Energy Association of Pennsylvania
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December 19, 2014

Rosemary Chiavetta, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

Re: Act 129 Energy Efficiency and Conservation Program Phase III
Docket No. M-2014-2424864

Dear Secretary Chiavetta:

Enclosed for filing please find the comments of the Energy Association of Pennsylvania to the October 23, 2014 Secretarial Letter at the above-referenced docket.

Sincerely,

Donna M. J. Clark

Donna M. J. Clark
Vice President and General Counsel

Enclosure

CC: Megan G. Good, Analyst, Technical Utility Services
Kriss Brown, Assistant Counsel, Law Bureau

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Act 129 Energy Efficiency and Conservation Program Phase III Secretarial Letter Dated October 23, 2014	: : :	**M-2014-2424864**

Comments of the
Energy Association of Pennsylvania

I. Introduction

Act 129 of 2008 required the Pennsylvania Public Utility Commission ("PUC" or "Commission") to establish an energy efficiency and conservation program and directed Pennsylvania electric distribution companies ("EDCs") with at least 100,000 customers to implement individual PUC approved plans ("EE&C Plans") which would reduce energy demand and consumption by statutory mandated targets within their respective territories. The statute established May 31, 2013 as the deadline for EDC compliance with the initial reduction targets ("Phase I") and tasked the Commission with completing a cost/benefit analysis of the programs by November 30, 2013. The results of the Phase I cost/benefit analysis would, in turn, determine whether new incremental reduction targets were warranted under the law. Having concluded that new energy consumption reduction targets were appropriate, the Commission prescribed additional EDC specific mandates to be accomplished by May 31, 2016 ("Phase II").[1]

The Commission has now initiated a planning process for possible Phase III EE&C Plans to determine whether further energy consumption reduction targets as well as new peak demand

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[1] See Energy Efficiency and Conservation Program Implementation Order, Docket Nos. M-2012-2289411 and M-2008-2069887 (August 3, 2012) ("Phase II Implementation Order").

reduction targets[2] are required under Act 129. In addition to ordering a number of studies to determine market potential for additional cost-effective reductions in consumption and peak demand, the Commission issued a Secretarial Letter on October 23, 2014 to solicit initial input for stakeholders on a number of issues identified by PUC staff as relevant to a potential Phase III program.

The Energy Association of Pennsylvania ("EAP" or "Association") welcomes the opportunity to provide comments to the Phase III issues raised in the Secretarial Letter on behalf of its EDC members subject to the provisions of Act 129. [3] EAP believes that identifying and addressing key Phase III issues at this point in the planning process is crucial to the formation of a market-responsive EE&C program and will provide policy direction to inform the collaborative process which EDCs employ with stakeholders to shape their individual EE&C plans. These comments are offered to supplement comments filed by its members subject to Act 129.

[2] The Phase II Implementation Order stated that a determination of cost-effectiveness of demand reduction programs during Phase I was not yet complete, concluded that further demand reduction mandates would not be required during Phase II of Act 129 and directed the Statewide Evaluator ("SWE") to conduct a Demand Response Study. *Id.* at 32-42. Subsequently in a Final Order entered on February 20, 2014, the Commission concluded, based on the SWE Demand Response Study, that the Phase I "100 hour methodology" for peak demand reduction was not cost effective but that the statute directed the Commission to require further economic or cost-effective demand reduction strategies, if available. Final Order, Docket Nos. M-2012-2289411 and M-2008-2069887 (February 20, 2014) at pp. 7 – 17. The Commission thus directed the SWE to conduct a Demand Response Potential Study based on a "potentially cost-effective DR methodology" described in the DR Tentative Order dated November 14, 2013, *id.* at 17 - 20; that study is scheduled to be completed during December 2014 and will be considered by the Commission in determining new incremental DR targets for Phase III.

[3] Duquesne Light Company (Duquesne); Metropolitan Edison Company (Met-Ed); PECO Energy Company (PECO); Pennsylvania Electric Company (Penelec); Pennsylvania Power Company (Penn Power); PPL Electric Utilities (PPL); and West Penn Power Company (West Penn Power)

II. Comments

A. Length of Phase III EE&C Program/Inclusion of an Incremental Progress Requirement

While EAP is not recommending a specific length of time for Phase III, it supports development of plans which are designed to achieve a percentage of the overall reduction target in each year of Phase III EE&C plans. As in Phase II, Phase III EE&C plans should be designed for incremental progress without the specter/threat of penalties for not having achieved a specific annual percentage reduction. Flexibility in the implementation of each phase of EE&C plans is critical as the programs, market and consumer demand matures and changes to match improved technology and evolving energy efficiency standards. Incremental progress in relation to the plan designs are an effective monitoring tool for both regulators and EDCs, providing data for considering mid-course plan adjustments, and should be used as guidance rather than as a basis for punitive action.[4]

B. Inclusion of Peak Demand Reduction Requirements in Phase III Programs

Initially with respect to the setting of mandatory peak demand reduction targets which must be met by May 31, 2017 under Act 129, EAP reiterates its prior comments: in order to meet a May 2017 compliance deadline, peak demand reduction programs must be approved and operational for the summer of 2016 which, in turn, necessitated that targets be set in mid-2014 and Phase III EE&C Plans approved in the first half of 2015. The Act 129 statutory framework, requirements and due dates do not provide sufficient time in which to accomplish these tasks.

[4] EAP notes that detailed data is made available for all interested parties to review during the course of an Act 129 Phase in the form of quarterly and annual reports filed by participating EDCs as well as in the annual report filed by the SWE. These reports are available on the Commission's website.

Given the specific date for compliance set forth in the statute and the need for the Commission to first determine cost-effectiveness of prior phase demand reduction programs and then complete a potential study prior to setting new targets, it is clear, at this point, that dictating a May 31, 2017 peak demand reduction target in a plan that will not be approved until early 2016 creates a mandate impossible to meet. EAP urges the Commission to exercise its discretion and consider only voluntary demand reduction programs for Phase III in light of the circumstances. EAP believes that any demand reduction program or target should be developed by the EDCs with input from stakeholders in the context of plan formation and approval and should not be in the form of a mandate with the concomitant non-discretionary penalties dictated under Act 129.

Alternatively, if the Commission determines to set a May 31, 2017 peak demand reduction target, EAP believes that each EDC must have discretion to determine the allocation of its budget as between energy consumption and peak demand reduction programs. Any allocation of funding between consumption and demand reduction programs will necessarily impact the determination of a target for consumption reduction.

C. Inclusion of a Reduction Target Carve-Out for the Government, Educational and Non-Profit Sector

In general, EAP does not recommend the inclusion of either a specific consumption or peak demand reduction carve-out in Phase III for the Government, Educational and Non-Profit Sector as described under Act 129. Initially, the SWE demand reduction and energy market potential studies methodologies are suited to determine statewide potential at a portfolio or program level and are arguably not statistically valid to determine potential at a customer sector for individual EDCs. Accordingly, there is no data to support the continuation of a compliance carve-out target subject to penalties.

Just as important, the lack of a specific carve-out will not result in an absence of measures available to this group of customers. Each of the EDCs has collaborated extensively with stakeholders in the development of EE&C plans and will continue to solicit and include stakeholder input in plan formation going forward. Plans will necessarily continue to provide measures for each class of customers and this statutorily identified customer group does not fall squarely into one utility rate class. Measures and programs included for commercial and industrial customers will be available to this sector and, undoubtedly, a number of Government, Educational and Non-Profit customers will choose to engage in Act 129 programs.

Further, eliminating the carve-out will create parity for service territories whose customers in this category do not have the same scale of business operations, financial resources or will to participate in energy efficiency projects even with the availability of utility funded rebates. EAP believes that as the market matures and baselines change to reflect the state of technology, increased flexibility for the EDCs, rather than prescriptive measures and numerous mandates, is the key to cost-effective, balanced and fair EE&C plans.

D. Inclusion of a Reduction Target Carve-Out for the Low-Income Sector

EAP does not support the inclusion of a consumption reduction target carve-out for the low-income sector in Phase III for many of the same reasons stated above in section C regarding a carve-out for the Government, Educational and Non-Profit Sector. EAP suggests that rather than a consumption reduction carve-out, the Commission consider a target based on a budget amount or % of funding which would eliminate any inequity associated with a prescribed carve-out among the EDCs and account for the fact that EDCs fund 100% of the acquisition cost for low-income customers to participate in Act 129 programs. A budget carve-out also permits EDCs to address some health and safety issues as well as the installation of more comprehensive measures in the low-income sector.

E. Inclusion of Whole House Measures

The Secretarial Letter identifies whole house measures as "more comprehensive measures" and asks whether the Commission should require "at least one comprehensive measure for residential and small commercial rate classes" in Phase III. EAP believes that many stakeholders have identified the need for increased comprehensiveness in Phase III programs and understand that, in general, acquisition costs for a more comprehensive portfolio will be higher than the costs attributable to "widget-based" measures. EAP suggests that rather than dictating a particular number or type of measures described as comprehensive, the Commission permit EDCs to determine the appropriate level of comprehensiveness for their Phase III plans working with stakeholders and trade allies to best account for differences between service territories and customer demographics. The adequacy of Phase III program or portfolio comprehensiveness would be vetted in the individual EDC's proceeding before the Commission to approve the EE&C Plan.

F. Phase III Budgets/Treatment of Accumulated Savings in Excess of Phase II Reduction Requirements

The Phase II Implementation Order provides EDCs with the ability to continue cost-effective energy consumption reduction programs even after Phase II targets have been achieved. The Order accords discretion to the EDCs to continue certain programs and, in turn, to suspend or discontinue programs which are no longer effective or may be subject to modification or replacement in future phases of Act 129. EAP supports this approach and further recommends that excess savings achieved in Phase II be available to meet future mandates in Phase III similar to the carryover of Phase I savings into Phase II. Allowing the savings to carryover into Phase III encourages the EDCs to continue program operations after their Phase II targets are met.

G. Updating of the Technical Reference Manual

EAP does not believe it appropriate for the Commission to continue to maintain an annual updating process for the Technical Reference Manual (TRM) in Phase III given the maturity of the TRM in PA. EAP suggests that the TRM be maintained, largely unchanged, for the entirety of Phase III, regardless of phase length. Mid-phase TRM changes are costly to implement – some company data suggests upwards of $100,000 – while being confusing and disruptive to EDC programs as well as the market (e.g., trade allies, retailers, customers) overall. These costs come by way of changes necessary to tracking systems, rebate forms, marketing materials, eligibility requirements and measurements, data and documentation requirements, and overall changes to the EDCs' EE&C plans themselves. Administrative costs to the Commission are also incurred to design and implement TRM changes. Additionally, mid-phase changes can have adverse effects on a utility's projected compliance or savings. EAP offers that if the Commission believes future changes to a phase-long TRM are necessary that they be limited to administrative corrections and/or the addition of new measures.

H. Updating the Total Resource Cost Test

As with the TRM, EAP does not believe the Total Resource Cost (TRC Test) methodology needs reviewed more than once per phase. The current 2015 TRC test methodology already forms the basis for the SWE's Phase III Market Potential Study and the subsequent compliance targets; this same, unchanged TRC test should also form the basis for the cost-effectiveness calculations and program design for EDCs' Phase III EE&C plans. Any changes made mid-phase may impact the cost-effectiveness assumptions and EDC program design. EAP continues to support the Commission's decision to decline to require inclusion of societal benefits in the TRC equation and analysis. Societal benefits are inherently subjective and continue to be extremely difficult to quantify, measure, and verify. Adding consideration of societal benefits would be a fundamental change in the definition of the TRC test, and will interject uncertainty into the cost-effectiveness analysis that is relied upon to support program expenditures.

III. Conclusion

EAP respectfully requests that the Commission consider these comments, as well as those provided by its member companies, in preparing for the design and implementation of a potential Phase III of the EE&C Program. EAP appreciates the opportunity to provide input and looks forward to continued collaboration with the Commission and other stakeholders in the context of Act 129 energy efficiency and conservation programs.

Respectfully submitted,

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