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August 20, 2012

BY FEDERAL EXPRESS

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**RE: Energy Efficiency and Conservation Program**  
**Docket Nos. M-2012-2289411. & M-2008-2069887**

Dear Secretary Chiavetta:

Enclosed for filing is the Petition of PPL Electric Utilities Corporation for Reconsideration in the above-referenced proceeding.

Copies have been provided as indicated on the Certificate of Service.

Respectfully Submitted,

  
Andrew S. Tubbs

AST/jl  
Enclosures  
cc: Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Energy Efficiency and Conservation Program** : **Docket Nos. M-2012-2289411**  
: **M-2008-2069887**

**PETITION OF PPL ELECTRIC UTILITIES  
CORPORATION FOR RECONSIDERATION**

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AUG 20 2012

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

PPL Electric Utilities ("PPL Electric"), pursuant to Section 5.572 of the Pennsylvania Public Utility Commission's ("Commission") regulations, 52 Pa. Code § 5.572, hereby files this Petition requesting reconsideration of the Commission's Order entered August 3, 2012, in the above captioned proceeding. *Energy Efficiency and Conservation Program, Implementation Order*, at Docket Nos. M-2012-2289411 and M-2008-2069887 (Order Entered August 3, 2012)("Implementation Order"). For the reasons explained herein, PPL Electric respectfully requests that the Commission reconsider certain determinations made in the *Implementation Order*, which appear to limit an electric distribution company's ("EDC") ability to challenge future determinations made by the Commission.

Specifically, the Company requests that the Commission affirmatively state that its approval of the 25% adjustment factor, included in the statewide evaluator's ("SWE") Market Potential Study, and the potential acceptance of the Phase II reduction compliance target does not: (1) preclude EDCs from challenging future modifications to the Technical Reference Manual ("TRM") or their application to Phase II consumption reduction targets; or (2) prohibit an EDC from petitioning the Commission to modify the applicable Phase II consumption reduction targets based upon future changes to the TRM or other future changes that are not presently known. In support thereof, PPL Electric states as follows:

## **I. BACKGROUND**

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

2. On October 15, 2008, Governor Rendell signed House Bill No. 2200, subsequently identified as Act No. 129. Act 129 created an energy efficiency and conservation program, codified in the Pennsylvania Public Utility Code at Sections 2806.1 and 2806.2, 66 Pa.C.S. §§ 2806.1 and 2806.2. This program requires an EDC with at least 100,000 customers, such as PPL Electric, to adopt an energy efficiency and conservation (“EE&C”) plan, approved by the Commission, to reduce customers’ electric consumption and peak demand.

3. On July 1, 2009, PPL Electric filed its EE&C Plan with the Commission pursuant to Act 129 and various related Commission orders. PPL Electric’s EE&C Plan includes a broad portfolio of energy efficiency and conservation programs and peak load reduction programs. The Commission initially approved PPL Electric’s Phase I EE&C Plan, with modifications, on October 26, 2009<sup>1</sup> and further revisions were approved in various subsequent orders.<sup>2</sup>

## **II. IMPLEMENTATION ORDER**

4. Pursuant to Act 129, the Commission is also charged with the responsibility to evaluate the costs and benefits of the EE&C program by November 30, 2013, and every five

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<sup>1</sup> *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (Order Entered October 26, 2009).

<sup>2</sup> *See e.g., Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (Order Entered February 17, 2010); *Petition of PPL Electric Utilities Corporation for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093216 (Order Entered May 6, 2011).

years thereafter. 66 Pa. C.S. § 2806.1(c)(3). The Commission must adopt, under Act 129, additional incremental reductions in consumption if the benefits of the EE&C program exceed its costs. *Id.*

5. Earlier in this year the Commission began the process of evaluating the costs and benefits of the EE&C program and establishing additional incremental reductions in consumption, provided the benefits exceed the costs. With the *Implementation Order*, entered on August 3, 2012, the Commission established Phase II of the EE&C program, requiring EDCs to adopt and implement cost-effective plans to reduce energy consumption throughout the Commonwealth, consistent with the August 3, 2012 Order. As pertinent to this Petition, the *Implementation Order* determined the required consumption reduction targets for each EDC, as well as guidelines for implementing Phase II of the EE&C Program.

### III. REQUEST FOR RECONSIDERATION

6. The Commission's standards for granting reconsideration following entry of a final order are set forth in *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 559 (1982):

A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was said that '[p]arties ..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them....' What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.

7. As discussed in detail below, this request for reconsideration satisfies the *Duick* standard, as the Company presents new arguments based on the determination made for the first time in the *Implementation Order*.

8. In the *Implementation Order*, the Commission has attempted to limit an EDC's ability to challenge, at a future date, the Phase II consumption reduction targets, as well as future Commission determinations related to the TRM. First, in the *Implementation Order* the Commission held that EDCs will be deemed to have accepted the facts underlying the *Implementation Order* and will be bound by the consumption reduction requirements contained in the *Implementation Order* if the EDC has not filed a petition for an evidentiary hearing by August 20, 2012. As a protective measure, concurrent with the filing of this Petition, PPL Electric will file a request for an evidentiary hearing regarding the consumption reduction targets. PPL Electric, however, requests that the Commission reconsider its ruling that EDCs will be deemed to have accepted the facts and be bound by the stated consumption reduction targets. Granting the relief requested in this Petition would moot PPL Electric's request for an evidentiary hearing.

9. In the *Implementation Order*, the Commission tentatively adopted the consumption reduction targets recommended by the SWE and proposed in the *Tentative Implementation Order*.<sup>3</sup> The percentage reduction targets, as well as their three-year cumulative MWh figures, as applicable to PPL Electric, appear below.

**Act 129 Phase II Three-Year Energy Efficiency Reduction Compliance Targets**

EDC	Three-Year Program Acquisition Cost (S/MWh)	Three-Year % of 2009/10 Forecast Reductions	Three-Year MWh Value of 2009/10 Forecast Reductions
PPL	\$224.71	2.1	821,072

*Implementation Order* at 24.

<sup>3</sup> *Energy Efficiency and Conservation Program*, Tentative Implementation Order at Docket Nos. M-2012-2289411 and M-2008-2069887 (Order Entered on May 11, 2012)(“*Tentative Implementation Order*”).

10. The Commission explained that its overall framework for establishing savings reduction targets was designed to establish minimum and mandatory compliance energy reduction targets. *Implementation Order* at 25. The Commission determined that consumption reduction requirements for each EDC were based on the full 2% of 2006 annual revenues being spent for the energy efficiency program in each year of Phase II. Therefore, the consumption reduction targets vary among EDCs based on available resources, acquisition costs and efficiency potential. *Implementation Order* at 29.

11. Furthermore, regarding establishment of the consumption reduction requirements, the Commission held that if an EDC does not file a petition by August 20, 2012, it will have been deemed to have accepted the facts and will be bound by the consumption reduction requirement contained in the *Implementation Order*, as there would be no remaining disputed facts.

12. In order to establish the EDC's compliance targets, the SWE conducted Pennsylvania specific residential, commercial and industrial baseline saturation studies and prepared a Market Potential Study for the Commission that recommended EDC-specific energy efficiency reduction targets. *Implementation Order* at 13. As explained in the *Implementation Order* the SWE's Market Potential Study methodology averaged the administration costs from Phase I, program years one and two, and increased them by 25%. Similarly, the program incentive funding estimates from Phase I were increased by the SWE by 25% for Phase II. *Implementation Order* at 18-19. Further, the Commission tentatively determined that the SWE provided valid reasons in support of the 25% adjustment factor and projected acquisition costs. According to the Commission, the adjustment factor was used to account for future uncertainties when establishing program goals. *Implementation Order* at 19. Specifically, the Commission

stated that, “[t]he application of the 25% adjustment factor allows for future TRM adjustments on savings adjustments in future years without revising program goals.” *Implementation Order* at 20. Therefore, the consumption reductions targets established by the SWE, and adopted in the *Implementation Order*, have embedded within them a 25% adjustment factor to account for various potential future events.

13. As previously stated in this proceeding,<sup>4</sup> the Company believes that the 2.1% Phase II consumption reduction target is reasonably achievable; however, for it to be achievable the Commission must affirm that an EDC retains the right to challenge subsequent modifications to the TRM and request modifications to its Phase II targets, based upon these modifications. Stated differently, PPL Electric neither accepts the facts nor agrees to be bound by the 2.1% consumption reduction target, if the facts include future changes to the TRM that are not known or knowable at this time. The Company’s concerns stem from the Commission statement in the *Implementation Order* that the 25% adjustment factor provides for, “future TRM adjustments on savings adjustments in future years without revising program goals.” (emphasis added) *Implementation Order* at 20. The Company is concerned that this statement could be read to prohibit it from challenging future modifications to the TRM or from petitioning the Commission to modify its Phase II target based on future changes to the TRM.

14. Limiting the ability of an EDC to challenge changes to the TRM, could potentially hinder an EDC’s ability to meet its reduction targets. An EDC’s Commission-approved plan and budgets are based on values reflected in the then current TRM, and not based upon a prediction of what may be reflected in future TRMs.

15. Currently, the SWE and the Commission are discussing possible changes to the 2013 TRM, including updated savings, hours of use for lighting and HVAC, a different method

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<sup>4</sup> See PPL Electric Comments filed June 25, 2012, pp. 9-14.

to estimate savings from residential HVAC and weatherization, and changes to the savings for other measures to reflect Pennsylvania-specific conditions. The SWE and the Commission are also evaluating how to incorporate future changes in codes and standards into the TRM. If the Commission decides to significantly modify the 2013 TRM and subsequent Phase II TRMs, these changes will occur after PPL Electric's Phase II EE&C Plan has been developed, and will affect the savings that can be achieved. As such, PPL Electric should not be barred from challenging the changes to the TRM or be prohibited from petitioning the Commission to reduce its Phase II reduction target, which may be necessary to prevent the imposition of a civil penalty under Act 129.

16. Requiring EDCs to apply the TRM modifications during the term of Phase II (or during the term of any phase) would alter the rules that guided the EDCs in the design, and the Commission in its approval, of the EE&C Plans. If the Commission adopts modifications to the TRM during Phase II which hinder an EDC's ability to achieve its Act 129 obligations and the Commission decides to apply these modifications as updates to the EDCs' EE&C Plans, PPL Electric should be permitted to petition the Commission to revise the consumption reduction requirements and any other related targets accordingly. Therefore, in the event that the Commission revises the TRM any time during the development and/or course of Phase II (or subsequent EE&C Program phases), the established consumption reduction requirements and any other targets established by the Commission should be subject to potential revisions to reflect revisions to the TRM.

17. The *Implementation Order* appears to rely upon regulatory proceedings involving future modifications to the TRM to set the Company's Phase II consumption reduction target. Reliance on such future proceedings is inappropriate and unlawful because the 2013 TRM and

future proceedings have not been initiated and neither the Commission nor PPL Electric are able to determine the impact these proceedings will have on an EDC's Phase II consumption reduction target or its ability to achieve the target. Such limitations would deny PPL Electric due process of law, are not supported by substantial evidence and constitute an abuse of agency discretion.

18. Therefore, PPL Electric requests that the Commission revise its order to affirmatively state that the approval of the SWE's 25% adjustment factor and an EDCs acceptance of the Phase II consumption reduction targets does not: (1) preclude EDCs from challenging future modifications to the TRM; or (2) prohibit EDCs from petitioning the Commission to modify its Phase II consumption reduction target based upon future changes to the TRM or other market changes that are not presently known.

**IV. CONCLUSION**

For the reasons set forth above, PPL Electric Utilities Corporation respectfully requests that the Commission grant this petition for reconsideration.

Respectfully submitted,



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Date: August 20, 2012

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## VERIFICATION

I, Joseph J. Mezlo, being the Manager-Energy Efficiency and Conservation Programs at PPL Electric Utilities Corporation, hereby state that the facts set forth in the foregoing documents are true and correct to the best of my knowledge, information and belief and that I expect that PPL Electric Utilities Corporation to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: August 20, 2012

  
\_\_\_\_\_  
Joseph J. Mezlo

## CERTIFICATE OF SERVICE

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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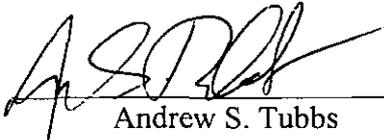
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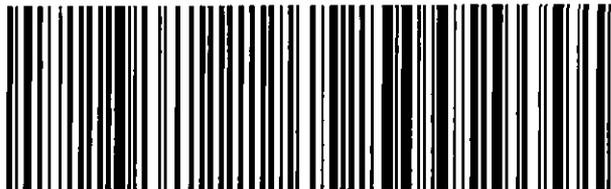
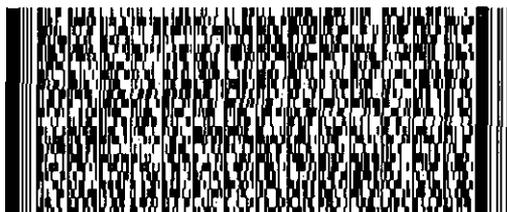
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