**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

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|  | Public Meeting held January 28, 2016 |
| Commissioners Present:  Gladys M. Brown, Chairman  Andrew G. Place, Vice Chairman  Pamela A. Witmer  John F. Coleman, Jr.  Robert F. Powelson |  |
| Petition of PPL Electric Utilities Corporation for Expedited Approval to Amend the Default Service Program and Procurement Plan for Tier II Alternative Energy Credits | P-2014-2417907 |
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**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition of PPL Electric Utilities Corporation (PPL or the Company) for Expedited Approval to Amend the Default Service Program and Procurement Plan for Tier II Alternative Energy Credits (Petition) that was filed by PPL on December 1, 2015. PPL indicated that copies of the instant Petition were served on all parties of record. On December 11, 2015, the Sustainable Energy Fund (SEF) filed an Answer in Support of PPL’s Petition. The Commission has not received any other responses to the PPL Petition.

**Background**

PPL’s Petition seeks approval to amend its third Default Service Program and Procurement Plan (DSP III) which was approved by Commission Order entered on January 15, 2015. By this Petition, PPL seeks to modify certain terms and conditions under which the Company will acquire Long Term Tier II Alternative Energy Credits (AECs). PPL explains that pertinent to this Petition, Paragraph 29 of the Joint Petition for Approval of Partial Settlement filed in this proceeding on September 12, 2014, provided as follows:

29. PPL Electric will procure Tier I (non-solar) and Tier II AECs through new individual long-term contracts in an amount necessary to cover the AEPS [Alternative Energy Portfolio Standards] requirements associated with the pre-existing Long-Term Product contract for 50 MW committed through May 31, 2021. PPL Electric agrees that these new long-term contracts will be solicited in the first auction under the DSP III Program.

Petition ¶ 10 at 3-4.

PPL submits that in accordance with the terms and conditions of its Commission-approved DSP III Program, it undertook a request for proposal (RFP) process in April 2015 to solicit competitive bids to supply 211,608 Long Term Tier II AECs for a six-year delivery period from June 1, 2015 through May 31, 2021. The bid results of this RFP were presented to the Commission for approval. However, by Secretarial Letter dated April 13, 2015 (April 2015 Secretarial Letter), the Commission rejected the bid results as non-competitive due to the low number of bidders. In the April 2015 Secretarial Letter, the Commission directed PPL to re-solicit bids for these Tier II AECs in a future auction. Petition ¶¶ 14-15 at 4.

PPL avers that in October of 2015, the Company undertook another RFP to solicit competitive bids to supply the 211,608 Long Term Tier II AECs for a six-year delivery period from June 1, 2015, through May 31, 2021. The bid results of this RFP were presented to the Commission for approval. By Secretarial Letter dated October 13, 2015 (October 2015 Secretarial Letter), the Commission again rejected the bid results because it determined that the bid results were non-competitive due to the fact that the bids were significantly above market prices for Tier II AECs. In the October 2015 Secretarial Letter, the Commission directed PPL to submit a revised plan to procure the Long Term Tier II AECs. PPL avers that the instant Petition represents the revised plan the Commission directed the Company to develop. Petition ¶¶ 16-17 at 5.

**The Petition’s Proposed Amendments**

In its Petition,PPL proposes a two-part process which modifies certain bidder eligibility requirements for Tier II AEC suppliers to procure the needed Tier II AECs. PPL states that the first part of this two-part process involves the procurement of credits needed to meet the Company’s Tier II AEC requirements for the period of June 1, 2015, through May 31, 2016. In order to meet the requirements for this procurement period, PPL proposes to procure the Tier II AECs needed from the retail market using AEC brokers. PPL proposes that it would solicit at least three brokers and would select the lowest priced offer, subject to Commission approval. Furthermore, PPL explains that the Long Term AEC RFP and the Long Term AEC Supply Master Agreement (SMA) have been revised to exclude the AECs required for the period June 1, 2015, through May 31, 2016, from the long term procurement process. PPL contends that it is excluding this time period in its proposal due to concerns that including this period in the long term procurement process would discourage bidder participation in that process. Specifically, PPL is concerned that potential bidders in the long term procurement process may not hold Tier II AECs that would be valid and available for the 2015-2016 period, preventing them from participating in a bidding process that requires credits to be provided for the June 1, 2015, through May 31, 2016, procurement period. Petition ¶¶ 18-21 at 5-6.

PPL states that the second part of the two-part procurement process is to procure Tier II AECs for the remaining five annual periods from June 1, 2016, through May 31, 2021. According to PPL, the Company proposes to amend certain limited provisions of its Long Term AEC RFP and Long Term AEC SMA to further encourage Tier II AEC suppliers to submit competitive bids in response to the Long Term Tier II AECs solicitation. Specifically, PPL explains that it proposes to amend the Long Term AEC RFP to relieve Tier II AEC bidders from the following requirements: credit application and financial information; bid assurance collateral and alternative letter of credit; alternative forms of performance assurance; and bid assurance collateral. Also, PPL notes it proposes to amend the Long Term AEC RFP in order to remove the June 1, 2015, through May 31, 2016, annual period from the procurement, thereby reducing the total quantity of Tier II AECs being procured and reducing the length of the contract to five years. PPL states that these proposed amendments are reflected in the *pro forma* Addendum to the Long Term AEC RFP attached to the petition as Appendix C. Petition ¶¶ 22-23 at 6-7.

PPL further proposes to amend the Long Term AEC SMA to reflect that Tier II AEC bidders will be relieved of the following requirements: to provide and maintain performance assurance or letters of credit; unconditional guaranty; the creditworthiness requirements; credit limit and credit exposure; and credit rating determination. PPL states that these proposed amendments are reflected in the *pro forma* Addendum to the Long Term AEC SMA attached to its petition as Appendix D.

Lastly, PPL proposes a new contingency proposal in the event the amended procurement plan, to be undertaken in April of 2016, fails to procure all needed Tier II AECs or the Commission rejects the results of the procurement. According to PPL, under the proposed contingency plan, the Company will procure the Tier II AECs needed on an annual basis from the retail market using AEC brokers. PPL asserts that it would solicit at least three brokers, and the lowest-priced broker would be selected, subject to Commission approval. Petition ¶¶ 24-25 at 7.

PPL points out that the proposed amendments will apply only to Tier II AEC bidders in the upcoming April 2016 Solicitation to supply Long Term Tier II AECs for the period of June 1, 2016, through May 31, 2021. PPL contends that limiting the proposed amendments solely to the bidders to supply the Long Term Tier II AECs is reasonable and appropriate given the small number of and market value of Tier II AECs to be procured, as well as the small number of auction participants in the recent Tier II AEC auctions. According to PPL, the current market value of the Tier II AECs to be procured is approximately $0.10 to $0.20 per credit. Petition ¶ 26 at 7-8.

Lastly, PPL points out that its next solicitation under the DSP III Program is scheduled for April 2016. As such, PPL requests that the Commission consider this petition on an expedited basis and approve the limited amendments to the DSP III program no later than January 31, 2016, to provide sufficient time to implement the amended plan to procure the Long Term Tier II AECs before the next solicitation. PPL further requests that any answers or comments to this Petition be filed within fourteen days from the date this Petition was filed, or by December 15, 2015. Petition ¶¶ 34-36 at 9-10.

**Response to the Petition**

As previously noted, on December 11, 2015, SEF submitted an Answer in Support of PPL’s Petition (Answer). The SEF is the only Party to file a response addressing this Petition. SEF asserts that it supports PPL’s Petition because the proposed amendments balance the renewable energy industry’s need for long-term AEC contracts with reasonable terms and conditions that the ratepayers need to obtain low cost sustainably generated energy. SEF opines that such long-term AEC contracts with reasonable terms and conditions are needed by the renewable energy industry to spur the growth of new capacity which supports the public interest as it allows utilities to meet the capacity requirements of today without compromising the ability of future generations to meet their needs. Answer at 2-3.

SEF states that since PPL’s first two attempted long term Tier II RFPs have failed, the Company’s request to acquire AECs from retail brokers for the period from June 1, 2015, through May 31, 2016, provides PPL with a reasonable opportunity to comply with the requirements of the AEPS Act[[1]](#footnote-1) and the Commission’s implementing Regulations at 52 Pa. Code §§ 75.11, *et seq.* Additionally, SEF asserts that PPL’s proposal to provide reasonable terms and conditions by amending the credit application and financial information, bid assurance collateral and alternative letter of credit and related provisions, should open the solicitation to a greater number of bidders and reduce the administrative costs associated with providing the AECs. According to SEF, increasing the bidder pool and reducing overhead costs to bidders should result in a lower, overall cost to ratepayers for the five-year period from June 1, 2016, through May 31, 2021, while providing desired long term contracts to the developers of new Tier II capacity. In conclusion, SEF asserts that although PPL’s contingency proposal is not as beneficial to the residents of Pennsylvania as the PPL proposed amendments, it does operate as a reasonable “failsafe” mechanism should PPL’s efforts to obtain long-term AECs prove to be unsuccessful. Answer at 3-4.

**Discussion & Disposition**

Upon consideration of PPL’s Petition and SEF’s Answer in Support, we shall approve the PPL proposed amendments to its Long Term Tier II AEC solicitation and its Long Term AEC SMA. It is important to note that PPL’s two prior attempts to secure Long Term Tier II AECs have been rejected by this Commission as non-competitive due to the low number of bidders and the bid results being significantly above current market prices. After the second failed attempt, we directed PPL to submit a revised plan to procure the Long Term Tier II AEC credits. By the instant Petition, PPL has proposed certain limited amendments in an attempt to encourage suppliers to submit competitive bids in response to its Long Term Tier II AECs solicitation. Considering the lack of success of the prior parameters and the lack of opposition to PPL’s proposed amendments, we are in agreement with PPL and SEF that the proposed amendments to the Long Term AEC RFP and the Long Term AEC SMA are in the public interest and should be approved. PPL submits that because the current market price for Tier II AECs is very low, and the number of Tier II AECs being procured through the RFP process is relatively small, the procurement costs and credit requirements may be dissuading participation in the process. As such, we are in agreement with PPL that its proposed amendments should reduce procurement costs and credit requirements for the Long Term Tier II AEC product. We find that these proposed changes are more likely to reduce the requirements for interested bidders to qualify as eligible bidders in this solicitation and should reduce the overall costs for bidders to procure the Long Term Tier II AEC product. Therefore, we shall approve PPL’s proposed amendments as contained in the *pro forma* Addenda attached to PPL’s Petition as Appendices C and D.

**Conclusion**

In light of the above discussion, we shall approve PPL’s proposed amendments to the Long Term AEC RFP and Long Term SMA as contained in the *pro forma* Addenda attached to PPL’s Petition as Appendices C and D and approve the procurement of Tier II AECs for the period of June 1, 2015, through May 31, 2016, from a broker as proposed by PPL, consistent with this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition of PPL Electric Utilities Corporation for Expedited Approval to Amend the Default Service Program and Procurement Plan for Tier II Alternative Energy Credits is granted, consistent with this Opinion and Order.

2. That the amendments proposed to the Long Term Alternative Energy Credit Supply Master Agreement contained within Appendix C to PPL Electric Utilities Corporation Petition for Expedited Approval to Amend the Default Service Program and Procurement Plan for Tier II Alternative Energy Credits are approved, consistent with this Opinion and Order.

2. That the amendments proposed to the Long Term Alternative Energy Credit Request for Proposals within Appendix D to PPL Electric Utilities Corporation Petition for Expedited Approval to Amend the Default Service Program and Procurement Plan for Tier II Alternative Energy Credits are approved, consistent with this Opinion and Order.

3. That PPL Electric Utilities Corporation is authorized to procure Tier II Alternative Energy Credits for the period of June 1, 2015 through May 31, 2016, from a broker as proposed in its Petition for Expedited Approval to Amend the Default Service Program and Procurement Plan for Tier II Alternative Energy Credits.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: January 28, 2016

ORDER ENTERED: January 28, 2016

1. Act of November 30, 2004, P.L. 1672, *as amended,* 73 P.S. §§ 1648.1-1648.8. [↑](#footnote-ref-1)