments regarding potential future impacts of COVID-19 and incorporating a process into the Phase IV Implementation Order for adjusting reduction targets within Phase IV” are “speculative and premature.” *Id.*, p. 145. Further, PPL Electric recognizes the impact that the COVID-19 pandemic has had on the financial constraints of its customer base. (PPL Electric St. No. 1-R (Supp), p. 16.) However, the Company firmly believes that the EE&C measures offered under its Phase IV EE&C Plan, including those to Large C&I customers, can play a prominent role in the economy’s recovery. (PPL Electric St. No. 1-R (Supp), pp. 16-17.) Although the objective of the Commission’s Act 129 EE&C program is to reduce electric consumption and peak demand for the Commonwealth as a whole,⁹ the Phase IV EE&C Plan’s broad portfolio of EE&C measures will help participating customers reduce their electric consumption and peak demand and, in turn, their bills for electric service. (PPL Electric St. No. 1-R (Supp), p. 17.)

Based on the foregoing, even if PPLICA’s proposal to reject or significantly reduce PPL Electric’s peak demand reduction compliance target by an unspecified amount is properly before the Commission, which it is not, the Commission should deny PPLICA’s proposal.

⁹ See *Implementation Order*, p. 104.

VII. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny the PP&L Industrial Customer Alliance's proposal to reject or significantly reduce, by an unspecified amount, the peak demand reduction compliance target for PPL Electric Utilities Corporation.

Respectfully submitted,



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Date: February 18, 2021

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APPENDIX A
Proposed Findings of Fact

PPL Electric proposes the following findings of fact for the proposal reserved for briefing:

1. PPLICA proposed that the Commission “either reject or significantly reduce,” by an unspecified amount, the peak demand reduction compliance target for PPL Electric. (PPLICA St. No. 1, pp. 2, 11.)

2. PPLICA jointly filed Comments with other industrial customer groups, in which they asked for clarification on the assumptions used to arrive at the proposed peak demand reduction targets, criticized an apparent lack of detail supporting those targets, and supported the complete removal of peak demand reduction targets for the Act 129 EDCs. *Implementation Order*, pp. 6, 76.

3. Meanwhile, PPL Electric supported other commenters’ “request for reduction of consumption and [peak demand reduction] targets due to the loss of residential lighting savings and anticipated depressed economic conditions.” *Id.*, p. 76. The Company also observed that “more funding will have to be allocated to C&I to meet the [peak demand reduction] targets, resulting in less funding for residential and low-income customers.” *Id.*

4. The Commission considered these concerns and then reduced PPL Electric’s peak demand reduction target from 244 MW to 229 MW. *Id.*, p. 80.

5. By requesting that the Commission modify the Company’s peak demand reduction compliance target, PPLICA seeks to transform this individual EE&C Plan proceeding into a re-litigation of the Commission’s *Implementation Order*. (PPL Electric St. No. 1-R (Supp), p. 4.)

6. Although no party could ever know the precise rate impact on a customer class until the actual EE&C Plan is designed and proposed, PPLICA knew or should have known that the

Commission's programmatic changes for Phase IV would lead to a general increase in Large C&I customers' costs under the Phase IV EE&C Plan. (PPL Electric St. No. 1-R (Supp), p. 13.)

7. Once the overall compliance targets were established, PPL Electric worked to develop an EE&C Plan that is designed to achieve those targets. (*See* PPL Electric St. No. 1-R (Supp), pp. 4-5.)

8. PPLICA never actually proposed a specific reduction of the peak demand reduction compliance target and, instead, simply argued that the Commission should "either reject or significantly reduce" that target. (PPLICA St. No. 1, pp. 2, 11.)

9. PPLICA never presented a potential study supporting its proposal to reduce the Company's peak demand reduction compliance target, nor did it even dispute the Commission's finding that there is cost-effective peak demand reduction potential in the Company's service territory. (PPL Electric St. No. 1-R (Supp), p. 5.)

10. The Commission established the peak demand reduction compliance target based on the SWE's EEPDR potential study as well as the Comments filed in response to the Commission's *Tentative Implementation Order*. *See Implementation Order*, pp. 74-80.

11. PPLICA's witness, Mr. Jeffrey Pollock, never conducted any study or evaluation on how his proposal would affect the individual programs' cost-effectiveness, the overall portfolio's cost-effectiveness, the savings for all customer sectors and programs, or the costs for all sectors and programs. (PPL Electric St. No. 1-R (Supp), pp. 2-3, 15; PPL Electric Exhibit DC-2R [PPL to PPLICA-I-3].)

12. Mr. Pollock also has zero experience in designing, developing, administering, or implementing an EE&C Plan (PPL Electric Exhibit DC-2R [PPL to PPLICA-I-10 and 11].)

13. Prior to submitting his testimony, Mr. Pollock never reviewed the Commission’s *2021 TRC Test Order*, the *2021 TRM Order*, the *2021 TRM Amendment Tentative Order*,¹⁰ or the 2021 TRM itself. (PPL Electric Exhibit DC-2R [PPL to PPLICA-5, 6, and 7].)

14. PPLICA’s proposal to modify the peak demand reduction compliance target would throw the Company’s design of its Phase IV EE&C Plan into disarray only a few months before Phase IV begins, leaving insufficient time for PPL Electric to rework its entire Phase IV EE&C Plan and potentially issue new Requests for Proposal to the program implementation CSPs. (PPL Electric St. No. 1-R (Supp), p. 14.)

15. Accordingly, PPLICA’s proposal is untimely and would place PPL Electric in an untenable position of having to redesign and resubmit its Phase IV EE&C Plan and to rebid its CSP Contracts all before June 1, 2021. (PPL Electric St. No. 1-R (Supp), p. 14.)

16. PPLICA has exaggerated the projected incremental rate impact of the ACR-4 on Large C&I customers by focusing on the rate applicable in the last program year of Phase III, which is generally lower due to: (1) the Company being in the final program year of Phase III when programs are winding down; and (2) the adverse impact of COVID-19 on customers’ willingness and ability to implement EE&C measures. (PPL Electric St. No. 1-R (Supp), pp. 12-13.)

17. PPLICA witness Pollocks’ comparison of the peak demand reduction targets in Phase III and Phase IV also fails to account for how: (1) line losses are included in Phase IV peak demand reductions; (2) EDCs in Phase IV will rely on PJM-accepted energy efficiency measures to produce peak demand reductions, which greatly expands the number of measures that can

¹⁰ *Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources – Technical Reference Manual 2021 Update*, Docket No. M-2019-3006867 (Tentative Order entered Oct. 29, 2020) (“*2021 TRM Amendment Tentative Order*”); see *2021 TRM Amendment Final Order*.

contribute peak demand reductions toward that compliance target; and (3) the elimination of Residential lighting measures greatly contributed to the shift in focus toward the Small C&I and Large C&I sectors in the Phase IV EE&C Plan. (PPL Electric St. No. 1-R (Supp), pp. 6, 8.)

18. In the *Implementation Order*, the Commission considered and rejected commenters' arguments about the impact of COVID-19. *See Implementation Order*, pp. 144-45.

19. The EE&C measures offered under the Company's Phase IV EE&C Plan, including those to Large C&I customers, can play a prominent role in the economy's recovery. (PPL Electric St. No. 1-R (Supp), pp. 16-17.)

APPENDIX B
Proposed Conclusions of Law

PPL Electric proposes the following conclusions of law for the proposal reserved for briefing:

1. Act 129 of 2008, P.L. 1592, 66 Pa.C.S. §§ 2806.1 and 2806.2, directed, among other things, that each EDC with at least 100,000 customers implement a plan to reduce energy demand and consumption within its service territory.

2. For Phase IV of the Act 129 EE&C program, the Commission issued its *2021 TRM Order*, *2021 TRC Test Order*, and *Implementation Order* (collectively, “*Phase IV Orders*”) to guide and set the parameters for the EDCs’ Phase IV EE&C Plans.

3. To be approved by the Commission, an EDC’s Phase IV EE&C Plan must meet all of the requirements of Act 129 and the Commission’s *Phase IV Orders*, including being designed to achieve the overall electric consumption and peak demand reduction compliance targets established in the *Implementation Order*.

4. The Commission’s *Phase IV Orders* were subject to parties seeking reconsideration and clarification, and they remain subject to parties requesting rescission or amendment of those orders. *See* 52 Pa. Code § 5.572; 66 Pa. C.S. § 703(g).

5. The Commission also established a process for EDCs to challenge the electric consumption target, the peak demand reduction target, or both. *Implementation Order*, p. 47.

6. Under the *Implementation Order*, an EDC could file a petition within 15 days after the *Implementation Order* was issued, which would trigger an expedited proceeding and hearings where the EDC “would have the opportunity to present evidence and argument as to its reasonable consumption and peak demand reduction requirements for Phase IV.” *Implementation Order*, p. 47.

7. PPL Electric did not file such a petition, so the Company is “deemed to have accepted the facts and will be bound by the consumption and peak demand reduction requirements contained in that order for that EDC as there would be no remaining disputed facts.” *Id.*

8. By proposing to modify PPL Electric’s peak demand reduction compliance target that the Commission established in its *Implementation Order*, PPLICA is the proponent of a rule or order under Section 332(a) of the Public Utility Code. *See* 66 Pa. C.S. § 332(a).

9. Although PPL Electric bears the burden to prove that its Phase IV EE&C Plan meets the requirements of Act 129 and the Commission’s *Phase IV Orders*, PPLICA bears the burden of proof concerning its proposal that the Commission reject or significantly reduce the peak demand reduction compliance target for PPL Electric. *See id.*; *Red Lion Mun. Auth. v. Pa. PUC*, 219 A.3d 730 (Pa. Cmwlth. 2019); *NRG Energy, Inc. v. Pa. PUC*, 233 A.3d 936, 949-51 (Pa. Cmwlth. 2020), *allocatur denied*, 2021 Pa. LEXIS 150 (Pa. 2021).

10. The scope of this proceeding is limited to determining whether PPL Electric’s Phase IV EE&C Plan meets the requirements under Act 129 and the Commission’s *Implementation Order*. *Implementation Order*, p. 88.

11. The Phase IV EE&C Plan “must set forth the manner in which the EDC will meet the required reductions in consumption under subsections (c) and (d) of the Act” and must “outlin[e]” how the EDC “will implement measures/programs necessary to attain the consumption and peak demand reduction targets proposed” in the *Implementation Order*. *Id.*

12. Since Phase I of Act 129, the EE&C Plan litigation and comment process has been designed “to provide all interested parties with an opportunity to be heard,” while recognizing “the need to complete the process within the statutory time constraints.” *Id.*, pp. 86-88.

13. PPLICA's proposal that the Commission reject or significantly reduce the peak demand reduction compliance target for PPL Electric is outside the scope of this proceeding. *See id.*, p. 88.

14. PPLICA's proposal also conflicts with the Commission-established processes for challenging the amount of the peak demand reduction compliance target and modifying the *Implementation Order*. *See* 52 Pa. Code § 5.572; 66 Pa. C.S. § 703(g).

15. If PPLICA wished to dispute the peak demand reduction compliance target for PPL Electric, PPLICA could have sought reconsideration of the *Implementation Order* or filed a petition to modify the *Implementation Order*. *See* 52 Pa. Code § 5.572; 66 Pa. C.S. § 703(g).

16. By not taking advantage of the Commission's established processes for seeking reconsideration, amendment, or rescission of the *Implementation Order*, PPLICA has denied due process to all interested parties who did not intervene in this specific EE&C Plan proceeding and receive service of PPLICA's testimony. *See, e.g., Hess v. Pa. PUC*, 107 A.3d 246, 266 (Pa. Cmwlth. 2014), *appeal denied*, 2015 Pa. LEXIS 1457 (Pa. 2015).

APPENDIX C
Proposed Ordering Paragraphs

PPL Electric proposes the following ordering paragraphs:

1. That PPL Electric's Joint Petition for Partial Settlement is approved without modification;
2. That PPL Electric's Phase IV EE&C Plan is approved subject to the terms and conditions of the Joint Petition for Partial Settlement; and
3. That PPLICA's proposal to reject or significantly reduce the Commission-established peak demand reduction compliance target for PPL Electric is denied.