STATE OF RHODE ISLAND
DIVISION OF PUBLIC UTILITIES AND CARRIERS

In Re: Petition of PPL Corporation, PPL Rhode Island Holdings, LLC, National Grid USA, and The Narragansett Electric Company for Authority to Transfer Ownership of The Narragansett Electric Company to PPL Rhode Island Holdings, LLC and Related Approvals	)	Docket No. D-21-09

PPL CORPORATION AND PPL RHODE ISLAND HOLDINGS, LLC'S OBJECTION TO THE ATTORNEY GENERAL OF THE STATE OF RHODE ISLAND, CONSERVATION LAW FOUNDATION, AND GREEN ENERGY CONSUMERS ALLIANCE, INC.'S MOTION FOR EXTENSION OF TIME TO FILE DIRECT TESTIMONY

PPL Corporation and PPL Rhode Island Holdings, LLC (collectively, "PPL") object to the Attorney General of the State of Rhode Island (the "RIAG"), the Conservation Law Foundation ("CLF"), and Green Energy Consumers Alliance, Inc.'s ("Green Energy") (collectively the "Moving Parties") Motion for Extension of Time to File Direct Testimony (the "Motion"), which unjustifiably seeks to extend the agreed-upon deadline for the Moving Parties to file direct testimony by two weeks, until November 17, 2021.

The Hearing Officer should deny the Motion because the Moving Parties failed to demonstrate the good cause required for an extension under Rule 1.10(B) of the Division of Public Utilities and Carrier's ("Division") Rules of Practice and Procedure.

I. INTRODUCTION

The parties have worked well together and in good faith throughout this proceeding, making accommodations, extending courtesies, and resolving issues without troubling the Hearing Officer. Indeed, no party found it necessary to bring any discovery disputes to the Hearing Officer on the day set aside for that purpose in the procedural schedule. The Parties

should have resolved this dispute in the same manner. PPL holds the Moving Parties in the highest regard and hopes it can earn the opportunity to work with the RIAG for years to come in the service of all Rhode Islanders, and hopes and expects to work cooperatively with CLF and Green Energy on the important policy issues facing the energy sector. But, unfortunately, a dispute has arisen, and the Moving Parties' position on that isolated dispute requires a thoughtful and serious response because it threatens to upend the schedule the parties negotiated and agreed to, and the Hearing Officer ordered, less than two months ago.

The schedule the parties negotiated requires the Division Advocacy Section and all interveners, including the Moving Parties, to file direct testimony today. But late on Friday, the RIAG asked PPL to consent to an extension until Monday, November 8. The RIAG said that his experts needed the extra days to complete their testimony. PPL and National Grid worked hard over the weekend to respond reasonably to the RIAG's request. The problem is that the tight filing schedule for rebuttal testimony leaves PPL an allotted 20 days, which it will need to respond fully to the testimony. PPL was willing to accommodate the RIAG's request, but needed to be sure the Advocacy Section would still file by the November 3 deadline in the schedule so PPL could begin to assemble its rebuttal testimony.

Over the weekend, the Advocacy Section graciously agreed to file on-schedule provided that the RIAG filed by Friday, November 5, two business days later, and that there would be no further disruption to the overall schedule. PPL presented this offer to the RIAG and was surprised when the RIAG rejected this offer and said it would file a motion seeking a two-week extension. PPL and National Grid, in an effort to achieve a compromise and avoid a contested motion, reached back out to the Advocacy Section and asked if they would agree to file on November 3 even if PPL fully accommodated the RIAG's request to

extend its filing date to November 8 – three business days later. The Advocacy Section, exercising the utmost good faith, agreed. PPL immediately informed the RIAG that both applicants would consent to the extension the RIAG requested only one business day earlier. Disappointingly, the RIAG rejected that offer and insisted that it would file a motion seeking a two-week extension (together with other interveners), making a compromise unattainable.

As a result, PPL must explain why the RIAG's motion for a two week extension is unsupported, unnecessary, and unreasonable.

II. BACKGROUND

On May 4, 2021, PPL, along with National Grid USA ("National Grid"), and The Narragansett Electric Company ("Narragansett") (collectively "National Grid") (with PPL and PPL RI, collectively, the "Applicants"), filed a petition with the Division for approval of PPL RI's purchase from National Grid of 100% of the common stock of Narragansett and related approvals.

The Division Advocacy Section began serving data requests to the Applicants on a rolling basis. The Applicants worked diligently to respond to these requests to ensure that this process moved along, and provided public access to most of the responsive information and documents.

On June 11, 2021, the Division issued a Notice of Filing and Deadline to Intervene, which established a June 25, 2021 deadline to file motions to intervene, a July 9, 2021 deadline for the Applicants to respond to motions to intervene, and a July 15, 2021 date for argument on any contested motions. The RIAG filed its Motion to Intervene on June 24, 2021, and Green Energy and CLF filed their Motions for Intervention on June 25, 2021. Before the RIAG filed its

Motion to Intervene, PPL informed the RIAG that it would have no objection, and PPL did not object to the RIAG's motion. PPL also did not object to the motions filed by CLF and Green Energy.

The Hearing Officer heard argument on the motions to intervene on July 15, 2021. At the hearing, the Applicants confirmed that they did not object to the RIAG's intervention and participation. They also did not object to the motions filed by the other Moving Parties. By that time, the Advocacy Section had served three sets of data requests, totaling 133 separate requests, and the Applicants had responses to the first two sets of data requests, totaling 119 separate responses and numerous documents as attachments – the vast majority of which was publicly available and easily accessible on the Division's website.

It was clear after the hearing on the motions to intervene that the Moving Parties would be granted intervener status. Nevertheless, they did not begin issuing discovery or otherwise engaging in the proceeding. On August 19, 2021, the Hearing Officer issued a written decision granting the Moving Parties' motions to intervene. By that time, the Advocacy Section had served three more sets of data requests (for a total of six), and the Applicants had provided responses to the first four sets. Shortly thereafter, on August 23, 2021, the Hearing Officer scheduled a procedural conference for September 2, 2021, to establish a schedule for the proceeding. Applicants worked diligently with the Advocacy Section, the Moving Parties, and the other intervening parties to reach agreement on a procedural schedule. The Hearing Officer delayed the procedural conference by one week for the parties to continue their negotiations, and on September 9, 2021, the parties presented an agreed-upon schedule, which the Hearing Officer entered. Despite having been full parties for three weeks by the time of the procedural

conference, none of the Moving Parties had issued any data requests or other discovery by that time.

The agreed-upon procedural schedule was the product of significant compromise in an effort to balance the interests of the Applicants in moving the proceeding forward, while also providing time for the Advocacy Section and intervening parties to gather and review information to analyze the proposed PPL purchase of Narragansett. All parties were well aware of the deadlines and timelines set forth in the schedule, and there were no objections.[1] The schedule clearly provided that the deadline for issuing discovery requests was October 1, 2021, and the deadline for Advocacy Section and intervener direct testimony was November 3, 2021. Under the Division rules, responses to discovery requests are due 21 days after the requests are served. The procedural schedule did not shorten or otherwise modify those deadlines. It was, therefore accepted by all parties, including the Moving Parties, that the Applicants likely would be providing discovery responses with a short turnaround time for the Advocacy Section and the intervening parties to file direct testimony.

In the context of this tight procedural schedule, the Moving Parties still delayed engaging in the discovery process. The RIAG served its first set of data requests on September 29, 2021 – nearly six weeks after the Hearing Officer's order granting intervention, nearly three weeks after the Hearing Officer entered the procedural schedule, and only two days before the deadline to serve discovery. The RIAG issued its second set of data requests on October 1, 2021 – the last day to do so under the procedural schedule. Green Energy issued its lone set of data requests on September 30, 2021, and CLF issued its data requests on the October 1, 2021 deadline.

[1] At the procedural conference, the Hearing Officer inquired which of the intervening parties planned to file direct testimony. At that time, only the Advocacy Section and the RIAG indicated they would be doing so.

In total, the Applicants received more than 200 separate data requests in the few days before the deadline. Despite this volume, the Applicants worked diligently to provide responses as quickly as possible. As the deadline approached, the Applicants determined that they would need a brief extension of only two business days to complete their responses. The Advocacy Section and the intervening parties, including the Moving Parties, did not hesitate to agree to that short extension.[2]

On Friday October 29, the RIAG contacted PPL late in the day seeking an extension of time to file direct testimony from today [November 3] to next Monday [November 8]. The RIAG indicated that its experts needed a few more days to complete their testimony. Applicants consulted with each other and the Advocacy Section over the weekend in an effort to determine whether there was a solution that would allow both an extension of time for the RIAG to file its direct testimony and would allow Applicants sufficient time to prepare rebuttal testimony without moving other deadlines in the procedural schedule. Through those discussions, the Advocacy Section agreed that it would file its direct testimony on November 3 per the schedule so long as the RIAG filed by Friday, November 5 – a two-business-day extension commensurate with the extension Applicants received to provide discovery responses at the end of the discovery period – and there were no further disruptions to the overall schedule. Applicants presented this compromise extension to the RIAG on Monday, and the RIAG rejected it – instead stating at the end of the day that it now intended to file a joint motion with "several other intervenors" for a two-week extension. Applicants discussed this further and re-engaged with the Advocacy Section, and agreed that, in keeping the spirit of cooperation, Applicants could agree to have the

[2] Additionally, the Applicants agreed to a request from the Advocacy Section for two additional weeks to issue discovery requests in response to supplemental responses PPL filed on September 30, 2021. The Advocacy Section served a final – 11th – set of data requests on October 13, 2021, and Applicants served their responses to those data requests on November 2, 2021.

RIAG file its direct testimony on November 8, 2021, and the Advocacy Section would file its direct testimony today. Applicants fully expected that this would resolve this dispute because they were agreeing to the exact request the RIAG made the day before, subject of course to approval by the Hearing Officer. Instead, the RIAG announced that it would be filing its motion for a two-week extension.[3]

III. ARGUMENT

a. The Hearing Officer should deny the motion for an extension because the moving parties have failed to establish any good cause.

The Division's procedural rules do not allow extensions to be freely given, but rather require a showing of good cause for an extension to issue, and a showing that the extension will not delay a proceeding.

Rule 1.10(B) of the Division's Rules of Practice and Procedure allows for an extension of time only where good cause for such extension exists. Rule 1.19(C) prohibits delay in proceedings due to extensions: "Except as otherwise directed by the Hearing Officer, the filing of a motion, either prior to or during any proceeding, and any action thereon, shall not delay the conduct of such proceeding."

First, Applicants in good faith worked hard to find a solution after the RIAG requested an extension to November 8. Having secured that extension, the RIAG's change in position to instead file a motion seeking a two-week extension without substantive explanations precludes a finding of good cause. The RIAG originally requested the extension just five days ago on Friday, late in the day. The RIAG explained that its experts needed a few more days to complete their testimony. Applicants and the Advocacy Section worked over the weekend to develop a solution

[3] Neither Green Development nor CLF even asked PPL or National Grid for any extension whatsoever – they are simply piggybacking on the RIAG's request.

to accommodate the request. PPL concluded that so long as the Advocacy Section filed its direct testimony on the original schedule, today, PPL could work on responding to the Advocacy Section's testimony while it waited for the RIAG to file. PPL presented that proposal to the RIAG on Monday morning. The RIAG rejected that proposal that evening and said that it planned to file a motion seeking a two-week extension.

In an effort to reach a compromise rather than present a timing dispute to the Hearing Officer, and to continue the spirit of cooperation in this proceeding, Applicants re-engaged with the Advocacy Section and reached an agreement that the Advocacy Section would be willing to file its direct testimony on November 3 and Applicants could agree to extend the deadline for the RIAG to file its direct testimony until Monday, November 8. Accordingly, Applicants offered to give RIAG the extension it originally requested. The RIAG, however, after seeking and obtaining a five-day extension, then insisted on a two week extension. The extension the RIAG originally asked for should be sufficient. Those same experts who were telling the RIAG on Friday and Monday that they needed a few more days could not reasonably have flipped in 12 hours and now told the RIAG they needed two more weeks.

Second, the Moving Parties have failed to show good cause. The Motion is not accompanied by any affidavits explaining the scheduling hardship. It provides no explanation of the hardship. It provides no information on when it retained experts, when they began work, the time they have spent, the reasons why the enormous discovery produced in this case is not sufficient, or their schedules. Good cause is not demonstrated by unsupported general allegations by an advocate that he needs more time. *See Estate of Chen v. Lingting Ye*, 208 A.3d 1168, 1173-74 (R.I. 2019) (collecting cases and concluding that a showing of good cause requires "a particular factual demonstration" and cannot be based on "conclusory statements").

Instead, the Moving Parties argue that they need more time to review the volume of information provided and ask for a two-week extension without giving any explanation for why they were not able to review the information on the schedule they agreed to or what additional work is needed. Those are unsupported assertions, not facts and reasons. Moreover, the Moving Parties provide no explanation for their decision to wait for months after they sought to intervene and more than a month after the Hearing Officer's intervention order to serve any discovery.[4] The Moving Parties could have (and should have) been reviewing and serving discovery much earlier, but made the decision not to do so until the end of the prescribed period.[5] Although they certainly had the right to do so, that decision does not constitute good cause for an extension of the deadlines in this schedule and a potential disruption to unanimously agreed-upon schedule.

Further, the RIAG expressly stated on Friday and Monday that its experts needed a few more days to complete their testimony. This does not square with the RIAG's demand for a two-week extension mere hours later.

Third, the procedural schedule in this matter was the product of meaningful negotiation between all parties and considerable deliberation by the Hearing Officer that established a compromise between the competing interests of ensuring that the intervening parties had sufficient time to gather and review information to be able to prepare their positions in this

[4] The RIAG asserts that it did not have access to certain confidential documents and information Applicants provided in response to Advocacy Section data requests until near the end of the time period to serve discovery. The confidential material, however, is only a small portion of the total discovery provided – involving fewer than fifteen responses that had confidential information or attachments that had been produced by that point. And regardless, the RIAG had that information before the end of September, and the RIAG has not explored discovery based on the confidential materials provided.

[5] Further, the discovery served by the RIAG is largely duplicative of the extensive discovery served by the Division, and therefore the timing should not have impeded the development of expert testimony.

matter, and the need to proceed expeditiously to allow the transaction to close in a reasonable timeframe.

All the intervening parties, including the Moving Parties, were fully aware that Applicants likely would be serving responses to discovery requests shortly before the deadline for interveners to file direct testimony. And the parties have closely hewed to the procedural schedule. Despite voluminous discovery requests from all parties served at or near the deadline, Applicants completed their responses and productions with an extension of only two business days. Accordingly, Applicants filed their responses by October 26, 2021 – a full week before the November 3, 2021 deadline for Advocacy Section and intervener direct testimony, and just two business days after the original deadline.

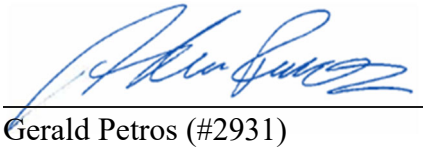
Further, that schedule and the deadline for filing direct testimony is vital to ensuring that the overall schedule and hearings are not compromised and go forward as scheduled. The Moving Parties' request for two additional weeks to file direct testimony does not reflect a reaction to developments since the procedural schedule entered. The Hearing Officer set a schedule that all parties accepted. The Moving Parties knew the rules and the dates involved. If there is some unique aspect of information served last week as a result of the two-business day extension the Applicants received to serve some final responses to the voluminous discovery served at the end of the discovery period, then the Moving Parties could have accepted the three business days [and five-calendar-day] extension that the RIAG originally sought and that Applicants offered in the utmost good faith, consistent with the spirit of collaboration parties in which all parties have acted in this matter prior to this dispute.

WHEREFORE, PPL Corporation and PPL Rhode Island Holdings, LLC respectfully request that the Division deny the Moving Parties Motion for Extension of Time and require that all direct testimony be filed by November 3, 2021.

Date: November 3, 2021

Respectfully submitted,

PPL Corporation and PPL Rhode Island Holdings, LLC
By its attorneys,



Gerald Petros (#2931)
Adam Ramos (#7591)
Hinckley Allen & Snyder
100 Westminster Street, Suite 1500
Providence, RI 02903-2319
(401) 457-5278
(401) 277-9600 (fax)
gpetros@hinckleyallen.com
aramos@hinckleyallen.com

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2021, I sent a copy of the foregoing to the Service List by electronic mail.

/s/ Adam M. Ramos