

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

RECOMMENDED DECISION

Before
Mark A. Hoyer
Deputy Chief Administrative Law Judge

and

Emily I. DeVoe
Administrative Law Judge

INTRODUCTION

This Recommended Decision recommends approval of the Joint Petition for Approval of Settlement of All Issues but modifies the reporting requirements contained in numbered paragraphs 26 and 27 of the Joint Petition for Settlement of All Issues. Instead of quarterly updates, PPL Electric Utilities Corporation shall incorporate updates on the affordable master-metered multi-family (MMMMF) projects and tracking data associated with the Small Commercial & Industrial and Large Commercial & Industrial sectors into its presently required Phase IV Implementation Order reports; semiannual reports are due by January 15th of each year and final annual reports by September 30th of each year.

HISTORY OF THE PROCEEDING

The Pennsylvania Public Utility Commission (Commission) approved PPL Electric Utilities Corporation's (PPL Electric's) initial Phase IV Energy Efficiency and Conservation Plan (Initial EE&C Plan) on March 25, 2021.¹

On December 30, 2022, PPL Electric filed the Petition of PPL Electric Utilities Corporation for Approval of Changes to Its Act 129 Phase IV Energy Efficiency and Conservation Plan (Modified EE&C Plan). PPL Electric petitions, pursuant to Sections 5.41 and 5.572 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code §§ 5.41, 5.572, for permission to modify the Initial EE&C Plan approved by the Commission and referenced in the preceding paragraph.

Pursuant to the Commission's established review process for approving EE&C plan changes proposed by electric distribution companies (EDCs), PPL Electric requested Commission approval of 11 changes, both major and minor, to its Initial EE&C Plan. The Commission's 2011 *Minor Plan Change Order* established an expedited review process for approving minor EE&C Plan modifications. In its *Phase IV Implementation Order*, the Commission determined that it would continue to use the minor EE&C plan change approval process described in the *Minor Plan Change Order* in Phase IV.² PPL Electric requests that the Commission review the modifications under the procedures for changes that do not meet the minor change criteria (i.e., "major changes") set forth in the Commission's *Minor Plan Change Order*.³

¹ See *Petition of PPL Elec. Utils. Corp. for Approval of its Act 129 Phase IV Energy Efficiency and Conservation Plan*, Docket No. M-2020-3020824 (Order entered Mar. 25, 2021) (March 2021 Order).

² *Phase III Implementation Order*, p. 96.

³ In addition to establishing a new expedited review process for minor changes, the *Minor Plan Change Order* detailed the review process for non-minor (i.e., major) changes. See *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order entered June 10, 2011) (*Minor Plan Change Order*). Specifically, the Commission provided that "EDCs seeking approval of changes that do not fit within the Minor EE&C Plan change criteria . . . must file a petition requesting that the Commission rescind and amend its prior order approving the plan." *Minor Plan Change Order*, p. 20. Furthermore, "[t]his petition shall be served on all parties, who will have 30 days to file comments, an answer or both." *Id.* Then, the parties "have 20 days to file replies, after which the Commission will determine whether to rule on the changes or refer the matter to an

On January 19, 2023, the Office of Small Business Advocate (OSBA) filed an Answer to the Petition.

On January 30, 2023, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed an Answer to and Comments on the Petition.

On January 31, 2023, the Office of Consumer Advocate (OCA) filed a letter stating that it would not be filing Comments. Also, the PP&L Industrial Customer Alliance (PPLICA) filed a letter in lieu of Comments, requesting that “the Commission take all reasonable steps to review the proposed budget reallocation within the requisite timeframe to ensure PPL reflects the adjusted sector budgets in the public filing of its June 1, 2023, ACR rate adjustment.”

On February 21, 2023, PPL Electric filed Reply Comments, setting forth the Company’s support for the proposed modifications to the EE&C Plan.

On April 27, 2023, the Commission entered an Opinion and Order granting in part and denying in part the Company’s Petition. Specifically, the Commission approved all of the proposed modifications, except for the Company’s proposed shift of approximately \$18 million from the Large Commercial and Industrial (C&I) sector budget in the Non-Residential Program to the Small C&I sector budget in the Non-Residential Program (*i.e.*, Change No. 5) and the related changes to the savings and estimated peak demand reductions for the Large C&I and Small C&I sectors due to that proposed budget shift (*i.e.*, Change Nos. 7 and 8). The Commission referred Change Nos. 5, 7, and 8 to the Office of Administrative Law Judge (OALJ) for proceedings as may be necessary and the issuance of a Recommended Decision within ninety (90) days of April 27, 2023.

Administrative Law Judge for hearings and a recommended decision.” *Id.* These procedures superseded those previously established for EE&C Plan changes and “apply to all petitions for approval of an EE&C Plan change, other than petitions seeking review under the expedited process” for minor changes. *Id.* at p. 21.

On April 28, 2023, a Notice was issued scheduling a Telephonic Prehearing Conference for May 15, 2023, at 10:00 a.m. before Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Emily I. DeVoe (ALJs).

On May 1, 2023, a Prehearing Conference Order was served, which, among other things, directed the parties to file prehearing conference memoranda by 12:00 p.m. on May 12, 2023.

The Prehearing Conference was held as scheduled on May 15, 2023. The participants were: Devin T. Ryan, Esquire, for PPL Electric, Aron J. Beatty, Esquire, for OCA, Steven C. Gray, Esquire, for OSBA, Elizabeth R. Marx, Esquire, for CAUSE-PA, Joseph L. Vullo, Esquire, for the Commission on Economic Opportunity (CEO), Adeolu A. Bakare, Esquire, for PPLICA, Judith D. Cassel, Esquire and Micah R. Bucy, Esquire for the Sustainable Energy Fund of Central Eastern Pennsylvania (SEF).⁴

On May 18, 2023, a Prehearing Order was issued setting forth the procedural rules and the litigation schedule for this matter which included an evidentiary hearing on June 12, 2023.

On May 25, 2023, PPL Electric and CAUSE-PA served their written direct testimony and exhibits. Also, OCA, OSBA, SEF, and PPLICA filed letters stating that they would not be serving written direct testimony.

On June 1, 2023, PPL Electric informed the ALJs that the Parties in this litigation reached a settlement in principle of all issues. The Parties were directed to file a Joint Stipulation for Admission of Evidence by June 9, 2023. On June 9, 2023, the Parties filed a Joint Stipulation for Admission of Evidence.

⁴ The NRDC, which was a party to the initial Phase IV EE&C Plan litigation, has not been participating since that time.

The hearing scheduled for June 12, 2023, was canceled and a Cancellation Notice was issued on June 12, 2023.

By Interim Order dated June 14, 2023, the Joint Stipulation for Admission of Evidence was approved.

On June 30, 2023, a Joint Petition for Settlement of All Issues (Joint Petition or Settlement) was filed. The Joint Petition was executed by PPL Electric, OSBA, PPLICA and CAUSE-PA (Joint Petitioners).⁵ The Joint Petition includes Statements in Support filed by each Joint Petitioner and attached as appendices.

On July 7, 2023, an Interim Order Closing the Record was issued.

DESCRIPTION AND TERMS OF SETTLEMENT

The 11-page Settlement includes 38 numbered paragraphs and Appendices A through D. Appendices A through D are the Statements in Support of the Settlement for each Joint Petitioner. The principal terms of the Settlement are contained in paragraphs 18-29 and are set forth verbatim below:⁶

A. GENERAL

18. The following terms of this Settlement reflect a carefully balanced compromise of the interests of all the Joint Petitioners in this proceeding. The Joint Petitioners unanimously agree that the Settlement, which resolves all of the issues in the proceeding, is reasonable and in the public interest. The Joint Petitioners respectfully request that the Commission approve Change Nos. 5, 7, and 8 of PPL

⁵ OCA, CEO and SEF do not oppose the Settlement. The Natural Resources Defense Council (NRDC), which was a party to the initial Phase IV EE&C Plan litigation, has not been participating since that time, despite having been served with all orders and notices issued by the ALJs.

⁶ For ease of reference, these terms and conditions are excerpted in relevant part retaining the original numbering and formatting.

Electric's Petition in their entirety as modified by and subject to the terms and conditions of this Settlement.

B. CHANGE NO. 5

19. PPL Electric's Change No. 5, which would shift approximately \$18 million from the Large Commercial and Industrial ("C&I") Sector's budget in the Non-Residential Program to the Small C&I Sector's budget in the Non-Residential Program, is approved.
20. PPL Electric confirms that of the approximately \$18 million that will be diverted from the Large C&I budget to the budget of the Company's small business customers, approximately \$2.5 million of that approximately \$18 million can be used to fund measures for affordable master-metered multi-family housing ("MMMF") projects. The \$2.0 million cumulative spending limit for measures installed inside the tenant units of low-income residents in MMMF buildings and the \$2.0 million cumulative spending limit for comprehensive measures within the Low[-]Income Program as it relates to services for affordable MMMF buildings, as established in the Partial Settlement previously approved in this proceeding, will each be increased to \$2.5 million, respectively. The process established in the Partial Settlement to further increase these cumulative spending caps will remain in place.
21. PPL Electric has identified 70 new potential projects ranging between 80 and 100 units as potential affordable MMMF projects. The Company will exercise reasonable efforts to complete coordinated treatments of affordable MMMF projects, which includes comprehensive measures from that list of new potential projects, provided that the building qualifies for such comprehensive measures because it has electric heat. Within 30 days of approval of this Settlement, PPL Electric will provide to the Joint Petitioners its list of 70 new potential projects ranging between 80 and 100 units as potential affordable MMMF projects.
22. PPL Electric will revisit completed affordable MMMF projects from Phases II and III where comprehensive work was not completed and conduct targeted outreach to those customers for potential participation in the Company's Phase IV comprehensive measures, provided that the

building qualifies for such comprehensive measures because it has electric heat.

23. The Company agrees to work with CAUSE-PA and other interested stakeholders to explore ways in which to improve: (a) outreach to affordable MMMF; and (b) coordination of EE&C Plan incentives with Inflation Reduction Act of 2022 (“IRA”) funding or other federal, state, and local energy efficiency funding sources. PPL Electric will convene at least two meetings within 180 days of approval of this Settlement to facilitate this collaborative effort.
24. Within 60 days of approval of this Settlement, PPL Electric will revise its “Income Qualified Multifamily Residence” flyer (CAUSE-PA to PPL III-9-6) and/or create a new outreach flyer for affordable MMMF properties that includes reference to: (a) the availability of comprehensive measures, including space heating, building shell measures, water heater maintenance, repair, or replacement, and appliance replacement/recycling; and (b) the availability of additional efficiency programming to serve non-low income tenant units and common areas at a reduced cost through its Non-Residential Program. Within 30 days of approval of this Settlement, PPL Electric will share a draft of its revised flyer and/or new outreach materials with the parties to this proceeding and will consider incorporating the parties’ recommendations for further revision.
25. Within 90 days of approval of this Settlement, PPL Electric will review its customer data and information system to identify tenant-occupied buildings within the Small C&I customer class and will conduct affirmative outreach to identified account holders regarding available energy efficiency programming to MMMF buildings identified in this review process.
26. PPL Electric agrees to provide the Joint Petitioners and the Commission with quarterly updates to Tables 1 through 3 in PPL Electric’s Reply Comments filed on February 21, 2023, so that the Joint Petitioners and the Commission can continue to track the participation, savings, and spending associated with the Small C&I and Large C&I Sectors.
27. PPL Electric agrees to provide the Joint Petitioners and the Commission with quarterly updates on the affordable MMMF projects undertaken by the Company, including the

participation, installed measures, savings, and spending associated with such projects. Such report will include details on the Company's progress in: (a) targeting to complete coordinated treatments of affordable MMMF projects that include comprehensive measures, as set forth in Paragraph 21, *supra*; and (b) revisiting completed affordable MMMF projects from Phases II and III where comprehensive work was not completed and conducting targeted outreach to those customers for potential participation in the Company's Phase IV comprehensive measures, as set forth in Paragraph 22, *supra*. As part of this report, PPL Electric will also begin tracking and reporting on participation, installed measures, savings, and spending for projects serving common areas in affordable MMMF buildings through PPL Electric's Non-Residential Program.

C. CHANGE NO. 7

28. PPL Electric's Change No. 7, which would increase the estimated savings and peak demand reductions for the Small C&I Sector in the Non-Residential Program, is approved without modification.

D. CHANGE NO. 8

29. PPL Electric's Change No. 8, which would decrease the estimated savings and peak demand reductions for the Large C&I Sector in the Non-Residential Program, is approved without modification.

Settlement, pp. 4-7.

The Petitioners agreed to certain conditions which are standard in settlements. These conditions are set forth fully in paragraphs 34-38 of the Settlement. *See* Settlement pp. 8-9. The Settlement is conditioned upon the Commission's approval of the terms and conditions contained therein without modification.

DISCUSSION

A. Positions of the Joint Petitioners

This case involves the consideration of three Changes which are interrelated, and reporting requirements agreed to by the Joint Petitioners. The Changes are as follows: the Company's proposed shift of approximately \$18 million from the Large C&I sector budget in the Non-Residential Program to the Small C&I sector budget in the Non-Residential Program (*i.e.*, Change No. 5) and the related changes to the savings and estimated peak demand reductions for the Large C&I and Small C&I sectors due to that proposed budget shift (*i.e.*, Change Nos. 7 and 8). These Changes are better explained together.

The Joint Petitioners agree that the Settlement, which resolves all of the issues in the proceeding, is reasonable and in the public interest.⁷

1. PPL Electric's Position

According to PPL Electric, the Settlement reflects a carefully balanced compromise of the competing interests of all of the active parties in this proceeding. The Joint Petitioners agree that the Settlement is in the public interest. PPL Electric asserts that the fact that the Settlement is unopposed in this proceeding, in and of itself, provides strong evidence that the Settlement is reasonable and in the public interest, particularly given the diverse interests of these parties and the active roles they have taken in this proceeding.⁸

Moreover, PPL Electric explains the Settlement was achieved only after a comprehensive investigation of PPL Electric's Petition. The parties engaged in both informal

⁷ Settlement p. 4, ¶ 18.

⁸ PPL Electric St. in Support, pp. 2-3.

and formal discovery concerning the Company's proposed modifications to the EE&C Plan. PPL Electric and CAUSE-PA also submitted written direct testimony and exhibits.⁹

Additionally, PPL Electric asserts that the parties in this proceeding, their counsel, and their expert consultants have considerable experience in EE&C Plan proceedings. Their knowledge, experience, and ability to evaluate the strengths and weaknesses of their litigation positions provided a strong base upon which to build a consensus in this proceeding.¹⁰

For these reasons and the more specific reasons set forth in its Statement in Support, PPL Electric concludes the Settlement is just and reasonable and in the public interest. PPL Electric requests that Change Nos. 5, 7, and 8 to its Phase IV EE&C Plan should be approved subject to the terms and conditions of the Settlement.¹¹

a. Change No. 5 and Reporting Requirements

Change No. 5 would shift approximately \$18 million from the Large C&I Sector's budget in the Non-Residential Program to the Small C&I Sector's budget in the Non-Residential Program.¹² Specifically, the Small C&I Sector's budget would increase from approximately \$76.84 million to approximately \$94.84 million for Phase IV, and the Large C&I Sector's budget would decrease from approximately \$85.91 million to approximately \$67.91 million for Phase IV.¹³

PPL Electric explains that it proposed Change No. 5 based on Small C&I and Large C&I customers' actual participation and projection of upcoming projects, which reveal: (1) the Small C&I Sector's much greater than projected participation in Phase IV, particularly in

⁹ PPL Electric St. in Support, p. 3.

¹⁰ PPL Electric St. in Support, p. 3.

¹¹ PPL Electric St. in Support, p. 3.

¹² PPL Electric St. No. 1, p. 6.

¹³ PPL Electric St. No. 1, p. 6; PPL Electric St. in Support, p. 3.

the Custom component of the Non-Residential Program; and (2) the Large C&I Sector’s less than projected participation in Phase IV.¹⁴ PPL Electric contends that failure to approve the proposed budget shift will lead to the complete shutdown of all Small C&I program offerings by June 1, 2024 (*i.e.*, the Small C&I Sector offerings will “go dark”).¹⁵ According to PPL Electric, this shutdown would harm: (1) PPL Electric’s Small C&I customers who want to participate and take advantage of the Non-Residential Program; (2) EE&C contractors and installers who would be confused by the end of the Small C&I EE&C offerings well before Phase IV’s conclusion and would lose out on business; and (3) PPL Electric, as the Company would be placed at a significant risk of not meeting its mandatory savings and peak demand reduction targets.¹⁶

Furthermore, PPL Electric submits that it addressed the issues raised in the Commission’s *April 2023 Order*,¹⁷ which granted in part and denied in part PPL Electric’s Petition and referred Change Nos. 5, 7, and 8 to the Office of Administrative Law Judge. Specifically, the Commission, in initially denying and referring Change Nos. 5, 7, and 8 to OALJ, held:

- “PPL has not demonstrated that its Large C&I Sector is under-performing so as to justify the reallocation of its funding to the Small C&I budget”;
 - “PPL has not demonstrated that its requested modification, which will most likely have a negative effect on the Large C&I Sector, will not disturb the reasonable mix of programs in PPL’s Phase IV Plan as was required by Act 129”;
 - The Commission “find[s] persuasive CAUSE-PA’s contention that, despite PPL’s proposal to shift approximately \$18 million to the Small C&I budget, the \$2 million limit on spending for free direct install energy efficiency measures in master-metered low-income tenant units remains unchanged”;
- and

¹⁴ See PPL Electric St. No. 2, pp. 5-10 for detailed data on Small C&I and Large C&I customers’ participation in Phase IV as compared to Phase III; PPL Electric St. No. 2, p. 2.

¹⁵ PPL Electric St. No. 2, pp. 2-3.

¹⁶ PPL Electric St. No 2, pp. 3-5; PPL Electric St. in Support, pp. 3-4.

¹⁷ See *Petition of PPL Electric Utilities Corporation for Approval of its Act 129 Phase IV Energy Efficiency and Conservation Plan*, Docket No. M-2020-3020824 (Opinion and Order entered Apr. 27, 2023) (“*April 2023 Order*”).

- “[T]he proposed transfer of funds from the Large C&I budget to the Small C&I budget, may not result in an EE&C Plan that continues to satisfy the requirements of Act 129 and the prior related Orders of the Commission.”^{18]}

First, PPL Electric points out that it presented detailed data in its direct testimony in the instant matter establishing that the Large C&I Sector is vastly under-performing in Phase IV as compared to Phase III, which, coupled with the significant increase in performance of the Small C&I Sector, justifies the proposed budget shift.¹⁹ For example, as of the time that PPL Electric submitted its direct testimony, approximately 82% of the Small C&I budget (or approximately \$63.2 million) was already accounted for, and we have not even reached the end of the third year in Phase IV.²⁰ By comparison, at the time PPL Electric filed its Reply Comments, 76% of the Small C&I budget (or approximately \$58.5 million) was booked already.²¹ Therefore, according to PPL Electric, in about three months, an additional 6% of the Small C&I budget (or approximately \$4.7 million) was accounted for.²² At that pace, PPL Electric projects it will have its entire Small C&I budget booked by early 2024.²³ PPL Electric contends this evidence shows that the Company will exhaust its existing funding for Small C&I, including its contingency fund, by June 1, 2024, without the proposed budget shift.²⁴

Second, the Company asserts that it established that the proposed budget shift will not negatively impact the Large C&I Sector because the Large C&I Sector’s new budget of approximately \$67.91 million would leave more than enough of a budget to accommodate the Large C&I customers’ interest in EE&C this phase.²⁵ Also, PPL Electric’s proposed change

¹⁸ *April 2023 Order*, p. 27; PPL Electric St. in Support, pp. 4-5.

¹⁹ *See* PPL Electric St. No. 2, pp. 5-10.

²⁰ PPL Electric St. No. 2, p. 9.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*; PPL Electric St. in Support, p. 5.

²⁵ PPL Electric St. No. 1, pp. 8-9.

would not disturb the reasonable mix of programs in the Phase IV EE&C Plan because the Company will have the same mix of EE&C programs and measures with or without the budget shift. In fact, PPL Electric submits that a denial of the proposed change would effectively violate Act 129’s mandate that the EE&C Plan “provide the measures equitably to all classes of customers”²⁶ because the Small C&I EE&C offerings are estimated to stop (*i.e.*, “go dark”) by June 1, 2024, without the \$18 million budget shift.²⁷ PPL Electric argues that it cannot provide measures equitably to all classes of customers if one of those customer classes (here, Small C&I) is effectively barred from participating due to lack of funding.²⁸

Third, PPL Electric argued that the \$2 million spending limit on free direct install measures in low-income tenant units in MMMF properties should remain unchanged.²⁹ The Company explained that the \$2 million spending limit, which was established in the Commission’s *March 2021 Order*³⁰ approving the Partial Settlement in this proceeding, should be viewed separately from the proposed budget shift.³¹ PPL Electric argued that although the Company is proposing to shift \$18 million from the Large C&I Sector’s budget to the Small C&I Sector’s budget, the increased participation by the Small C&I Sector does not mean there is demand from low-income MMMF buildings that would warrant additional spending on these measures beyond the \$2 million limit.³² Moreover, PPL Electric noted how the Partial Settlement already contemplates the process by which PPL Electric would seek additional funding for these measures if the Company “determines that it will need to spend more than \$2.0 million for such measures.”³³ Specifically, the Partial Settlement provides that PPL Electric

²⁶ 66 Pa.C.S. § 2806.1(a)(5).

²⁷ PPL Electric St. No. 1, p. 11.

²⁸ *Id.*; PPL Electric St. in Support, pp. 5-6.

²⁹ PPL Electric St. No. 1, pp. 12-14.

³⁰ *See Petition of PPL Electric Utilities Corp. for Approval of its Act 129 Phase IV Energy Efficiency and Conservation Plan*, Docket No. M-2020-3020824 (Order entered Mar. 25, 2021) (“*March 2021 Order*”).

³¹ PPL Electric St. No. 1, p. 13.

³² *Id.*

³³ *March 2021 Order*, p. 29.

“will meet with stakeholders and revise its Phase IV EE&C Plan to update the estimated funding for these measures, subject to Commission approval.”³⁴

Fourth, PPL Electric asserted that the proposed budget shift, if approved, would not result in an EE&C Plan that fails to satisfy the requirements of Act 129 and the prior related Orders of the Commission. PPL Electric believed that this statement in the *April 2023 Order* was in reference to Act 129’s requirement that the EE&C Plan include “a variety of energy efficiency and conservation measures and will provide the measures equitably to all classes of customers.”³⁵ In interpreting this requirement, the Commission stated the following in its *Phase IV Implementation Order*:

The Commission finds that all classes of customers will benefit from a general approach because it has the best potential to impact future energy prices. For Phase IV of Act 129, the Commission proposed not to require a proportionate distribution of measures among customer classes. However, the Commission proposed that each customer class be offered at least one program. The Commission notes that, as in prior phases, the initial mix and proportion of programs should be determined by the EDCs, subject to Commission approval. The Commission expects the EDCs to provide a reasonable mix of programs for all customers. The burden is on an EDC to explain and justify its distribution of measures among its customer classes if such distribution is challenged.^[36]

If the proposed budget shift were approved, PPL Electric maintains that its Phase IV EE&C Plan would still offer each customer class at least one program and would still provide a reasonable mix of programs for all customers.³⁷ Thus, PPL Electric asserted that its Phase IV

³⁴ *Id.*; PPL Electric St. in Support pp. 6-7.

³⁵ 66 Pa.C.S. § 2806.1(a)(5).

³⁶ *Energy Efficiency and Conservation Program*, Docket No. M-2020-3015228, p. 92 (Implementation Order entered June 18, 2020) (“*Phase IV Implementation Order*”) (emphasis added).

³⁷ PPL Electric St. No. 1, pp. 9-12.

EE&C Plan will remain compliant with all of the requirements of Act 129 and the Commission’s related Orders if Change Nos. 5, 7, and 8 are approved.³⁸

However, CAUSE-PA witness Miller recommended certain modifications to the Company’s proposed budget shift. Although he did not oppose Change No. 5 entirely, Mr. Miller recommended that “the Commission lift the spending cap for low-income master-metered multifamily buildings established in the Partial Settlement, and require PPL to direct at least 20% (\$3.6 million) of the reallocated funds to serve low-income master-metered multifamily buildings within its Small C&I class.”³⁹ He also recommended that “PPL lift its cap on spending for comprehensive measures installed in low-income master metered multifamily buildings.”⁴⁰

As alleged support for his recommendations, Mr. Miller argued that “PPL has not reached a substantial number of master-metered multifamily buildings through its Phase IV program.”⁴¹ Mr. Miller also noted that PPL Electric has “serv[ed] very few tenant units in low-income master-metered multifamily buildings” in Phase IV and “has not provided any comprehensive measures for low-income master-metered multifamily units to date” in Phase IV.⁴² Moreover, with the proposed budget shift, the Company projected that “it will provide comprehensive measures in just 28 low-income master-metered multifamily units through the remainder of Phase IV.”⁴³ Also, Mr. Miller alleged that the Company’s “outreach materials for low-income master-metered multifamily buildings” could be improved and that the Non-Residential Program “appears to lack adequate technical assistance and support necessary

³⁸ PPL Electric St. in Support, p. 7.

³⁹ CAUSE-PA St. 1 (Remand), p. 8.

⁴⁰ *Id.*; PPL Electric St. in Support, p. 8.

⁴¹ CAUSE-PA St. 1 (Remand), p. 8.

⁴² CAUSE-PA St. 1 (Remand), p. 6.

⁴³ *Id.*

for master-metered multifamily buildings to access prescriptive programs designed to serve the unique needs of the building.”⁴⁴

PPL Electric submits that the Settlement reflects a reasonable compromise of the parties’ positions. Under the Settlement, the \$18 million budget shift set forth in Change No. 5 is approved.⁴⁵ PPL Electric also confirms that of the approximately \$18 million that will be diverted from the Large C&I budget to the budget of the Company’s small business customers, approximately \$2.5 million of that approximately \$18 million can be used to fund measures for affordable MMMF projects.⁴⁶ The \$2 million cumulative spending limit for measures installed inside the tenant units of low-income residents in MMMF buildings and the \$2 million cumulative spending limit for comprehensive measures within the Low-Income Program as it relates to services for affordable MMMF buildings, as established in the Partial Settlement previously approved in this proceeding, will each be increased to \$2.5 million, respectively.⁴⁷ The process established in the Partial Settlement to further increase these cumulative spending caps will remain in place.⁴⁸

In addition, the Settlement states that PPL Electric has identified 70 new potential projects ranging between 80 and 100 units as potential affordable MMMF projects.⁴⁹ The Company will exercise reasonable efforts to complete coordinated treatments of affordable MMMF projects, which includes comprehensive measures from that list of new potential projects, provided that the building qualifies for such comprehensive measures because it has electric heat.⁵⁰ Within 30 days of approval of this Settlement, PPL Electric will provide to the Joint Petitioners its list of 70 new potential projects ranging between 80 and 100 units as

⁴⁴ *Id.*; PPL Electric St. in Support, p. 8.

⁴⁵ Settlement p. 4, ¶ 19.

⁴⁶ Settlement pp. 4-5, ¶ 20.

⁴⁷ Settlement pp. 4-5, ¶ 20.

⁴⁸ Settlement pp. 4-5 ¶ 20; PPL Electric St. in Support, pp. 8-9.

⁴⁹ Settlement p. 5, ¶ 21.

⁵⁰ Settlement p. 5, ¶ 21.

potential affordable MMMF projects.⁵¹ PPL Electric also will revisit completed affordable MMMF projects from Phases II and III where comprehensive work was not completed and conduct targeted outreach to those customers for potential participation in the Company’s Phase IV comprehensive measures, provided that the building qualifies for such comprehensive measures because it has electric heat.⁵²

Further, the Settlement provides that PPL Electric will work with CAUSE-PA and other interested stakeholders to explore ways in which to improve: (a) outreach to affordable MMMF; and (b) coordination of EE&C Plan incentives with Inflation Reduction Act of 2022 (“IRA”) funding or other federal, state, and local energy efficiency funding sources.⁵³ PPL Electric will convene at least two meetings within 180 days of approval of this Settlement to facilitate this collaborative effort.⁵⁴

In response to CAUSE-PA’s concerns about the Company’s MMMF outreach materials, the Settlement states that within 60 days of approval of this Settlement, PPL Electric will revise its “Income Qualified Multifamily Residence” flyer (CAUSE-PA to PPL III-9-6) and/or create a new outreach flyer for affordable MMMF properties that includes reference to: (a) the availability of comprehensive measures, including space heating, building shell measures, water heater maintenance, repair, or replacement, and appliance replacement/recycling; and (b) the availability of additional efficiency programming to serve non-low-income tenant units and common areas at a reduced cost through its Non-Residential Program.⁵⁵ Also, within 30 days of approval of this Settlement, PPL Electric will share a draft of its revised flyer and/or new outreach materials with the parties to this proceeding and will consider incorporating the parties’ recommendations for further revision.⁵⁶ Moreover, within 90 days of approval of this

⁵¹ Settlement p. 5, ¶ 21.

⁵² Settlement p. 5, ¶ 22; PPL Electric St. in Support, p. 9.

⁵³ Settlement p. 5, ¶ 23.

⁵⁴ Settlement p. 5, ¶ 23; PPL Electric St. in Support, p. 10.

⁵⁵ Settlement p. 6, ¶ 24.

⁵⁶ Settlement p. 6, ¶ 24.

Settlement, PPL Electric will review its customer data and information system to identify tenant-occupied buildings within the Small C&I customer class and will conduct affirmative outreach to identified account holders regarding available energy efficiency programming to MMMF buildings identified in this review process.⁵⁷

Additionally, the Settlement imposes certain reporting requirements. Specifically, PPL Electric agrees to provide the Joint Petitioners and the Commission with quarterly updates to Tables 1 through 3 in PPL Electric's Reply Comments filed on February 21, 2023, so that the Joint Petitioners and the Commission can continue to track the participation, savings, and spending associated with the Small C&I and Large C&I Sectors.⁵⁸ PPL Electric also agrees to provide the Joint Petitioners and the Commission with quarterly updates on the affordable MMMF projects undertaken by the Company, including the participation, installed measures, savings, and spending associated with such projects.⁵⁹ Such report will include details on the Company's progress in: (a) targeting to complete coordinated treatments of affordable MMMF projects that include comprehensive measures, as set forth in Paragraph 21, *supra*; and (b) revisiting completed affordable MMMF projects from Phases II and III where comprehensive work was not completed and conducting targeted outreach to those customers for potential participation in the Company's Phase IV comprehensive measures, as set forth in Paragraph 22, *supra*.⁶⁰ As part of this report, PPL Electric will also begin tracking and reporting on participation, installed measures, savings, and spending for projects serving common areas in affordable MMMF buildings through PPL Electric's Non-Residential Program.⁶¹

In sum, according to PPL Electric, the Settlement balances the Company's dire need for the Commission to approve the proposed budget shift with CAUSE-PA's concerns about PPL Electric's performance in providing EE&C measures to affordable MMMF properties

⁵⁷ Settlement p. 6, ¶ 25; PPL Electric St. in Support, p. 10.

⁵⁸ Settlement p. 6, ¶ 26.

⁵⁹ Settlement pp. 6-7, ¶ 27.

⁶⁰ Settlement pp. 6-7, ¶ 27.

⁶¹ Settlement pp. 6-7, ¶ 27; PPL Electric St. in Support, pp. 10-11.

to date. PPL Electric asserts that the Settlement also will enable the Commission and Joint Petitioners to better track the Company’s progress with the Small C&I and Large C&I Sectors and affordable MMMF housing. For these reasons, PPL Electric concludes these settlement provisions are just and reasonable and in the public interest and should be approved without modification.⁶²

b. Change No. 7

PPL Electric next addresses Change No. 7 in its Statement in Support. According to PPL Electric, Change No. 7 would increase the estimated savings and estimated peak demand reductions for the Small C&I Sector in the Non-Residential Program.⁶³ PPL Electric points out that Change No. 7 is needed to reflect the budget shift proposed in Change No. 5 and the Non-Residential Program measure changes that were already approved by the Commission.

Under the proposed changes, the Small C&I Sector’s total first-year savings would increase from 574,229 MWh to 648,725 MWh, while the Small C&I Sector’s total first-year peak demand reductions would increase from 93.37 MW to 135.23 MW.⁶⁴ These changes, and any corresponding changes to the estimated savings and peak demand reductions for individual program years, are being made to reflect: (a) PPL Electric’s actual experience in Phase IV; (b) the shift of approximately \$18 million from the Large C&I budget to the Small C&I budget in the Non-Residential Program, as proposed in Change No. 5; and (c) the Non-Residential Program measures that are being added, changed, or removed, as approved in Change No. 6 by the Commission in its *April 2023 Order*.⁶⁵ With the proposed changes to the Company’s Non-Residential Program, the Small C&I Sector is projected to remain cost-effective, with a Total Resource Cost (“TRC”) benefit-cost ratio (“BCR”) of 1.20.⁶⁶

⁶² PPL Electric St. in Support, p. 11.

⁶³ PPL Electric St. No. 1, p. 6.

⁶⁴ PPL Electric St. No. 1, pp. 6-7.

⁶⁵ PPL Electric St. No. 1, p. 7.

⁶⁶ PPL Electric St. No. 1, p. 7; PPL Electric St. in Support, p. 12.

PPL electric asserts, given that the parties have reached a just and reasonable compromise of their positions on Change No. 5, the Commission should likewise approve Change No. 7. Based on the foregoing, PPL Electric concludes this settlement provision is just and reasonable and in the public interest and should be approved without modification.

c. Change No. 8

PPL Electric next addresses Change No. 8 in its Statement in Support. PPL Electric asserts that Change No. 8 would decrease the estimated savings and estimated peak demand reductions for the Large C&I Sector in the Non-Residential Program.⁶⁷ PPL Electric points out that Change No. 8 is needed to reflect the budget shift proposed in Change No. 5 and the Non-Residential Program measure changes that were already approved by the Commission.

Under the proposed changes, the Large C&I Sector's total first-year savings would decrease from 800,239 MWh to 481,108 MWh, while the Large C&I Sector's total first-year peak demand reductions would decrease from 111.05 MW to 70.89 MW.⁶⁸ These changes, and any corresponding changes to the estimated savings and peak demand reductions for individual program years, are being made to reflect: (a) PPL Electric's actual experience in Phase IV; (b) the shift of approximately \$18 million from the Large C&I budget to the Small C&I budget in the Non-Residential Program, as proposed in Change No. 5; and (c) the Non-Residential Program measures that are being added, changed, or removed, as approved in Change No. 6 by the Commission in its *April 2023 Order*.⁶⁹ With the proposed changes to the Company's Non-Residential Program, the Large C&I Sector's TRC BCR is projected to increase from 1.04 to 1.09 and, therefore, remain cost-effective.⁷⁰

⁶⁷ PPL Electric St. No. 1, p.7.

⁶⁸ PPL Electric St. No. 1, p.7.

⁶⁹ PPL Electric St. No. 1, p.7.

⁷⁰ PPL Electric St. No. 1, pp. 7-8; PPL Electric St. in Support, p. 13.

PPL Electric asserts that, because the parties have reached a just and reasonable compromise of their positions on Change No. 5, the Commission should likewise approve Change No. 8. For these reasons, PPL Electric concludes this settlement provision is just and reasonable and in the public interest and should be approved without modification.⁷¹

2. OSBA's Position

The primary issue that concerned the OSBA was the Small C&I participation rate that would justify PPL Electric's proposed amendments.⁷²

According to the OSBA, PPL Electric addressed this issue in its February 21, 2023, Reply Comments. Specifically, PPL Electric observed that 76% of the funding for Small C&I projects had been accounted for, in comparison to only 40% of the funding for Large C&I projects had been used.⁷³ PPL concluded, as follows:

Thus, under the current Small C&I budget, PPL Electric will have to drastically lower incentives paid to participating Small C&I customers or else the Company will likely exhaust the Small C&I budget before the end of Phase IV.^[74]

Based on the evidence indicating an increase in participation rate from Small C&I for the custom component, the OSBA shares the same concern as PPL Electric about their current plan. The Settlement proposes to reallocate PPL Electric's funding for Large C&I projects to the Small C&I budget which, the OSBA contends, would enable PPL Electric to better respond to demand from small businesses to access PPL Electric program assistance.⁷⁵

⁷¹ PPL Electric St. in Support, p. 13.

⁷² OSBA Amended Answer, pp. 2-3.

⁷³ PPL Electric Reply Comments, p. 11. PPL Electric set forth a detailed Table showing the funding use for the two classes. PPL Electric Reply Comments, Table 3, p. 12.

⁷⁴ PPL Electric Reply Comments, p. 12.

⁷⁵ Settlement, pp. 4-5, ¶¶ 19-20; OSBA St. in Support, p. 3.

The Settlement also proposes to allow up to \$2.5 million of the approximately \$18 million that would be transferred to PPL Electric’s Small C&I EE&C budget to be used to fund measures for affordable MMMF housing projects.⁷⁶ The OSBA notes that some of the landlords of MMMF housing projects are served under PPL’s Small C&I tariffed rates.⁷⁷

The OSBA asserts that the Settlement proposal to cap the amount that can be used to fund measures for affordable MMMF housing at \$2.5 million does maintain the majority of the \$18 million for the overall Small C&I budget. Furthermore, according to the OSBA, this provides PPL Electric the flexibility to respond to market conditions within the Small C&I sector in the future, as opposed to directing it to a limited sub-set of the Small C&I sector. Specifically, having the entirety of the \$18 million open to MMMF housing projects would have hampered the ability of PPL Electric to plan for and implement EE&C initiatives at scale for Small C&I customers, given uncertainty of demand and no clear budget cap for MMMF housing projects.⁷⁸

Additionally, the OSBA points out, low-income households can have their PPL Electric EE&C projects covered by the funding already allocated to residential customers. Low-income households are also eligible for a variety of other services and subsidies, such as LIHEAP subsidies, flat billing, shutoff protections, etc. As small businesses do not have dedicated energy efficiency subsidies outside of the PPL Electric’s Small C&I EE&C funding, the OSBA concludes the proposed cap on MMMF housing is appropriate.⁷⁹

3. CAUSE-PA’s Position

According to CAUSE-PA, the Settlement addresses issues of concern which were explained in CAUSE-PA witness Mitchell Miller’s testimony and reflect a carefully balanced compromise of the varied interests in this proceeding. In its Statement in Support, CAUSE-PA

⁷⁶ Settlement pp. 4-5, ¶20.

⁷⁷ OSBA St. in Support, p. 3.

⁷⁸ OSBA St. in Support, p. 3.

⁷⁹ OSBA St. in Support, pp. 3-4.

discussed how the Settlement terms address the four concerns it had concerning Change No. 5 and why the Settlement is in the public interest.

a. Increased Spending Caps for Low-Income MMMF Housing

PPL Electric's initial proposal to shift \$18 million from the Large C&I to the Small C&I sector did not address whether any of the reallocated funds would be used to support energy EE&C programming for MMMF buildings. CAUSE-PA witness Mitchell Miller explained, low-income (*e.g.*, affordable) MMMF housing is difficult to reach and serve through traditional efficiency programs, resulting in disproportionately low levels of services for this unique housing type.⁸⁰ As Mr. Miller explained:

Low[-]income master-metered multifamily building owners and operators most often operate on razor-thin budgets that do not leave room for investment in energy efficiency services, despite clear need to reduce energy costs in order to preserve the availability of decent, affordable housing for low[-]income families. Economic pressures as a result of the COVID-19 pandemic exacerbated the acute need for targeted efficiency services to help reduce high energy costs. As such, I noted in my prior testimony the critical importance of and broader public interest in ensuring that low[-]income housing providers have access to low or no cost energy efficiency services to help reduce energy usage, stabilize operating costs, and preserve already-scarce affordable multifamily housing.^[81]

Mr. Miller highlighted the critical importance of and broader public interest in ensuring that low-income housing providers have access to low or no cost energy efficiency services to help reduce

⁸⁰ CAUSE-PA St. 1, pp. 37-39; CAUSE-PA St. 1 (Remand) p. 3; Stefan Samarripas & Dan York, *Closing the Gap in Energy Efficiency Programs for Affordable Multifamily Housing*, ACEEE (Apr. 2019), <https://www.aceee.org/sites/default/files/publications/researchreports/u1903.pdf>; Heather L. Schwartz, Aimee E. Curtright, Cordaye Ogletree, Elizabeth Thornton, Lisa Jonsson, *Energy Efficiency as a Tool for Preservation of Affordable Rental Housing* (2018), https://www.rand.org/pubs/research_reports/RR2293.html; Joint Center for Housing Studies of Harvard University, *America's Rental Housing Evolving Markets and Needs*, at 31 (2013).

⁸¹ CAUSE-PA St. 1, pp. 24-27, 37-40; CAUSE-PA St. 1 (Remand), p. 3.

energy usage, stabilize operating costs, and preserve already-scarce affordable multifamily housing.⁸²

The underlying Partial Settlement of PPL Electric’s Act 129 Phase IV EE&C Plan contained an overall \$2 million cumulative spending limit for measures installed inside the tenant units of low-income residents in affordable MMMF projects – as well as a \$2 million cumulative spending limit for comprehensive measures within the Low-Income Program.⁸³ In light of PPL Electric’s proposal to shift substantial funds from the Large C&I to the Small C&I Sector budget, Mr. Miller recommended that the Commission lift these spending caps and direct PPL Electric to allocate at least 20% (\$3.6 million) of the reallocated funds to serve low-income MMMF buildings within the Small C&I sector.⁸⁴

According to CAUSE-PA, the terms of the Settlement would increase each of these spending caps from \$2 million to \$2.5 million allowing additional investment into comprehensive efficiency projects for affordable MMMF buildings.⁸⁵ The Settlement also retains the process established in the previous Partial Settlement in this proceeding to increase the spending caps.⁸⁶

While CAUSE-PA’s recommendations were not fully adopted, CAUSE-PA submits that the Settlement meaningfully improves the overall resources available to serve low-income affordable MMMF buildings within PPL Electric’s service territory. According to CAUSE-PA, this will help improve the energy efficiency of affordable multifamily housing for low-income households in PPL Electric’s service territory and reducing costs for low-income housing providers. CAUSE-PA submits that the proposed increase in spending caps for affordable MMMF efficiency projects – together with the other provisions in this Settlement to

⁸² CAUSE-PA St. 1, pp. 24-27, 37-40; CAUSE-PA St. in Support, p. 3.

⁸³ Partial Settlement, p. 5, ¶¶ 31-33.

⁸⁴ CAUSE-PA St. 1 (Remand), p. 8; CAUSE-PA St. in Support, pp. 3-4.

⁸⁵ Settlement p. 5, ¶ 20.

⁸⁶ Settlement p. 5, ¶ 20.

improve the identification of and outreach to affordable MMMF housing providers – represents a reasonable compromise in this proceeding to balance the varied interests at stake. As such, CAUSE-PA believes this provision of the Settlement is just, reasonable, and in the public interest and should be approved by the Commission.⁸⁷

b. Identification of Low-Income MMMF Projects

CAUSE-PA explained that PPL Electric’s Phase IV Plan was not adequately serving affordable MMMF buildings. Mr. Miller pointed out that PPL Electric had only provided 100 audits for low-income master-metered multifamily tenant units – compared to 4,631 energy audits for low-income single-metered multifamily tenant units – and had not installed any comprehensive measures.⁸⁸ Mr. Miller concluded that more funding and outreach was needed to adequately serve the need for efficiency upgrades in low-income multifamily buildings.⁸⁹

As indicated in the Settlement, PPL Electric has identified 70 new potential affordable MMMF projects, ranging between 80 and 100 units each.⁹⁰ Paragraph 21 explicitly requires PPL Electric to exercise reasonable efforts to complete coordinated treatments of affordable MMMF projects, including comprehensive measures from that list of new potential projects that have electric heat. Within 30 days of approval of the Settlement, PPL Electric must provide to the Joint Petitioners its list of new potential projects. PPL Electric must also revisit completed affordable MMMF projects from Phases II and III where comprehensive work was not completed and must conduct targeted outreach to those customers for potential participation in the Company’s Phase IV comprehensive measures, provided that the building qualifies for such comprehensive measures because it has electric heat.⁹¹

⁸⁷ CAUSE-PA St. in Support, p. 4.

⁸⁸ CAUSE-PA St. 1 (Remand), p. 5.

⁸⁹ CAUSE-PA St. in Support, p. 5.

⁹⁰ Settlement p. 5, ¶ 21.

⁹¹ Settlement p. 5, ¶ 22.

By requiring PPL Electric to take explicit steps to expand the availability of comprehensive services to identified low-income MMMF buildings, CAUSE-PA asserts that these provisions of the Settlement will help to address inadequacies in service delivery for affordable MMMF buildings identified by Mr. Miller. Disclosure of PPL Electric’s project leads will also enable stakeholders to provide informed input and recommendations to further expand the reach of PPL Electric’s program. CAUSE-PA submits that these provisions of the Settlement will help to measurably improve the delivery of comprehensive services to low-income multifamily units. As such, CAUSE-PA submits that the Settlement is just, reasonable, and in the public interest; represents a reasonable compromise amongst competing interests; and should be approved by the Commission without modification.

c. Improved Outreach

CAUSE-PA witness Miller pointed out that PPL Electric’s outreach materials for low-income master-metered multifamily buildings do not adequately describe the availability of free comprehensive measures like building shell measures, water heating, or appliance swaps for tenant units, or the possibility of reduced cost efficiency services and equipment for common spaces in MMMF buildings.⁹²

As part of the Settlement, PPL Electric must work with CAUSE-PA and other interested stakeholders to explore ways in which to improve: (a) outreach to affordable MMMF; and (b) coordination of EE&C Plan incentives with the IRA funding or other federal, state, and local energy efficiency funding sources.⁹³ PPL Electric must also revise its “Income Qualified Multifamily Residence” flyer and/or create a new outreach flyer for affordable MMMF properties that includes reference to: (a) the availability of comprehensive measures, including space heating, building shell measures, water heater maintenance, repair, or replacement, and appliance replacement/recycling; and (b) the availability of additional efficiency programming to serve non-low-income tenant units and common areas at a reduced cost through its Non-

⁹² CAUSE-PA St. 1 (Remand), pp. 6-7; CAUSE-PA St. in Support, p. 6.

⁹³ Settlement pp. 5-6, ¶ 23.

Residential Program.⁹⁴ PPL Electric must also review its customer data and information system to identify tenant-occupied buildings within the Small C&I customer class and will conduct affirmative outreach to identified account holders regarding available energy efficiency programming to MMMF buildings identified in this review process.⁹⁵

According to CAUSE-PA, these provisions of the Settlement will improve PPL Electric's outreach and cross-program coordination, with assistance from stakeholders, and will help ensure that PPL Electric is effectively utilizing available resources to identify low-income MMMF buildings in need of energy efficiency services. As such, CAUSE-PA contends that the proposed Settlement will serve to expand the reach of PPL Electric's Act 129 program to better serve this unique and historically underserved building type. CAUSE-PA concludes that the Commission should approve these provisions of the Settlement because they are just, reasonable, and in the public interest.⁹⁶

d. Improvements to PPL Electric's Act 129 Reporting

Under the terms of the Settlement, PPL Electric must provide the Joint Petitioners and the Commission with quarterly updates to help track the participation, savings, and spending associated with the Small C&I and Large C&I Sectors.⁹⁷ PPL Electric must also provide the Joint Petitioners and the Commission with quarterly updates on the affordable MMMF projects undertaken by the Company, including the participation, installed measures, savings, and spending associated with such projects. The report must include details on the Company's progress in: (a) targeting to complete coordinated treatments of affordable MMMF projects that include comprehensive measures; and (b) revisiting completed affordable MMMF projects from Phases II and III where comprehensive work was not completed and conducting targeted outreach to those customers for potential participation in the Company's Phase IV

⁹⁴ Settlement p. 6, ¶ 24.

⁹⁵ Settlement p. 6, ¶ 25; CAUSE-PA St. in Support, pp. 6-7.

⁹⁶ CAUSE-PA St. in Support, p. 7.

⁹⁷ Settlement p. 6-7, ¶ 27.

comprehensive measures. As part of this report, PPL Electric must also begin tracking and reporting on participation, installed measures, savings, and spending for projects serving common areas in affordable MMMF buildings through PPL Electric's Non-Residential Program.⁹⁸

According to CAUSE-PA, these provisions of the Settlement will help improve the comprehensiveness of PPL Electric's Act 129 reporting and will in turn allow the Commission and the parties to better assess PPL Electric's progress in serving affordable MMMF buildings. CAUSE-PA asserts that improved reporting will also help to promote transparency and improve accountability of PPL Electric to its low-income MMMF service goals outlined in the Settlement. CAUSE-PA submits that these provisions of the Settlement are just, reasonable, and in the public interest and should be approved by the Commission.⁹⁹

4. PPLICA's Position

PPLICA generally addressed the public interest in its Statement in Support of the Settlement. PPLICA submits that the Settlement is in the public interest for the following reasons:

- a. As a result of the Partial Settlement, expenses incurred by the Joint Petitioners and the Commission for completing this proceeding will be substantially less than they would have been if the proceeding had been fully litigated.
- b. Uncertainties regarding further expenses associated with possible appeals from the Final Order of the Commission regarding the settled issues are avoided as a result of the Settlement.
- c. The Settlement results in terms and provisions that present a just and reasonable resolution of the outstanding changes from the Company's proposed Petition to Modify its Phase IV EE&C Plan. Specifically, the Settlement implements PPL's proposed Change No. 5, which would shift approximately \$18 million from the Large Commercial and

⁹⁸ CAUSE-PA St. in Support, pp. 7-8.

⁹⁹ CAUSE-PA St. in Support, p. 7.

Industrial (“C&I”) Sector’s budget in the Non-Residential Program to the Small C&I Sector’s budget in the Non-Residential Program, which appropriately reflects the decline in Large C&I participation observed through the Company's Phase IV Plan to date. *See* PPL Statement No. 1 at 5. While the budget shift will reduce the Phase IV budget for Large C&I customers from \$85.91 million to \$67.91 million, PPL anticipates that the remaining budget will be sufficient to accommodate Large C&I demand for EE&C measures for the duration of Phase IV. *See id.* at 6, 8.

- d. The Settlement reflects compromises on all sides presented without prejudice to any position any Joint Petitioner may have advanced so far in this proceeding. Similarly, the Settlement is presented without prejudice to any position any party may advance in future proceedings involving the Company.^[100]

B. The Settlement is in the Public Interest but a Modification of the Reporting Requirements Is Necessary

It is the policy of the Commission to encourage parties to contested on-the-record proceedings to settle the dispute.¹⁰¹ Settlements eliminate the time, effort and expense of litigating a matter to conclusion, which may include review of the Commission’s decision by the appellate courts of Pennsylvania. Such savings not only benefit the individual parties, but also the Commission and ratepayers of the utility.

The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding.¹⁰² The Commission has explained that parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the

¹⁰⁰ PPLICA St. in Support, p. 2.

¹⁰¹ *See* 52 Pa. Code § 5.231(a).

¹⁰² *See* 52 Pa. Code § 69.401.

settlement is in the public interest.¹⁰³ In order to approve a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest.¹⁰⁴

PPL Electric explained that Change No. 5 is necessary based on Small C&I and Large C&I customers' actual participation and projection of upcoming projects, which reveal: (1) the Small C&I Sector's much greater than projected participation in Phase IV, particularly in the Custom component of the Non-Residential Program; and (2) the Large C&I Sector's less than projected participation in Phase IV.¹⁰⁵ According to PPL Electric, failure to approve the proposed budget shift can potentially lead to the shutdown of all Small C&I program offerings by June 1, 2024.¹⁰⁶ If a shutdown occurs, it would harm: (1) PPL Electric's Small C&I customers who want to participate and take advantage of the Non-Residential Program; (2) EE&C contractors and installers who would be confused by the end of the Small C&I EE&C offerings well before Phase IV's conclusion and would lose out on business; and (3) PPL Electric, as the Company would be placed at a significant risk of not meeting its mandatory savings and peak demand reduction targets.¹⁰⁷

PPL Electric also explained that the proposed budget shift will not negatively impact the Large C&I Sector because the Large C&I Sector's new budget of approximately \$67.91 million would leave more than enough of a budget to accommodate the Large C&I customers' interest in EE&C this phase.¹⁰⁸ Also, PPL Electric's proposed change would not disturb the reasonable mix of programs in the Phase IV EE&C Plan because the Company will have the same mix of EE&C programs and measures with or without the budget shift.

¹⁰³ *Pa. Pub. Util. Comm'n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861 (Opinion and Order entered Dec. 5, 2013).

¹⁰⁴ *Pa. PUC v. Windstream Pa., LLC*, Docket No. M-2012-2227108 (Opinion and Order entered Sept. 27, 2012); *Pa. Pub. Util. Comm'n v. C.S. Water and Sewer Assoc.*, Docket No. R-00881147 (Opinion and Order entered July 22, 1991).

¹⁰⁵ See PPL Electric St. No. 2, pp. 5-10 for detailed data on Small C&I and Large C&I customers' participation in Phase IV as compared to Phase III; PPL Electric St. No. 2, p. 2.

¹⁰⁶ PPL Electric St. No. 2, pp. 2-3.

¹⁰⁷ PPL Electric St. No 2, pp. 3-5; PPL Electric St. in Support, pp. 3-4.

¹⁰⁸ PPL Electric St. No. 1, pp. 8-9.

CAUSE-PA took issue with the fact that PPL Electric's initial proposal to shift \$18 million from the Large C&I to the Small C&I sector did not address whether any of the reallocated funds would be used to support EE&C programming for MMMF buildings.

The Joint Petitioners worked together to enter into a Settlement they contend addresses the issues raised in this proceeding, is in the public interest and is just and reasonable.

Section 2806.1(a)(5) of the Public Utility Code requires electric distribution companies to implement cost-effective EE&C plans to reduce energy demand and consumption. Such plans must include standards to ensure that each plan includes a variety of EE&C measures and must provide the measures equitably to all classes of customers.¹⁰⁹

We find that the proposes major changes, specifically Change No. 5, Change No. 7, and Change No. 8, as modified by the Settlement, comply with 66 Pa.C.S. § 2806.1(a)(5). The Settlement reflects a reasonable compromise of the parties' positions. Under the Settlement, the \$18 million budget shift set forth in Change No. 5 is approved.¹¹⁰ PPL Electric also confirms that of the approximately \$18 million that will be diverted from the Large C&I budget to the budget of the Company's small business customers, approximately \$2.5 million of that approximately \$18 million can be used to fund measures for affordable MMMF projects.¹¹¹ The \$2 million cumulative spending limit for measures installed inside the tenant units of low-income residents in MMMF buildings and the \$2 million cumulative spending limit for comprehensive measures within the Low Income Program as it relates to services for affordable MMMF buildings, as established in the Partial Settlement previously approved in this proceeding, will each be increased to \$2.5 million, respectively.¹¹² The process established in the Partial Settlement to further increase these cumulative spending caps will remain in place.¹¹³

¹⁰⁹ 66 Pa.C.S. § 2806.1(a)(5).

¹¹⁰ Settlement p. 4, ¶ 19.

¹¹¹ Settlement pp. 4-5, ¶ 20.

¹¹² Settlement pp. 4-5, ¶ 20.

¹¹³ Settlement pp. 4-5 ¶ 20; PPL Electric St. in Support, pp. 8-9.

The Settlement requires PPL Electric to exercise reasonable efforts to complete coordinated treatments of affordable MMMF projects, which includes comprehensive measures from that list of new potential projects, provided that the building qualifies for such comprehensive measures because it has electric heat.¹¹⁴ Within 30 days of approval of this Settlement, PPL Electric must provide to the Joint Petitioners its list of 70 new potential projects ranging between 80 and 100 units as potential affordable MMMF projects.¹¹⁵ PPL Electric also must revisit completed affordable MMMF projects from Phases II and III where comprehensive work was not completed and conduct targeted outreach to those customers for potential participation in the Company’s Phase IV comprehensive measures, provided that the building qualifies for such comprehensive measures because it has electric heat.¹¹⁶ We find all of these provisions to be in the public interest as well.

As part of the Settlement, PPL Electric must work with interested stakeholders to explore ways in which to improve: (a) outreach to affordable MMMF; and (b) coordination of EE&C Plan incentives with the IRA funding or other federal, state, and local energy efficiency funding sources.¹¹⁷ PPL Electric must also revise its “Income Qualified Multifamily Residence” flyer and/or create a new outreach flyer for affordable MMMF properties that includes reference to: (a) the availability of comprehensive measures, including space heating, building shell measures, water heater maintenance, repair, or replacement, and appliance replacement/recycling; and (b) the availability of additional efficiency programming to serve non-low-income tenant units and common areas at a reduced cost through its Non-Residential Program.¹¹⁸ PPL Electric must also review its customer data and information system to identify tenant-occupied buildings within the Small C&I customer class and will conduct affirmative outreach to identified account holders regarding available energy efficiency programming to

¹¹⁴ Settlement p. 5, ¶ 21.

¹¹⁵ Settlement p. 5, ¶ 21.

¹¹⁶ Settlement p. 5, ¶ 22; PPL Electric St. in Support, p. 9.

¹¹⁷ Settlement pp. 5-6, ¶ 23.

¹¹⁸ Settlement p. 6, ¶ 24.

MMMF buildings identified in this review process.¹¹⁹ These Settlement provisions addressing outreach are in the public interest. They will help ensure that PPL Electric is effectively utilizing available resources to identify low-income MMMF buildings in need of energy efficiency services.

Change No. 7 and Change No. 8 are needed to reflect the budget shift proposed in Change No. 5 and the Non-Residential Program measure changes that were already approved by the Commission.

The Joint Petitioners agreed to certain reporting requirements in Settlement Paragraph Nos. 26 and 27. The undersigned find that the reporting requirements agreed to in the Settlement are just, reasonable and in the public interest, however, the time for reporting shall be modified.

The *Energy Efficiency and Conservation Program Implementation Order*, at Docket No. M-2020-3015228 (Implementation Order entered June 18, 2020) (*Phase IV Implementation Order*), required EDCs to submit semi-annual reports by January 15 of each year and final annual reports by September 30 of each year. The undersigned recommend that, instead of an extra quarterly reporting requirement, PPL Electric should incorporate updates required by Settlement Paragraph Nos. 26 and 27 into its presently required Phase IV Implementation Order reports; semi-annual reports are due by January 15 of each year and final annual reports by September 30 of each year. This adjustment in timing is consistent with the *Phase IV Implementation Order*.

In conclusion, the undersigned recommend approval of Change Nos. 5, 7 and 8 of the Petition of PPL Electric as modified by the Settlement in this proceeding. The reporting requirements contained in Settlement Paragraph Nos. 26 and 27 shall occur on January 15 and September 30. We find this outcome to be just, reasonable and in the public interest.

¹¹⁹ Settlement p. 6, ¶ 25; CAUSE-PA St. in Support, pp. 6-7.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the Parties to this proceeding. 66 Pa.C.S. § 2806.1.

2. Section 2806.1(a)(5) of the Public Utility Code requires electric distribution companies to implement cost-effective EE&C plans to reduce energy demand and consumption. Such plans must include standards to ensure that each plan includes a variety of EE&C measures and must provide the measures equitably to all classes of customers. 66 Pa.C.S. § 2806.1(a)(5).

3. In order to approve a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. Windstream Pa., LLC*, Docket No. M-2012-2227108 (Opinion and Order entered Sept. 27, 2012); *Pa. Pub. Util. Comm'n v. C.S. Water and Sewer Assoc.*, Docket No. R-00881147 (Opinion and Order entered July 22, 1991).

4. The Settlement is just, reasonable, and in the public interest, with the noted exception of the quarterly reporting requirements contained in Settlement Paragraph Nos. 26 and 27, which are modified in the ordering paragraphs below.

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement of All Issues that PPL Electric Utilities Corporation, the Office of Small Business Advocate, the PP&L Industrial Customer Alliance and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania

executed and filed be approved as modified to require the information identified in Settlement Paragraph Nos. 26 and 27, to be reported and incorporated into PPL Electric Utilities Corporation's semi-annual reports on January 15th and annual reports on September 30th.

2. That PPL Electric Utilities Corporation shall file an amended Act 129 Phase IV Energy Efficiency and Conservation Plan that includes the modifications approved in the Joint Petition for Settlement of all Issues and the modifications to the reporting requirements contained in Ordering Paragraph No. 1 above.

3. That the Commission's Secretary mark Docket No. M-2020-3020824 closed after the amended Act 129 Phase IV Energy Efficiency and Conservation Plan required by Ordering Paragraph No. 2 above is accepted for filing.

Date: July 25, 2023

_____/s/_____
Mark A. Hoyer
Deputy Chief Administrative Law Judge

_____/s/_____
Emily I. DeVoe
Administrative Law Judge