COMMONWEALTH OF PENNSYLVANIA

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

FAX (717) 783-7152
consumer@paoca.org

April 27, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

RE: Energy Efficiency and Conservation Program
Docket No. M-2014-2424864

Dear Secretary Chiavetta:

Enclosed for filing please find the Office of Consumer Advocate's Comments on the Tentative Implementation Order in the above-referenced proceeding.

If you have any questions, please feel free to contact me at the number listed above.

Respectfully Submitted,

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625

Enclosure
cc: Kriss Brown, Law Bureau
Megan G. Good, CEP

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Energy Efficiency and Conservation Program	:	Docket No. M-2014-2424864

COMMENTS OF THE OFFICE OF CONSUMER ADVOCATE ON THE TENTATIVE IMPLEMENTATION ORDER

David E. Evrard
Assistant Consumer Advocate
PA Attorney I.D. # 33870
E-Mail: DEvrard@paoca.org

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

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I. INTRODUCTION

On March 11, 2015, the Pennsylvania Public Utility Commission (Commission) issued its Tentative Implementation Order (Order) regarding establishment of Phase III of the Energy Efficiency and Conservation Program (EE&C Program or Program) that was created by Act 129 of 2008. In its Order, the Commission presented its evaluation of the costs and benefits of going forward with a third phase of the EE&C Program and proposed additional incremental reductions in electricity consumption as well as in peak demand. In addition, the Commission discussed a myriad of program design and implementation issues and details, setting forth its proposals for how those matters should be addressed in Phase III of the Program. The Order established a thirty-day public comment period and invited interested parties to submit their views on the Order's proposals. The Office of Consumer Advocate (OCA) submits these comments in response to that invitation.[1]

At the outset, the OCA would note that it has supported the development of energy efficiency and demand response programs by Pennsylvania utilities for more than two decades. The passage of Act 129 presented Pennsylvania with the opportunity to further expand the Commonwealth's work on energy efficiency and demand response for the benefit of all customers. The OCA participated actively in the development of the Phase I and Phase II EE&C Plans under Act 129 and has participated actively in the on-going EDC stakeholder groups that have continued to work on the implementation of these programs. The OCA's work in these areas has reaffirmed the OCA's support for these programs and the OCA looks forward to continuing to work on the Phase III Plans.

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[1] On October 23, 2014, the Commission issued a Secretarial Letter in which it requested comments from interested parties on a number of topics concerning the design and implementation of Phase III of the EE&C programs. The OCA submitted comments in response to that Letter on December 19, 2014.

In the Comments below, the OCA addresses some key issues presented by the Commission's Tentative Order. The OCA is generally supportive of the Commission's approach to Phase III but offers additional recommendations or alternatives for the Commission's consideration.

II. COMMENTS

A. Length of Phase III EE&C Program

The Commission proposes to implement a five-year Phase III program period.[2] The OCA supports this proposal. In Comments submitted to the October Secretarial Letter, the OCA supported a program length of five or six years in that the term should be sufficiently long to allow for implementation of comprehensive efficiency measures as well as to allow consumers the opportunity to depend on the programs for a reasonable period of time. In the Tentative Order, the Commission adopts this point of view when it states, "we believe the EE&C Programs have matured enough so that EDCs can increase their focus on more comprehensive measures which, as outlined by many of the parties [responding to the Secretarial Letter], tend to require greater implementation time frames."[3] The OCA submits that the Commission's determination on this issue is sound.

As the OCA noted in its Comments to the Secretarial Letter, the longer term of the Plan makes it even more important that the robust stakeholder processes continue and that the process for mid-course corrections be efficient. It will be crucially important for the stakeholder process to review changes to such things as efficiency standards, market transformation, and other factors during the program Phase to determine of program adjustments are needed. As

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[2] Tentative Order (T.O.) at 16.
[3] *Id.*

such, the OCA continues to recommend that the Commission's Final Order direct the EDCs to continue with a robust stakeholder process that can consider implementation issues and the need for program adjustments.

B. Proposed Additional Reductions in Peak Demand

Based on the determination of the Statewide Evaluator (SWE) that cost-effective peak demand reduction potential exists for all EDCs, except Penelec, the Commission proposes annual peak reduction targets for each of the other six EDCs, ranging from 166 MW for PECO Energy to 17 MW for Penn Power.[4] The OCA strongly supports cost-effective DR programs and the benefits such programs produce. Accordingly, the OCA welcomes the reinstatement of a peak demand reduction component for Phase III of the EE&C program.

1. Budgetary Allocation Between EE and DR

Based on the work of the SWE, the Commission set the individual EDC peak reduction targets on the basis of a presumed spending allocation of 90% of budget on Energy Efficiency programs (consumption reduction) and 10% on DR (peak reduction) programs.[5] As the OCA reads the Tentative Order, the Commission utilized the 90/10 allocation between EE and DR for the purpose of setting consumption and peak reduction requirements for the EDCs, not as a strict budget requirement to which the EDCs must adhere. The Commission states, "This proposed allocation is not intended to establish minimums or maximums for EE and DR programs. EDCs will continue to have the flexibility to allocate funding to meet the requirements, as they did in Phase I and Phase II."[6] The Commission goes on to say, however,

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[4] *Id.* at 36.

[5] More specifically, while the Commission found that cost-effective DR potential exists at the 90/10 budget allocation level for all EDCs but Penelec, it found that PPL could reach its peak reduction targets with a 5% budget allocation and Met-Ed could do the same with an 8% DR budget allocation.

[6] T.O. at 34.

that it does not believe EDCs should spend greater than the Phase I average of 16% on DR programs.[7]

While the OCA has concerns that the DR potential and benefits may be understated in the SWE Study, the OCA appreciates that DR is to be included in the Phase III programs for all EDCs except for Penelec.[8] The OCA also recognizes the need to establish a budget allocation to establish the peak demand reduction targets. While the 10% budget allocation has resulted in demand response targets that should be readily achievable, the Commission may wish to increase these targets after a review of the Comments if greater potential and benefits are possible. It is important to note, though, that the EDCs should be given the flexibility to spend in excess of the 10% budget allocation if necessary to design an acceptable program and the EDCs should be given the opportunity to pursue cost-effective DR above the target level if it would provide benefits in their service territory. It is the OCA's understanding of the Tentative Order that the Commission has allowed this flexibility.

2. <u>Peak Demand Reduction Targets</u>

As noted above, the Tentative Order proposes peak demand reduction targets for each of the EDCs but Penelec. These targets are expressed as annual reduction amounts, not as cumulative totals to be achieved over the entire phase. In addition, because of the impracticality of having all elements of a well-designed DR program in place by June 1, 2016, when Phase III begins, the Commission has determined that the EDCs' peak demand reduction target for the first year of Phase III (ending May 31, 2017) will be 0.[9] Thus the prescribed targets will be in place for only years 2 through 5 of Phase III.

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[7] *Id.*

[8] The OCA will address the issues with Penelec in Section II.B.4, herein.

[9] *Id.* at 37.

The Commission also makes clear that while it is proposing annual DR targets, it does not intend to determine compliance on an annual basis. Rather, it proposes to determine compliance with each of the annual targets at the conclusion of Phase III.[10] Importantly, the Commission further indicates that if the triggering conditions (discussed below) for a DR event do not occur in a given year, the EDCs will have no compliance requirement for that year.[11]

The OCA agrees with the various Commission determinations described here such as setting annual targets, foregoing any target for year 1 of Phase III, making compliance determinations at the end of the phase, and eliminating any compliance requirement in years when triggering conditions do not occur. The OCA remains concerned, however, that it appears as if compliance will be measured based on a demonstrated savings approach and not a capability approach. The OCA will discuss this issue more in Section II.I, below. The OCA submits, however, that such a methodology may result in the need to obtain more DR than is economically necessary or justified, thus unnecessarily increasing the costs of the DR program. In addition, the optimal use of a peak demand reduction resource may not require all resources to be interrupted for each event. By requiring compliance based on actual load interrupted, the Commission may be unnecessarily increasing the cost of DR and reducing its actual benefits to ratepayers. The targets should be set to acquire the peak demand reduction resources but the optimal use of the resources should be addressed through program design.

3. <u>DR Program Design</u>

Relying on program design analysis developed by the SWE, the Commission proposes a peak demand reduction program for Phase III that meets the following criteria: (1) it must be limited to the months of June through September; (2) curtailment events are to be called

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[10] *Id.*
[11] *Id.* at 38.

for the first six days that the peak hour of PJM's day-ahead forecast for an EDC is greater than 96% of the EDC's PJM summer peak demand forecast; (3) each curtailment event is to last for four hours; (4) each curtailment event is to be called such that it occurs during the day's forecasted peak hours; (5) once six curtailment events have been called in a given program year, the program is to be suspended for the remainder of that year; (6) customers participating in PJM's Emergency Load Response Program (ELRP) are to be ineligible to participate in the EDC's Act 129 program.[12]

The OCA submits that the Commission may have been unduly prescriptive in its program design. Certain of these design elements may not allow EDCs to operate their programs in the most cost-effective manner. In particular, the OCA is concerned with the requirement that each event last for four hours and the requirement that the program be suspended after six curtailment events. With respect to the four-hour requirement, there may be instances when an event of that length is unnecessary. For example, where there is a change of weather during the four hour window that causes peak conditions to subside, it may be ineffective to continue the demand response. Similarly, load may fall below the trigger during the four hour window as load requirements can change throughout the day. In such a case, EDCs will have wasted a portion of their allotted 24 reduction hours and frustrated the objectives of the DR program by deploying DR in hours when it may not be economically justified. Similarly, limiting the program to six curtailment events per year may render the DR resource unavailable on an occasion when its availability might be critical or cost justified. The OCA submits that the Commission should reconsider the mandatory nature of these provisions and allow the EDCs the flexibility to design their programs in ways that will enable them to respond more nimbly to conditions that may arise in advance of or during a peak reduction event. EDCs should be able

[12] *Id.* at 37-38.

to call events of a duration needed to meet the conditions they face and should have the option to call more than six events when circumstances warrant.

The OCA submits that the EDCs should be given flexibility to design a DR program that achieves the target on an annual basis and remains cost-effective. The Commission may wish to prescribe that the program have such design elements as identified triggers, identified maximum number of interruptions or identified maximum hours of interruption, but the details of the design should be left to the EDCs and their stakeholders as they are best able to assess what program design will be most attractive to customers and most useful to the system.

The OCA is also concerned with the Commission's preclusion of dual participation in PJM and Act 129 programs. The OCA recognizes the concern with such dual participation, but an outright ban may have unintended consequences that could hurt DR in Pennsylvania. By disallowing dual participation, the Commission effectively puts the PJM ELRP in competition with EDC Act 129 programs. It can be anticipated that sophisticated commercial and industrial customers will choose whichever program, PJM or EDC, offers the highest compensation and may switch from one program to the other over the course of Phase III. In that circumstance, neither PJM nor the EDC will be able to rely on the customer being there from year to year. The OCA recommends that the Commission direct the EDCs to address dual participation in the program design to avoid any double counting or double payment for the same resource, but that the proposed outright ban on dual participation be eliminated.

4. Voluntary DR Program for Penelec

As noted earlier, the SWE found no cost-effective peak load reduction potential for Penelec under the program design put forward by the SWE. Accordingly, the Commission did not propose any annual reduction targets for Penelec. In the Tentative Order, however, the

Commission stated that it would allow Penelec to voluntarily include a DR program in its Phase III plan provided that the program can be shown to be cost-effective and that it does not interfere with the company's ability to meet its Phase III EE (consumption reduction) targets.[13]

While the OCA supports the Commission's decision to allow Penelec to include a voluntary DR program if one is not required, the OCA submits that it may be more appropriate and consistent with the directives of the Act to direct Penelec to include a demand response program in its portfolio. The OCA would note that it is the EDCs overall Plan that must be cost-effective and not every program or every measure within the Plan that must be cost-effective on a stand-alone basis. The ultimate goal for each EDC should be to have a diverse plan that provides reliability and economic benefit to all customers in an overall cost-effective manner.

Although the SWE found no cost-effective DR potential for Penelec under the SWE's program design, it is possible that cost-effective demand response, or demand response that can provide a reliability benefit, may be available in Penelec's service territory. The Commission should charge Penelec to work with its stakeholder group to find the most cost-effective DR Program that will not unduly compromise the cost-effectiveness of its entire portfolio.

The OCA continues to see demand response as an integral part of a diverse, comprehensive Plan that provides opportunities to customers and benefits to the system. As such, Penelec should be directed to develop such a program through its stakeholder process to capture these benefits. As a starting point, for planning purposes, the Commission may wish to use a 5% budget allocation, which is the lowest budget allocation of the other EDCs.

Commissioner Witmer in her Statement requested comments on whether a voluntary approach for Penelec is consistent with the policy goals and statutory requirements of

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[13] *Id.* at 39.

Act 129. As noted, the OCA is of the view that Act 129 contemplated both energy efficiency and some level of demand response being available in an overall cost-effective portfolio. Additionally, it is possible that the economics and cost-effectiveness of demand response may change over the Plan period. At this time, the OCA submits that a voluntary approach for Penelec may not be consistent with the policy goals of Act 129. Further direction is needed to Penelec to explore all avenues for demand response.

C. Proposed Additional Incremental Reductions in Consumption

Based on the findings of the SWE's Energy Efficiency Potential Study that there remains cost-effective potential for continuing EE programs in Phase III of the EE&C Program, the Commission proposes consumption reduction targets to be achieved by each of the EDCs over the 5-year Phase III period. These targets range from more than 2 million MWh for PECO to approximately 170,000 MWh for Penn Power.[14] In setting the targets, the Commission took into account the budget allocations discussed above, that is, a 90% EE/10% DR allocation for PECO, Duquesne, West Penn Power and Penn Power, a 92% EE/8% DR allocation for Met-Ed, a 95% EE/5% DR allocation for PPL and a 100% EE allocation for Penelec.[15]

The Commission notes that the Act 129 programs are cumulative at the end of a phase such that the energy savings at the end of the phase must show that the total savings from measures installed during the phase equal or exceed the established reduction target. For that reason, the Commission proposes that if any measures installed during Phase III have a useful life that expires prior to the end of the phase, that measure must be replaced by another measure that will replenish the savings from the expired measure.[16]

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[14] *Id.* at 42.
[15] *Id.* at 41-42.
[16] *Id.* at 43.

The Commission has also determined that while it is not proposing annual, incremental consumption reduction targets for Phase III, it will nevertheless call upon the EDCs to design their EE plans such that at least 15 percent of their five-year consumption reduction target can be achieved in each program year. The Commission stresses that this will be a planning goal, important to its review and approval of an EDC plan, but not a goal, which if not attained, would subject an EDC to a penalty under Section 2806.1(f).[17]

The OCA does not object to the EE targets proposed by the Commission or to the requirement that the EDCs submit EE&C Plans that demonstrate annual gains in energy efficiency. The OCA is concerned, however, with the potential impact of the cumulative end of phase approach that would require full replacement of measures with a useful life that expires before the end of the phase.[18] The OCA is concerned that this approach could result in shorter term measures being "turned on and off" during the phase, thus limiting the effectiveness of the programs. Measures and programs, even those with shorter lives, should be available throughout the phase so that consumers can obtain those benefits throughout the Phase. The OCA would urge the Commission to allow for a proper accounting of the incremental savings of such short life measures and programs to assure continuity of programs and the wide availability of programs throughout the Phase.

D. Comprehensive Programs

In its October 2014 Secretarial Letter, the Commission invited comment on whether in Phase III it should require EDCs to include in their EE&C plans at least one comprehensive measure (such as whole house treatments) for residential and small commercial customers. Based on the comments it received, the Commission, in the Tentative Order,

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[17] *Id.* at 45-46.
[18] *Id.* at 43.

proposes that EDCs include at least one comprehensive program for the residential and at least one comprehensive program for the non-residential classes. The Commission declines to be prescriptive with respect to the specific measures those programs should entail or any targets they should achieve. Instead, the Commission states that the EDCs should work with their stakeholders to develop the content of these programs based on the unique attributes of each service territory.[19]

The OCA supports the inclusion of comprehensive programs in the Phase III EE&C plans. While the OCA recognizes that such programs involve higher acquisition costs, the OCA nevertheless agrees with the Commission when it says, "...as we proceed through multiple phases of the EE&C Program, the EDCs should consider implementing deeper measures directed at more than simply lighting replacements."[20] The OCA submits that implementation of such deeper measures provides greater benefits to customers.

Commissioner Witmer, in her Statement, questions whether the Commission should be more prescriptive in this area, such as requiring a "whole building" program. At this time, the OCA does not see the need for the Commission's Order to be more prescriptive. The EDCs should work with their stakeholders to determine the best approach for the service territory. Such programs can then be reviewed in the context of the Commission's review and approval of the entire EE&C Plan.

E. Prescription of a Low-Income Carve-Out

In its EE Potential Study, the SWE estimated that the sum of first-year kWh program potential savings attributable to low-income households is approximately 12.9% of the program potential portfolio. The SWE also found that the low-income savings comprise

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[19] *Id.* at 49.
[20] *Id.*

approximately 20% of the total residential sector savings. The SWE's estimates were based on savings from participation in low-income specific programs as well as savings from low-income customer participation in non-low-income-specific programs.[21] The SWE, however, did not determine the amount of cost-effective potential savings that could be derived solely from low-income-specific programs.[22] Notwithstanding the limits of the SWE's findings with respect to low-income programs, the Commission was satisfied that the SWE's analysis indicated "that the low-income sector remains an area that deserves focused attention to achieve cost-effective savings results."[23] To that end, the Commission proposes a two-part low-income savings carve-out.

First, the Commission proposes requiring EDCs to obtain a minimum of 5.5% of their total consumption reduction target for Phase III from the low-income sector. EDCs will be permitted to count toward meeting this low-income percentage qualifying savings from low-income household participation in non-low-income programs and from multifamily housing savings up to the percentage of low-income households that live in the multifamily building.[24]

Second, the Commission proposes an additional requirement that each EDC obtain no less than 2% of their overall consumption reduction target for Phase III solely from direct-installed low-income measures. The Commission states that, "Programs utilizing measures such as home energy reports, efficiency kits, giveaways at community events and all other non-low-income sector program savings (upstream lighting, rebates, etc.) will not count toward meeting the 2% consumption target." The Commission states that it wants to shift the focus for the low-income sector from indirect measures to directly-installed measures that will

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[21] *Application of Market Potential Study Results to Phase III Goals – Addendum to 2015 SWE Market Potential Studies,* submitted by GDS Associates, Inc., *et al.*, February 23, 2015. (Addendum) at 7.
[22] T.O. at 55.
[23] *Id.*
[24] *Id.* at 56.

provide more of a whole-house or weatherization-type emphasis for low-income programs. The Commission maintains that direct-installed measures represent a better investment of the low-income program dollars.[25]

The OCA strongly supports a carve-out for the low-income sector and further supports an additional carve-out for direct-install measures. The OCA shares the Commission's desire to put greater emphasis on having more comprehensive and sustainable EE measures directed at the low-income sector, and the OCA agrees that expenditures on these measures represent a better investment of low-income program funds.

While the increased carve-out for overall low-income sector savings, and the establishment of a direct-install requirement are positive steps, the OCA remains concerned with allowing low income participation in non-low income programs to count toward such a significant portion of the low income savings target. The OCA submits that savings to meet the 5.5% goal should come from programs that are specifically targeted to the low-income sector or have a component that is specifically targeted to the low income sector. For example, along with measures directly deployed to low income customers, a behavioral program with a Home Energy Report that contains tips specifically designed for the low income population could be a measure or program that accounts for low income savings. Similarly, energy efficiency kits or education programs that target low income populations could be counted toward the low income savings targets. Additionally, including any low income savings from a residential multi-family home program is another example of a program that could specifically target the low income sector.

The low income population has very specialized needs in terms of achieving household energy savings and require programs specifically geared to meeting those needs. The most meaningful way to address the low income savings target is for the Commission to require

[25] *Id.* at 56-57.

the EDCs' EE&C Plans for Phase III include low-income specific programs designed to meet the proposed carve-out percentages without having to rely on the participation of low-income customers in programs not specifically targeted to the low income population.

Commission Witmer asks for comments on whether the low income carve-out is consistent with the policy goals and statutory requirements of Act 129 as well as in the public interest. The OCA submits that it is. It is important to note that Act 129 contained a specific provision regarding low income customers and required specific attention in energy efficiency measures for low income customers. Moreover, low income customers, even though the least able to bear the cost, are asked to pay the additional charges on their bills to support the energy efficiency programs delivered to all residential customers. While bearing the costs, low income customers are often least able to take advantage of the programs, particularly general programs that may require a cash outlay by the participant. In the OCA's view, given these circumstances and the statutory directives, it is in the public interest to set savings targets for the low income sector to ensure that this sector receives a proportionate share of the benefits of the energy efficiency programs.

F. Carve-Out for Government, Educational and Nonprofit Entities

The SWE's EE Potential Study estimated that there exists approximately 410,297 MWh of statewide program potential savings in Phase III for what the SWE terms the Government, Nonprofit and Institutional (GNI) sector. This represents 6.7% of the program potential for all customer sectors across all EDCs. The SWE's data further indicates that on an EDC-specific basis the percentage of total portfolio savings that can be achieved from the GNI sector ranges from 10.4% for Duquesne to 3.5% from Met-Ed.[26] Based on this information, the Commission proposes to require that the EDCs obtain a minimum of 3.5% of all Phase III

[26] *Addendum* at 6.

consumption reduction requirements from the federal, state and local governments, including municipalities, school districts, institutions of higher education and nonprofit entities. In proposing this requirement, the Commission notes that this sector remains an area worthy of focused attention in order to achieve cost-effective savings results.[27]

The OCA is concerned with such a significant reduction in the target for the GNI sector from Phases I and II. This sector is unique and has been hard to reach. The benefits that can accrue to the participants, the communities and the system, however, can be significant. Lowering the target so significantly may take needed attention away from this sector. The OCA recommends that a higher target be set to ensure that this sector receives the necessary attention and assistance.

G. Inclusion of Multifamily Housing

In the October 2014 Secretarial Letter, the Commission sought comments on whether, if a Government, Education, Nonprofit (G/E/NP) carve out is proposed for Phase III, the Commission should encourage (as it did in Phase II) EDCs to give special emphasis and consideration to multifamily housing as a means of attaining the carve-out goal. While the comments the Commission received expressed support for inclusion of multifamily housing in Phase III, they differed on whether the Commission should set a specific savings or budgetary carve-out for multifamily housing. The comments also differed as to which sector to attribute savings and costs related to multifamily program to, since these programs could affect the residential, including low-income, small commercial and G/E/NP sectors. Given these mixed comments, the Commission, in the Tentative Order, decides against establishing any specific savings or budgetary carve-out related to multifamily housing for Phase III. Instead, the

[27] T.O. at 62.

Commission notes that all of the EDCs are currently running successful multifamily programs in Phase II and it requests the companies to continue those programs, or similar ones, in Phase III.

The OCA agrees with the Commission's determination to continue the mulit-family housing programs and to continue to work with PHFA to assist in identifying potential projects. Multi-family housing remains a difficult segment to reach and the Commission's directive will retain the necessary focus on these programs. The OCA also agrees that no specific savings target or budgetary carve out is needed at this time.

H. Accumulating Savings in Excess of Reduction Requirements

This issue relates to the carryover of energy savings from one EE&C phase to another in instances where an EDC reaches its reduction goals prior to the end of the phase. In Phase I, EDCs in this position were allowed to continue their programs for the remainder of the phase and credit all of the excess savings toward their Phase II targets, provided the EDC still had Phase I funds available. With respect to carrying over excess Phase II savings to Phase III under similar circumstances, the Commission proposes that such carryover will be allowed, but that it will only be permitted for savings that were actually attained in Phase II. Any savings carried forward from Phase I into Phase II would be ineligible to be carried forward to Phase III. The Commission explains its rationale for limiting the carryover to Phase III in this manner as follows: "[W]e have concerns that continued carryover of all excess savings from phase to phase will lead to a scenario in which an EDC meets most, if not all, of its reduction target simply with carryover savings."[28] The OCA shares the Commission's concern in that regard and supports the Commission's resolution of this issue with respect to the Phase II to Phase III carryover.

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[28] *Id.* at 70.

I. Process to Analyze How the Program and Each Plan will Enable EDCs to Meet Demand Reduction Requirements

As the Commission notes in its Tentative Order, there are two methods to measure peak demand reductions – a capability approach and a demonstrated savings approach. As noted earlier in these Comments and in the OCA's Comments to the Secretarial Letter, the OCA supports the use of a capability approach to measure peak demand reductions. Under this approach, the EDC is required to show that it has the capability to reduce a specific amount of peak demand when a predetermined trigger point is met. In the OCA's view, the capability approach prevents the need to impose demand response when it is not needed and avoids the need to obtain more demand response resources than are needed to comply, thus avoiding unnecessary costs.

The Commission has proposed the use of the demonstrated savings approach to measure demand response as it did in Phase I. The OCA urges the Commission to reconsider this approach as it requires demand response at times when not needed for economic or reliability reasons, and unnecessarily utilizes ratepayer funds that could be put to better use. If the concern is that certain demand response resources may not participate when called upon, that issue can be better addressed through the program design and appropriate penalties.

J. Competitive Bidding All Conservation Service Provider Contracts

The Commission has proposed that all Phase III contracts with Conservation Service Providers (CSPs) be competitively bid through an RFP process.[29] While the OCA is generally supportive of competitive bidding processes and the benefits that can result, the OCA is concerned that requiring a competitive bid process for all CSP contracts, even those where the program is continuing into Phase III with the same program design, may result in program

[29] T.O. at 97

disruption or delay and increased costs. The OCA suggests that the EDCs be permitted to request an exception to the competitive bidding process for programs that are well established and continuing into Phase III.

III. CONCLUSION

The OCA is pleased to submit these comments in response to the Commission's Tentative Implementation Order applicable to Phase III of the Act 129 EE&C Program. The OCA looks forward to continuing to work with the Commission, EDCs and Stakeholders on developing robust EE&C/DR Plans for Phase III.

Respectfully Submitted,

David T. Evrard
Assistant Consumer Advocate
PA Attorney I.D. # 33870
E-Mail: DEvrard@paoca.org

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

April 27, 2015

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