Citizens for Pennsylvania's Future
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May 15, 2015

Rosemary Chiavetta
Secretary of the Commission
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: PUC Docket No. M-2014-2424864

Dear Chairman Chiavetta:

After reviewing other interested parties' comments on the Act 129 Phase III Tentative Implementation Order, Citizens for Pennsylvania's Future ("PennFuture"), the Clean Air Council, the Sierra Club, the Natural Resources Defense Council, and the Environmental Defense Fund (hereinafter "Joint Commentators") have provided the attached reply comments.

Sincerely,

Robert Altenburg
Director, Energy Center
Citizens for Pennsylvania's Future

Logan Welde
Staff Attorney
Clean Air Council

Tom Schuster
Sr. Campaign Representative for PA & NJ
Sierra Club

Dick Munson
Director, Midwest Clean Energy
Environmental Defense Fund

Jackson Morris
Director Eastern Energy
Natural Resources Defense Council

encl: Joint Reply Comments

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Act 129 Energy Efficiency	)	
And Conservation Program	)	**Docket No. M-2014-2424864**
Phase III	)	

REPLY COMMENTS OF ENVIRONMENTAL STAKEHOLDERS: PENNFUTURE, SIERRA CLUB, ENVIRONMENTAL DEFENSE FUND, CLEAN AIR COUNCIL, AND NATURAL RESOURCES DEFENSE COUNCIL

1 Introduction

Citizens for Pennsylvania's Future (PennFuture), Sierra Club, Environmental Defense Fund, Clean Air Council, and Natural Resources Defense Council (hereinafter "Joint Commentators") appreciate the opportunity to submit these reply comments in response to the Public Utility Commission's (Commission) Tentative Implementation Order on Phase III of the Act 129 Energy Efficiency and Conservation Program dated March 11, 2015.[1]

2 Energy Efficiency Program

2.1 Reduction Targets

DEP commented that it "strongly believes the PUC should pursue more aggressive targets for each of the EDC service territories."[2] We agree and we share their concern that the "compliance targets provided for phase III may underestimate the economically achievable energy efficiency available to EDCs."[3] This is particularly likely when the impact roll-over

[1] *Herinafter "T.O."*
[2] DEP, at 1.
[3] *Id.*

emission reductions from a prior phase is not considered. Since these are effectively zero cost reductions available to EDCs in Phase III, they should be treated accordingly.

PECO, for example, recommends its target be reduced to 1.43 million mWh, but it may complete Phase II under budget and with considerable excess reductions. The SWE Annual Report for program year 5,the first of three years in Phase II, shows PECO had achieved 46 percent of its overall target for the phase, 53 percent of the low-income carve out, and 134 percent of the GNI carve-out.[4] While on track to exceed its overall targets it is more than 30 percent under budget (over $25 million) for the first year.[5] When properly accounting for carryover, cost effective Phase III reductions are likely substantially higher than what the tentative order calls for. We strongly oppose any reductions to targets until this is considered.

Similarly, First Energy asks the Commission to reduce targets by 10 – 20 percent "to account for the uncertainty" regarding the companies' ability to reach the targets.[6] While we agree there are significant uncertainties in the planning process, it is more likely that those uncertainties will result in targets that are too low than too high. This is supported by data from the Program Year 5 annual report which shows all Companies have achieved 62 percent of their Phase II targets in the first year of the program and are more than 23 percent under budget—currently more than $52,000,000.[7] We understand that the Commission "[does] not believe [they] can base decisions on uncertain possibilities."[8] That being the case, they should not lower targets because of a mere possibility that the situation may change. As we raised in our comments, a better solution is for the Commission to outline a process by which parties can petition for a reconsideration of the Phase III targets in the event that the underlying assumptions turn out to be significantly incorrect.[9]

[4] Program Year 5 Annual Report, 5 (February 27, 2015).
[5] *Id. at* 11.
[6] First Energy, at 25.
[7] Program Year 5 Annual Report, at 7, 11.
[8] T.O., at 16.
[9] Joint Comments, at 4.

2.2 Annual Incremental Targets

Like several other parties, we are concerned that use of a cumulative annual accounting approach in Phase III will result in EDCs seeking to delay the deployment of cost-effective, shorter-lived measures until late in the phase in order to quickly gain savings in time to meet the goal and to avoid the need to backfill reductions from expired measures.[10] As the Office of the Consumer Advocate (OCA) stated in its comments:

> The OCA is concerned. . . 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. 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.

As Duquesne confirmed in its comments:

> Such a requirement would cause EDCs to not implement measures with lives shorter than the Phase period and hampers program planning and delivery.

To remedy this situation and maximize cost effective savings, we reiterate our recommendation that the Commission adopt an annual incremental goal as the compliance target for EDCs in Phase III. Moving to such a goal structure will allow EDCs to receive savings credit for all annual incremental savings delivered and thus will end the incentive to delay certain investments until the end of the compliance period.

This is consistent with the potential study conducted by the Statewide Evaluator (SWE), which explicitly mentioned that the determination of goals, budgets, and acquisition costs was based on incremental annual accounting methodology:

[10] *See, e.g.* comments from Duquesne, FirstEnergy, the Office of the Consumer Advocate (OCA), and KEEA.

> For the purposes of determining statewide acquisition costs from the base achievable costs and savings data, the SWE Team concludes that it is correct to divide the sum of the incremental annual savings data across the timeframe by the sum of the annual costs. **This method maintains the integrity of the definition of an acquisition cost and aligns with actual EDC budgeting and planning practices.**[11]

The study defines acquisition costs as "program expense dollars spent to acquire first-year energy savings"[12] and these costs aligned with incremental annual savings to become the basis of the EDCs' budgets. Put simply, incremental annual accounting was embedded in the SWE's potential study and is the source of the current budgets.

Considering lighting measures, a cumulative annual approach would dramatically reduce the savings attributed to these programs while significantly increasing the acquisition costs, since the vast majority of benefits delivered would not count towards the compliance goal. In order to avoid this result, the SWE has proposed annual incremental accounting for lighting. The slides presented by the Statewide Evaluation Team on April 8, 2015 demonstrate that the impact that accounting treatment has on the attribution of savings from lighting programs would be dramatic.[13] If a cumulative annual approach were applied, 85 percent of the savings would be lost before the end of Phase III due to the change in baseline standards, resulting in only 3,300 kWh of compliance benefit. However, since the EDCs are given credit for the sum of the incremental annual savings in each year[14], 21,470 kWh of savings would be attributed towards the Phase III goal for the same exact program design.

It is not clear if the Commission intends to used the cumulative annual approach for other measures while allowing a different accounting treatment for lighting. We recognize that

[11] Energy Efficiency Potential Study for Pennsylvania, Statewide Evaluation Team, 8 (Feb., 2015) *emphasis added*.

[12] Energy Efficiency Potential Study for Pennsylvania, p. A-1

[13] Presentation of Findings, SWE Energy Efficiency Potential Report, slides 15-16 (8 April 2015).

[14] Slide 4 of SWE's Presentation of Findings states "Program potential estimates based on sum of incremental annual savings."

even a generally comprehensive program will likely obtain a significant fraction of savings from lighting measures, but use of an inconsistent accounting treatment that makes more credit available from lighting will create a significant disincentive to use behavioral efficiency programs and other shorter lived measures that don't benefit from the same accounting treatment. We continue to believe that enforceable incremental annual goals represent the best policy choice and are most consistent with the statutory language. Should the Commission fail to adopt such goals, it should at least minimize the negative consequences of its action by extending the same accounting treatment contemplated for lighting to all measures with a life shorter than the compliance period.

2.3 Comprehensive Programs

In its comments, PPL stated that it believes that "a kWh/yr saved is a kWh/yr saved and provides the customer with the same cost savings regardless of the technology or the end use as long as the measures have the same life."[15] While we agree that is is important to consider the total lifetime energy savings, the Commission should consider the full range of costs and benefits provided.

When the chosen measure results in a kWh of reduction that takes place during a period of peak demand, there are additional cost savings. This is particularly true for customers with a demand charge, but even residential customers may see benefits from peak coincident reduction as savings throughout the grid are passed along.

In addition, we agree with the Commission that "it is entirely possible that the most cost-effective programs may not come proportionally from each customer class."[16] We encourage the Commission to consider scenarios that include proportionally more measures from the commercial and industrial classes where doing so provides more potential for

[15] PPL, at 31.
[16] T.O., at 92.

cost-effective increases in measure life.[17]

First Energy Companies note that comprehensive programs generally have higher costs of acquisition an will leave less money available for other programs.[18] While this is true, we noted in our Model Portfolio that programs can be designed so that the higher costs of acquisition can be offset by greater lifetime savings resulting in a net benefit to consumers.[19] In addition, we agree with Energy Efficiency for All in noting that "Comprehensive energy efficiency upgrades routinely identify and resolve health and safety concerns such as those related to inadequate ventilation, mold/mildew, and poorly drafting combustion appliances that could pose carbon monoxide threats."[20] As such, we encourage the Commission to consider more comprehensive programs.

2.4 Low-income carve out

The EDC parties have a variety of views on the low-income carve out, and particularly the direct install component, claiming it is not achievable,[21] that the SWE "overestimates market potential,"[22] that the 2 percent requirement "lacks evidentiary support,"[23] and that the 2 percent requirement be eliminated.[24]

To the extent there is a debate over the size and cost effectiveness of the carve-out, we stress that the Act requires that the EDCs include a number of measures "proportionate to [the low income] households' share of the total energy usage in the service territory."[25] It is our understanding that the Act[26] permits the Commission to set a target lower than this proportional value only in cases where—and only to the extent where—a proportional

[17] Model Portfolio, at 2.
[18] First Energy, at 29.
[19] Model Portfolio, at 17.
[20] EEFA, at 2.
[21] Duquesne, at 11.
[22] PPL, at 34.
[23] PECO, at 28.
[24] First Energy, at 31.
[25] 66 Pa.C.S. § 2806.1(b)(1)(i)(G).
[26] 66 Pa.C.S. § 2806.1(b)(2).

carve-out is not cost effective. The Commission should provide additional evidentiary support in the record documenting that their proposal fulfills the statutory requirements.

2.5 Government/Education/Nonprofit carve out

The First Energy Companies suggest the carve-out for the G/E/NP sector be set at 33 percent pf the sector potential instead of a percentage of the total portfolio savings[27] This target is too low and not permissible under the plain language of the statute.

The Act creates a duty on the part of EDCs to achieve "10% of the required reductions in consumption"[28] from such measures. The Commission has the authority to adopt "additional required incremental reductions in consumption,"[29] but there is no authority to reduce targets absent a finding that "an energy efficiency or conservation measure included in the plan will not achieve the required reductions in consumption in a cost-effective manner."[30]

The Commission's proposed targets are already below the 10 percent statutory requirement[31] and First Energy advocates a methodology that would result in targets as low as 1.2 percent.[32]

2.6 Inclusion of multi-family housing

We strongly agree that the Commission should "1) encourage EDCs to address health and safety issues that might otherwise prevent the installation of critical energy efficiency measures in the homes of low-income homeowners; and 2) provide institutional support to help break down the silos that make multifamily housing 'a difficult segment to reach."'[33]

[27] First Energy, at 32.
[28] § 2806.1 (b)(1)(i)(B).
[29] § 2806.1(c)(3).
[30] § 2806.1(b)(2).
[31] T.O., at 62.
[32] First Energy, at 32 *See Table 8.*
[33] Regional Housing Services and the Philadelphia Weatherization and Conservation Collaborative, at 7.

We also agree that "the Commission Should Provide Explicit Direction to Expeditiously Convene the Multifamily Work Group and to Develop a Proposal and Recommendations for EDC Adoption in Phase III."[34]

2.7 Net-to-gross adjustment

We support net verified savings for both program planning and compliance.[35] However, should the Commission permit use of gross savings for compliance, both net and gross TRC ratios should be included in company EE&C plans. First Energy opposes the inclusion of net ratios and instead suggests they only be included in annual reports.[36] We understand that such information may be speculative at the time of program planning, but this does not outweigh the benefit of such information when comparing and evaluating plans.

[34] CAUSE-PA, at 17.
[35] Joint Comments, at 14.
[36] First Energy, at 34.