COMMONWEALTH OF PENNSYLVANIA

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May 15, 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 Reply 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,

David T. Evrard

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Assistant Consumer Advocate
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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

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

I. INTRODUCTION

On April 27, 2015, the Office of Consumer Advocate (OCA), along with 21 other interested parties submitted comments to the Public Utility Commission (Commission) in response to the Commission's Tentative Order regarding implementation of Phase III of the Energy Efficiency and Conservation (EE&C) Program established under Act 129 of 2008. Among the parties filing comments were all of the major Electric Distribution Companies (EDCs) including PECO Energy (PECO), PPL Electric Utilities (PPL), Duquesne Light Company (Duquesne) and Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, FirstEnergy Companies or FE Companies). Comments were also filed by the trade association for the EDCs, the Energy Association of Pennsylvania (EAP), the Office of Small Business Advocate, the Pennsylvania Department of Environmental Protection, the Keystone Energy Efficiency Alliance (KEEA), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Industrial Customer Groups, Energy Efficiency for All (EEFA), Demand

Response Supporters (DR Supporters), Citizens for Pennsylvania's Future (together with other environmental groups)(PennFuture), the Sustainable Energy Fund of Central Eastern Pennsylvania, Citizen Power, Regional Housing Legal Services and the Philadelphia Weatherization and Conservation Collaborative, Pennsylvania State University, Northeast Energy Efficiency Partnerships, the Pennsylvania Weatherization Task Force, the Home Performance Coalition in conjunction with the KEEA, and Honeywell International et al.

In addition to inviting the initial comments filed on April 27, the Tentative Order provided the opportunity to file Reply Comments in response to the initial comments. Following are the Reply Comments of the OCA. They are offered primarily in response to the initial comments of the EDCs and EAP, but also respond to other commenters as reflected below.

II. COMMENTS

A. Proposed Additional Reductions in Peak Demand

For a variety of reasons, all of the EDCs and EAP express concern about the peak demand reduction targets proposed in the Tentative Order. Some argue for elimination of the demand reduction targets entirely.[1] Others offer alternative targets well below those proposed by the Commission[2] or propose that DR programs for Phase III be voluntary.[3] The concerns expressed by the EDCs focus on the assumptions relied upon by the SWE in its DR Potential Study, which, in turn, formed the basis of the targets proposed in the Tentative Order. Generally, the EDCs maintain that the assumptions used by the SWE led to overstated benefits for DR programs together with understated costs, thus reducing cost-effectiveness. However, the OCA notes that while the EDCs believe the SWE has overstated the cost-effectiveness of DR, the

[1] PPL Comments at 4, 16-17; FE Companies Comments at 10-12;
[2] PECO Comments at 20-27; FE Companies Comments at 12-15.
[3] EAP Comments at 7.

comments of Demand Response Supporters (DR Supporters) raise equally significant concerns regarding inputs used by the SWE, which suggest that the cost-effectiveness of DR programs in Phase III was significantly understated by the SWE.[4] The OCA remains firmly supportive of a role for DR in the Phase III portfolio and urges the Commission to adopt a Phase III DR requirement. DR programs provide a host of economic and reliability benefits to electricity consumers and when properly designed and measured, the targets set under such programs remain achievable.

A related issue involves the Commission's proposal not to allow participation in both DR programs under Act 129 and PJM's Emergency Load Response Program. In its Comments, the OCA expressed concern about this proposal and recommended its elimination. Almost without exception, the OCA's concerns were echoed by other commenting parties.[5] The EDCs raise concerns about being able to find enough participants to reach their demand reduction targets and about having to increase incentives to attract participants away from PJM's program. DR Supporters explain that the two programs have different purposes, that there is little overlap between them and that they actually complement each other well. DR Supporters further explain the consumer benefits that will be lost if program participants are permitted to be part of only one program and not the other. DR Supporters also offer a response to the Commission's concern over double payments if customers participate in both programs. Given the very strong concern expressed over this feature of the Commission's proposal and its potential to undermine achievement of DR objectives and deny customers the benefits of DR programs, the OCA reiterates its previous recommendation that that the prohibition on dual participation be eliminated.

[4] DR Supporters Comments at 24-30.

[5] FE Companies Comments at 6,18; Duquesne Comments at 5-7; DR Supporters Comments at 10-21.

B. DR Program Design

In its Comments, the OCA expressed concern over the Commission's proposed DR design parameter that provided that each called event is to last for four hours. The OCA noted that there may be instances in which a four-hour event is unnecessary and that continuing an event beyond what is needed would effectively waste some of the 24 hours allotted for called events. Similar concern was also expressed in the comments of PPL and DR Supporters.[6] For their part, DR Supporters suggest an alternative under which residential and C&I customers would be curtailed on different schedules given that it is possible to curtail residential customers more frequently for shorter periods. As support for their suggestion, DR Supporters note that in lieu of a 6-event/4 hour per event program, one that operates 12 times with a 2-hour duration significantly increases the potential for load to be reduced during PJM's 5 Coincident Peak hours. While the OCA does not necessarily endorse a 12-event/2 hour construct at this time, it does find merit in DR Supporters' suggestion for bifurcating the dispatch requirements for residential and C&I customers and encourages the Commission to consider this as part of its final DR program design. The OCA also continues to recommend flexibility in the overall DR program design. The type of suggestion put forth by DR Supporters is evidence that there can be multiple ways to meet a goal.

C. Proposed Additional Incremental Reductions in Consumption

Perhaps no issue generated as much confusion among commenters as the question of whether the Commission proposes to account for Phase III energy efficiency savings using the cumulative annualized savings method or the incremental annual savings method.[7] Indeed, the Tentative Order offered mixed signals by proposing EE targets (in Table 6 on p. 42) that are

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[6] PPL Comments at 29; DR Supporters Comments at 21-24.

[7] *See e.g.*, PECO Comments at 19-20; PPL Comments at 57-60; Duquesne Comments at 9-11; KEEA Comments at 5-6; PennFuture Comments at 10.

based on incremental annual savings while at the same time proposing that reported savings for Phase III must take into account the useful life of measures, a concept associated with the cumulative annualized savings method.[8] Clarification of the Commission's preferred method of accounting must be provided in the Final Order.

As it did in its initial Comments, the OCA encourages the Commission to adopt the incremental annual savings method. This would allow EDCs to accumulate savings toward their goal as those savings are delivered. It would also remove the incentive to turn on and turn off shorter measure life programs (or, alternatively, delay them to ensure they are in effect at the end of the Phase) and provide EDCs the flexibility to run such programs throughout the Phase and receive credit. EDCs would be more likely to develop balanced portfolios with a mix of shorter and longer term measure life programs so that customers are receiving a balance of short and long term benefits. Accounting for annual incremental savings will ensure that EDCs are maximizing savings delivered within the Phase and will further ensure the availability of programs throughout the Phase, all to the benefit of customers.

D. Prescription of a Low-Income Carve-Out

In their Comments, all of the EDCs and EAP[9] expressed concern over the Commission's proposal to require EDCs to obtain at least 2% of the overall 5.5% low-income consumption reduction target exclusively from direct-installed measures. The FirstEnergy Companies call for elimination of the direct-install requirement.[10] PPL suggests that it be changed from a compliance target to a non-mandatory goal.[11] PECO recommends that the 2% savings requirement be dropped in favor of a requirement that a certain percentage of total annual budget

[8] Tentative Order at 43.
[9] EAP Comments at 10-14.
[10] FE Companies Comments at 25-31.
[11] PPL Comments at 6, 50.

be spent on direct-install measures.[12] Duquesne asks the Commission to consider Duquesne's unique circumstances before imposing a 2% direct-install requirement on it.[13]

The OCA reiterates its support for a direct-install requirement for Phase III. The Commission's rationale for proposing such a requirement is sound. The Commission seeks to shift the focus away from indirect and easy to implement EE measures (which it lists as home energy reports, efficiency kits, giveaways at community events and all other non-low-income sector program savings (upstream lighting, rebates, etc.)) toward more comprehensive, durable measures of the whole house and weatherization variety. In effecting such a shift, the Commission produces lasting energy savings for that portion of the population for whom energy unaffordability is greatest and to the extent affordability is improved, it can have a positive effect on costs such as uncollectible expense, CAP expense, service terminations, etc. that are borne by all customers. 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. An effort designed to ensure that these customers receive the benefit of significant and lasting energy savings is not only fundamentally fair, it is good public policy and is in keeping with the Act 129's policy of providing specific attention to low income customers when designing EE programs.

The OCA also notes that several commenters (EEFA and CAUSE-PA) recommend that the Commission adopt a definition of "direct-installed measures."[14] The OCA supports this recommendation as a means of providing greater clarity as to which measures will or will not qualify as such.

E. Carve Out for Government, Educational and Nonprofit Entities

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[12] PECO Comments at 30.
[13] Duquesne Comments at 14.
[14] EEFA Comments at 13; CAUSE-PA Comments at 15.

In their Comments, the FirstEnergy Companies propose a change to the Commission's recommendation that 3.5% of total EE savings be obtained from entities in the Government, Educational and Nonprofit (G/E/NP) sector.[15] The FirstEnergy Companies suggest that instead of a target of 3.5% of overall EE savings, the Commission establish the target at 33% of the program potential for the G/E/NP sector. As reflected in the Table on p. 32 of their Comments, the FirstEnergy proposal reduces significantly the targeted reductions for all but one of the EDCs.

Inasmuch as the OCA was already concerned about the Commission's proposal to lower the G/E/NP reduction target from 10% of overall EE savings in Phases I and II to 3.5% in Phase III, it is even more troubled by the FirstEnergy proposal, which lowers the reductions even further. As the OCA noted in its Comments, the G/E/NP sector is unique and has proven difficult to reach. Erosion of the savings being sought from this sector has the potential of diverting needed attention from these customers. The Commission should reject the FirstEnergy proposal.

F. Competitive Bidding All Conservation Service Provider Contracts

In its Comments, the OCA expressed concern over the Commission's proposal to require that all Phase III contracts with Conservation Service Providers (CSPs) be competitively bid through an RFP process. The OCA is concerned that such a requirement may result in program disruption or delay and increased costs. The OCA suggested that EDCs be permitted to request an exception to the competitive bidding process for programs that are well established and continuing into Phase III. Both PECO and KEEA express similar concerns in greater detail.[16] PECO made the following statement that resonated with the OCA:

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[15] FE Companies Comments at 32-33.
[16] PECO Comments at 33-36; KEEA Comments at 23-24.

> Mandating competitive bidding of all contracts limits the ability of PECO and other EDCs to account for the value of past performance, which could ultimately impair and impede EE&C plan implementation. Even if, as the Commission believes, bidding all CSP contracts will reduce some contract costs, it will not necessarily create better results for customers. Indeed, using a competitive process for all CSP contracts will create some unavoidable costs and likely result in program implementation delays.[17]

For its part, KEEA argues that the Commission's proposal will result in unnecessary increases in costs and delayed implementation of energy efficiency savings. It notes that the costs incurred by the EDCs and the Commission will be considerable, as an RFP process requires the allocation of significant resources. KEEA proposes that an exception be allowed for CSPs involved with a program that is currently running in Phase II and that is proposed to continue in Phase III.[18]

The OCA finds significant merit in the arguments put forward by PECO and KEEA and it urges the Commission to reconsider its proposal to mandate the competitive bidding of all CSP contracts for Phase III.

G. On-Bill Financing of Energy Efficiency Improvements

Both the Sustainable Energy Fund and KEEA encourage the Commission to explore the use of On-Bill Financing as a means of funding energy efficiency improvements by customers.[19] The OCA submits that On-Bill Financing remains a very complicated area with many unresolved issues. For residential customers, there are significant consumer protection issues and fairness issues that have not even been considered or discussed. At this time, the OCA recommends that this idea should remain within the On-Bill Financing Working Group.

[17] PECO Comments at 35.
[18] KEEA Comments at 24.
[19] Sustainable Energy Fund Comments at 3-4; KEEA Comments at 16-17.

III. CONCLUSION

The OCA is pleased to submit these Reply Comments as part of the ongoing effort to establish a well-designed and cost-effective Phase III EE&C Program that delivers significant benefits to electric consumers The OCA looks forward to continuing to work with the Commission, EDCs and Stakeholders in that effort.

Respectfully Submitted,

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