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December 19, 2014

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: Energy Efficiency and Conservation Plan
Docket Nos. M-2012-2289411; M-2008-2069887

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Joint Comments of Demand Response Supporters, Comverge, Inc., CPower, EnerNOC, Inc., and Johnson Controls, Inc., in response to the Secretarial Letter (dated October 23, 2014) in the above-captioned docket.

Sincerely,



Carl R. Shultz

CRS/jls
Enclosure

cc: Megan Good at megagood@pa.gov
Kriss Brown at kribrown@pa.gov

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS OF DEMAND RESPONSE SUPPORTERS
ON RELEVANT ISSUES RELATED TO
POTENTIAL PHASE III EE&C PLANS**

I. INTRODUCTION

The Demand Response Supporters¹ hereby offer their Comments on relevant issues related to potential Act 129² Phase III Energy Efficiency and Conservation (“EE&C”) Plans (“Phase III Plan” or “Plan”) in response to the Secretarial Letter (dated October 23, 2014) (“Secretarial Letter”) in the above-captioned docket.

The Demand Response Supporters include Comverge, Inc. (“Comverge”),³ Enerwise Global Technologies d/b/a CPower Corporation (“CPower”),⁴ EnergyConnect, a Johnson

¹ The comments expressed in this filing represent only those of Demand Response Supporters, which is a coalition of providers and supporters of demand response united to overcome barriers to the use of demand response, and do not necessarily represent the views of each particular member.

² Act 129 of 2008, 66 Pa. C.S. § 2806.1, et seq., as amended (“Act 129”).

³ Comverge is focused exclusively on delivering world-class solutions to help electric utilities deploy successful DR, energy efficiency, and customer engagement programs targeting residential and small business customers. Comverge has been an active Conservation Service Provider (“CSP”) in Pennsylvania and has served several electric distribution companies (“EDCs”) who are in the Act 129 Phase II Programs. For more information, please visit: <http://www.comverge.com/>.

⁴ CPower is focused on delivering a full spectrum of demand response offerings to commercial and industrial (“C&I”) customers across the United States. CPower is one of the largest demand response companies in North America. It was formed in November

Controls Company,⁵ and EnerNOC, Inc. (“EnerNOC”).⁶ The contact information for the Demand Response Supporters is as follows:

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2014 by combining the commercial and industrial DR businesses of Comverge and Constellation.

⁵ EnergyConnect is now part of Johnson Controls, Inc. (“Johnson Controls”). It provides Integrated Demand Resources that combine the power of building automation with easy-to-implement DR technology. Johnson Controls is a global diversified technology and industrial leader serving customers in more than 150 countries. For more information, please visit: www.johnsoncontrols.com/demandresponse

⁶ EnerNOC has provided demand response software, technology, and managed services to hundreds of clients, including vertically integrated utilities, system operators, transmission and distribution companies, and energy retailers—in both traditionally regulated and restructured markets around the world. For more information, please visit: <http://www.enernoc.com/for-utilities/demand-response>.

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The Demand Response Supporters urge the Pennsylvania Public Utility Commission (“PUC” or “Commission”) to, *inter alia*, (a) adopt cost-effective demand response (“DR”) programs that provide value to the Commonwealth that is incremental to the peak demand reduction value provided by the DR programs established by PJM Interconnection, LLC (“PJM”) **and** (b) consider, develop and implement a plan to transition demand response from the PJM market to a stand-alone Pennsylvania run program - if the regional situation drives participants away from the PJM programs. The Demand Response Supporters also support the recommendation (made in the Statewide Evaluator’s (“SWE”) Act 129 Demand Response Report) that peak demand reduction programs that are incremental be added to the existing programs - if it is cost-effective. Detailed comments on relevant issues and recommendations are set forth below.

II. BRIEF BACKGROUND ON DEMAND RESPONSE

The Demand Response Supporters submit that including DR programs in Phase III will be beneficial to Pennsylvania electric customers and to the Commonwealth. In fact, the strong DR participation from Pennsylvania resources in the PJM market has provided the Commonwealth with significant benefits in the form of added reliability, lower prices for all customers and economic development opportunities. For example, the PJM Independent Market Monitor reported that demand response participation in the 2013/14 PJM Reliability Pricing Model, Base Residual Auction resulted in a savings of \$11.8 billion to all customers in the PJM

region for that one year.⁷ Using publicly available data, Demand Response Supporters estimate that Pennsylvania electric customers realized nearly \$2 billion in savings from demand side participation in PJM's capacity market.

The economic development value to Pennsylvania is equally as strong. Demand Response Supporters estimate that during the current PJM delivery year (2014/15) the 5,300 DR participants that operate in Pennsylvania are earning approximately \$100 million for their participation. That money goes directly to businesses within Pennsylvania to support their operations.

III. COMMENTS OF THE DEMAND RESPONSE PROVIDERS

A. Comments On Relevant Issues

1. Length of Phase III

The Demand Response Supporters support a five-year program cycle for Phase III. A five-year program length, both for energy efficiency and demand response, best balances the factors listed in the Secretarial Letter, such as accuracy of forecast data and evolving energy efficiency and demand response marketplaces. In fact, demand response assets deployed have useful lives that can be five years or longer. For example, a residential demand response control unit can have a useful life of seven to ten years. Demand response assets deployed to manage C&I load can be just as long lived. In order to maximize the return to ratepayers, the programs should be designed such that assets can be deployed to maximize their return to the market.

Additionally, if demand response programs are re-established as part of the EE&C Program the participants in those programs, and all ratepayers, will benefit from the longer

⁷ The Independent Market Monitor ("IMM") for PJM, Analysis of the 2013/14 RPM Base Residual Auction Revised and Updated, September 20, 2010, 52.

program cycle. One of the factors that increases customer participation, and importantly customer satisfaction, is program certainty. When recruiting customers, whether residential, commercial or industrial, to energy efficiency and demand response programs, it is helpful if they know that if they choose to participate, they will be able to plan and budget for program parameters including interruptions on operations and on the incentive revenue for a sustained period of time.

Planning for a longer term program will help to amortize the start-up costs and alleviate administrative burdens of having to address these same issues repeatedly at the Commission. The regulatory process required to effectively design these programs can be in excess of two years. With a shorter program cycle, we can find ourselves in a situation where we are negotiating the next EE&C program phase without the benefit of any results from the current phase, as we experienced between Phase I and Phase II. If, during the five-year term, an EDC believes it needs to alter its programs to maximize cost-effectiveness and customer participation, the Commission should allow the EDC to file yearly updates and revisions to the plan as it currently does.

2. Inclusion of Peak Demand Reduction Requirements

The Demand Response Supporters strongly support the inclusion of demand response curtailment programs in the next round of EE&C programs, and a specific peak reduction goal for each year.

In this section, the Demand Response Supporters deviate somewhat from the outline of the Secretarial Letter. This section is broken out into the following four sub-sections which will:

- (a) Address the six questions (a-f) presented in Section 2 of the Secretarial Letter;

- (b) Review the SWE's conclusions in the Act 129 Demand Response Report;
 - (c) Propose certain changes to the peak load reduction program design guidelines to make administration and operations more effective for EDCs, CSPs and customers; and
 - (d) Discuss additional consideration in light of all of the uncertainty and proposed changes that potentially impact demand response in the PJM market.
- a. Demand Response Supporters Answers To The Questions Presented In Section 2 Of The Secretarial Letter

Question (a) If the SWE determines that there is cost-effective peak demand reduction potential available within the Act 129 framework, the EDCs would be required to meet a May 31, 2017 peak demand reduction target. Should the EDCs be required to continue peak demand reduction programs past the May 31, 2017 target? If so, should there be annual reduction requirements or an average annual reduction requirement over the entire period?

To have one goal that has to be met at the end of the program cycle means there will be no time to adequately analyze program success before a potential interruption to the program. As a result, the Demand Response Supporters strongly suggest that the Commission consider carefully how it sets peak reduction goals. The overall goal should be parsed into specific, measurable annual peak reduction targets. These annual targets should be measured every year of the EE&C cycle. For example, if the Commission determines that the EE&C program cycle should be five years, then the Commission should measure success of the program each year against the annual targets developed.

The structure of the goals can be different for different customer classes. For example, the Commission may set a goal of 500 MW of peak load reduction in a service territory, and desire to see the reduction come from both residential and C&I customers. The C&I targets may be more aggressive in the early years to account for large load reductions from few customers.

Alternatively, achieving the residential goal may be done by a slower growth rate in the annual targets, recognizing that growth in the residential sector might be slower because each customer represents a small amount of load reduction potential. Regardless of the goals established, the five-year program cycle provides an opportunity to analyze the results against interim annual targets prior to the expiration of the program cycle. Additionally, Demand Response Supporters urge the Commission to adopt interim targets that are more heavily weighted toward the early years of Phase III as that will maximize cost-effectiveness over the duration of the Phase, regardless of its length.

As part of the Phase II Implementation Order, the Commission interpreted subsection 2806.1(d)(2) of Act 129⁸ to require the Commission to establish that the peak demand reduction targets were cost-effective prior to implementation.⁹ Annual peak demand reduction targets will provide the Commission and the SWE with a better set of data points to establish program effectiveness moving forward.

The Commission should be mindful that demand response is not a permanent change. It is a valuable service provided to the market by program participants. That service will disappear if the incentives for participation and the infrastructure for dispatching and monitoring events disappear. Thus, having concrete annual targets will mean that all parties – EDCs, CSPs and customers – will be actively managing the program and their involvement in the program to the fullest extent.

⁸ 66 Pa. C.S. §2806.1(d)(2).

⁹ Act 129 Energy Efficiency Program - Phase 2, PUC Docket No. M-2012-2289411, Implementation Order (entered August 2, 2012), at 33 (“Phase II Implementation Order”).

Finally, it might be appropriate to have increasing annual targets in order to meet a program cycle goal; however, it is not appropriate to have ever increasing peak reduction targets, without commensurate increases to program budgets.

Question (b) If the SWE determines that there is cost-effective peak demand reduction potential available within the Act 129 framework, the EDCs' budgets would need to be split between consumption reduction and peak demand reduction activities. How should the budget be split between the two initiatives?

Consumption reduction and peak demand reduction both provide valuable services to the market. All things being equal the budget should be split 50-50 between consumption reduction programs and peak demand reduction activities. The legislation did not prioritize consumption reduction over peak demand reduction activities – or vice versa. If there is a determination that the programs are cost-effective they should be allotted similar amounts.

However, all things are not equal in this case. EDCs were not obligated to offer demand response programs as part of the Phase II programs¹⁰ and there will again be start-up costs that raise expenses with the start of new programs. As part of the budgeting considerations the Commission should provide additional support to the peak demand reduction activities to address the development of these new programs.

The Commission will need to evaluate the most effective way to use the EDCs' budgets – in this case that includes spending more money to get the peak demand reduction programs started. The Phase II Implementation Order stated that the Commission determined that it would not extend the peak demand reduction programs because the cost effectiveness of those programs

¹⁰ Phase II Implementation Order, at 33.

could not be established at that time.¹¹ Moreover, the Commission decided that the funding associated with the peak demand reduction programs would be allocated to energy efficiency programs.¹² In Phase II the Commission allocated more funds toward the energy efficiency programs because that was determined to be best for customers. The Commission should again evaluate the EDCs' budgets from the perspective of getting the greatest benefit for customers.

Question (c) If the SWE determines that there is cost-effective peak demand reduction potential available within the Act 129 framework but would require the majority (e.g., 75%; 80%; 90%, etc.) of the EDCs' budgets, should the EDCs still be required to achieve peak demand reduction targets?

Demand Response Supporters believe that the question presented is a legitimate question, we also believe it is based on an outcome that is highly unlikely to happen, especially in light of the changes being driven by PJM to increase capacity prices in its market over the next several years. Peak demand reductions of any meaningful scale are cost effective, and the scale required to reach cost-effectiveness is not such a magnitude that it would require the majority of an EDC's budget.

However, if it were to be the case, peak demand reduction programs provide significant benefits to customers and thus, the Commission should weigh the value of the peak demand reduction programs as part of the evaluation regarding the percentage of the budget to place toward these programs. As discussed in response to b) above, the Commission should take the entire circumstances into consideration when evaluating how to divide the budget.

¹¹ *Id.* at 33.

¹² *Id.* at 41.

Peak load reduction programs should be evaluated based on the EDC's situation and the cost-effectiveness of demand reductions. However, that ultimate determination cannot be properly evaluated until the SWE's demand response report is issued.

Question (d) If the SWE determines that there is cost-effective peak demand reduction potential available within the Act 129 framework but only for a certain sector (e.g., through residential direct load control programs), can the Commission prescribe a target if it can only be met through measures offered to certain rate classes instead of across all rate classes? If so, should the Commission do so?

Again, Demand Response Supporters believe this is a good question. However, Demand Response Supporters believe cost-effective demand response will be readily available across all market segments, especially given the slew of proposed market changes in PJM that will all have the impact of driving capacity prices higher. If the rate classes differ, however, then Demand Response Supporters would say no, to both questions. The Act 129 legislative mandate does not require equal opportunities for all sectors, but it does require equitable measures for all classes of customers¹³ In addition, the legislative mandate requires that there be a diverse cross-section of alternatives for customers of all rate classes.¹⁴ Thus, the Commission should prescribe peak demand reduction measures for all classes.

¹³ See 66 Pa. C.S §2806.1(a)(5). (“Standards to ensure that each plan includes a variety of energy efficiency and conservation measures and will provide the measures equitably to all classes of customers”)

¹⁴ See 66 Pa. C.S. §2806.1(b)(I).

The benefits of these programs will be realized by all customers even if there is less participation in certain rate classes. *A Framework for Evaluating the Cost-Effectiveness of Demand Response*¹⁵ describes the following DR benefits:

- Avoided Capacity Costs
- Avoided Energy Costs
- Avoided Transmission and Distribution Costs
- Avoided Ancillary Service Costs
- Revenue from Wholesale DR Programs
- Market Price Suppression Effect
- Avoided Environmental Compliance Costs
- Avoided Environmental Externalities
- Participant Bill Savings
- Financial Incentive to Participant
- Tax Credits
- Other Benefits (e.g., market competitiveness, reduced price volatility, improved reliability)

The majority of these benefits are categorized as RIM, Total Resource Cost (“TRC”) and societal benefits and as such these benefits accrue to all ratepayers.

Question (e) If the SWE determines that there is cost-effective peak demand reduction potential available within the Act 129 framework but only for a certain EDC service territory, can the Commission prescribe a peak demand reduction target? In other words, can the Commission prescribe a target for only one of the EDCs? If so, should the Commission do so?

¹⁵ *A Framework for Evaluating the Cost-Effectiveness of Demand Response* was produced by Cost-Effectiveness Working Group co-chairs Tim Woolf and Erin Malone (Synapse Energy Economics), and Lisa Schwartz and John Shenot (Regulatory Assistance Project), for Lawrence Berkeley National Laboratory, who is managing this work under a contract with the U.S. Department of Energy Office of Electricity Delivery and Energy Reliability under Contract No. DE-AC02-05CH11231.

The Demand Response Supporters strongly believe that the SWE will determine that cost-effective peak load reduction potential will be prevalent in every EDC service territory. However, if it does not, then yes, the Commission can and should prescribe a peak demand reduction target for the EDC(s) if a cost effective analysis establishes that as the appropriate course of action. Under 66 Pa. C.S. §2806.1(b) each electric distribution company shall develop and file an EE&C plan.¹⁶ Each plan shall include specific proposals for that EDC.¹⁷

Question (f) If the SWE determines that there is no cost-effective peak demand reduction potential available within the Act 129 framework, should the Commission again, as in Phase II, allow the EDCs to utilize all of their budgets for consumption reduction programs? Should the EDCs again, as in Phase II, be allowed to include voluntary peak demand reduction programs within their EE&C plans, so long as those programs are cost-effective and the EDCs can still meet their consumption reduction requirements?

The budgets for Act 129 programs were created by statute. They have been collected for several years and have been put to good use reducing overall costs to ratepayers in Pennsylvania. In the highly unlikely circumstance that there is no cost-effective peak demand reduction potential available, then the entire authorized budgets should go toward energy efficiency measures. To the extent that cost-effective efficiency measures are available, the entire authorized budgets should be utilized to benefit the ratepayers who are paying into the fund. To do less than that would be wasting customers' investments in Act 129 programs.

Similarly, in the scenario described above, if the SWE finds that there is no cost-effective load reduction available, the EDCs should be allowed to include peak demand reduction

¹⁶ See 66 Pa. C.S. §2806.1(b)(1).

¹⁷ See 66 Pa. C.S. §2806.1(b)(1)(A).

programs within their EE&C plans if they can show to the Commission that the programs are cost-effective and the programs facilitate the EDC meeting its consumption reduction goals. The opposite, however, should not be held. That is, if the SWE finds that cost-effective load reduction is available, the EDC should not have the ability to show that peak load reduction might not be cost-effective.

b. Review of the Act 129 Demand Response Report

In 2008, Pennsylvania Act 129 was signed into law. In pertinent part, Act 129 required EDCs with at least 100,000 customers to adopt a plan, approved by the Commission, to reduce total annual energy consumption by at least 3% by May 31, 2013 – Phase I.¹⁸ In addition, the legislation established a peak demand reduction target of 4.5% over the 100 hours of highest demand.¹⁹ The legislation also directed the Commission to continue the programs if it could be established that the programs were cost effective.²⁰

The Commission did not include peak demand reduction targets for the EDCs in Phase II of the Act 129 programs. The Commission stated that it did not have the data to establish that

¹⁸ See 66 Pa. C.S. §2806.1(c)(2).

¹⁹ See 66 Pa. C.S. §2806.1(d)(1).

²⁰ See 66 Pa. C.S. §§ 2806.1(c)(3) and 2806.1(d)(2). Section 2806.1(c)(3) provides that, based on a review to be concluded by November 30, 2013, if "the commission determines that the benefits of the program exceed the costs, the commission shall adopt additional incremental reductions in consumption." Section 2806.1(d)(2) provides that, based on a review to be concluded by November 30, 2013, if "the commission determines that the benefits of the plans exceed the costs, the commission shall set additional incremental requirements for reduction in peak demand for the 100 hours of greatest demand or an alternative reduction approved by the Commission."

those programs were cost-effective at the time the Phase II Implementation Order was issued.²¹ The Commission had directed the SWE to conduct a Demand Response Study to evaluate the effectiveness of Act 129 DR programs in Phase I and provide an opinion about whether the initial peak load reduction programs can be justified in future phases of Act 129.²² However, the evaluation of the peak demand reduction programs would not be completed prior to the Commission's Phase II implementation Order. Accordingly, the Commission could not establish whether the Phase I peak demand reduction programs the EDCs implemented were cost-effective.

When the SWE's Act 129 Demand Response Study was completed, the SWE developed a number of findings and recommendations that were important for developing cost-effective demand response programs for future phases of Act 129 -- Phase III and beyond. The SWE found that the EDC demand response programs for the 2012 period were not cost effective.²³ The SWE identified a number of reasons the programs were not cost effective including: (1) Aggressive reduction targets contributed to poor benefit/cost ratios;²⁴ (2) Meeting Act 129's demand reduction target for the 100 hours of highest demand was too difficult and not the most effective measure of peak demand reduction benefits;²⁵ (3) the punitive nature of the Act 129 legislation limited the discretion EDCs had to "overpay" for DR resources to ensure the 4.5%

²¹ Phase II Implementation Order, at 33.

²² Pennsylvania Public Utility Commission, *Energy Efficiency and Conservation Program Secretarial Letter*, served March 4, 2011, at Docket No. M-2008-2069887.

²³ Act 129 Statewide Evaluator Demand Response Study Final Report (dated May 16, 2013 and addendum added November 1, 2013), at 54 ("SWE Act 129 Demand Response Report").

²⁴ SWE Act 129 Demand Response Report, at 54.

²⁵ *Id.* at 54.

peak demand reduction was met;²⁶ and (4) further research was needed to consider the possible benefits from wholesale price suppression and avoided transmission and distribution expenses.²⁷

As part of the recommendations in the Act 129 Demand Response Study, the SWE left the door open for more cost-effective demand response programs in future phases. In fact, the conclusion specifically called out the 100 hour target as a key factor in limiting the cost effectiveness of the 2012 demand response programs – “because it leads to DR resources being called during hours during which they are not likely to be cost effective.”²⁸ The SWE recommended that it would be more appropriate – and cost-effective -- to significantly reduce the number of hours demand resources are dispatched. We agree with the SWE’s conclusion that demand response programs will be significantly more cost effective if the 100 hour criteria is removed.

c. Proposed Peak Load Reduction Program Modifications

After reviewing DR protocols from other jurisdictions, the SWE believes that basing demand reduction targets on the highest 100 hours of peak demand is unique to Pennsylvania and this structure does not adequately capture the complexities of the DR market. Further, the SWE believes that the top 100 hours protocol results in DR resources being dispatched when it is not cost-effective to do so.²⁹

²⁶ *Id.* at 54.

²⁷ *Id.* at 54-55.

²⁸ *Id.* at 54.

²⁹ *Id.* at 2.

The Legislature has granted explicitly the Commission the flexibility to apply a peak load reduction eligibility criteria that is different from the current “Top 100 Hour” approach. According to 66 Pa. C.S. §2806.1(d)(2) “If the commission determines that the benefits of the [energy efficiency and conservation] plans exceed the costs, the commission shall set additional incremental requirements for reduction in peak demand for the 100 hours of greatest demand or an alternative reduction approved by the commission.”

The SWE recommended that the Commission consider peak demand reduction programs that require less than the 100 hour criteria:

Meeting Act 129’s demand reduction target for the 100 hours of highest demand requires EDCs to predict when the highest 100 hours will occur over the course of the summer season. These predictive difficulties are less common for DR programs in the other states and in the ISOs examined, where DR programs are used only when necessary based on reliability triggers or market pricing conditions. The SWE recommends the top 100 hour definition be discontinued.³⁰

The SWE concluded that the cost-effectiveness of peak demand programs would go up significantly if the 100 hour criteria was dramatically reduced. The SWE recommends reviewing programs of less than 32 hours.³¹

Demand Response Supporters request that the Commission exercise the flexibility provided by 66 Pa. C.S. §2806.1(d)(2) and use an alternative reduction level that preserves the intent and benefits of the prior criteria and relieves the EDCs of the risk and customers of the burdens associated with inaccurately forecasting the top 100 load hours.

Demand Response Supporters recommend that the Commission should instead develop a load reduction program based on an “X% of Forecast Peak” criteria. Consistent with the SWE

³⁰ *Id.* at Section H – Findings and Recommendations on page 54.

³¹ *Id.* at 54.

recommendation, the peak load reduction program load curtailment requirements should be capped at no more than 32 curtailment hours per season and no more than four hours per any one day. These parameters would allow the Commission to capture the vast majority of the market benefits using a completely objective approach.

Under this mechanism, each EDC would activate demand reduction programs during any hour in which the EDC's day-ahead peak load forecast equaled or exceeded X% of the PJM Annual Peak Load Forecast for that EDC. If the day-ahead forecast equaled or exceeded a given percentage of their territory-specific forecasted annual peak published by PJM, that hour would become an Act 129 program hour. Peak load reductions in such hours, as measured using the existing Technical Resource Manual ("TRM") criteria, would count toward the EDC's peak load reduction mandate.

The State-sponsored peak load reduction program most similar to what is proposed here is the Consolidated Edison ("ConEd") program in New York called the Commercial System Relief Program ("CSR"). CSR is open to participants in New York City who can curtail load or bring on certain eligible on-site generation resources to reduce their demand by a minimum of 50 kW individually, or to CSPs who aggregate greater than 100 kW of demand reduction. The New York program requires a minimum of 21 hours' notice before a planned event (a day-ahead forecasted load level that is at least 96 percent of the Company's forecasted summer system peak). Participants in this program receive monthly reservation "availability" or "standby" payments for their participation in the program. Program participants are notified at least 21 hours before the peak load shaving event is scheduled to begin, and are expected to reduce load based upon their pledged kW.

Demand Response Supporters recommend that the Commission mandate the development of peak load reduction programs similar to ConEd's CSR program.

d. Additional Considerations in Light of Various Legal Challenges and Proposals Causing Uncertainty in PJM Market

Several different dynamics are currently playing out in the federal courts and at FERC, all of which have a potentially chilling impact on the ability to provide demand response services within the PJM market framework. They include: 1) the uncertainty around the viability of FERC Order 745 and the ability to offer and be compensated for energy load reductions; 2) the uncertainty around the Federal Energy Regulatory Commission's ("FERC") response to FirstEnergy's complaint seeking to remove all demand response terms and conditions from PJM's tariffs and manuals; 3) the uncertainty around PJM's "whitepaper" approach to demand response which proposes to allow only load serving entities to offer demand response into the market; and 4) the uncertainty around PJM's recently proposed comprehensive revisions to the capacity market and its impact on anyone's ability to provide demand response services. In the context of these developments, the Commission should essentially ignore the PJM market and not try to develop peak load reduction programs that in any way relate to the current state of demand response in PJM. Similarly, the Commission should not constrain customers who provide peak load reduction services to the Commonwealth from participating in any PJM load reduction programs. The Commission should instead, propose rules that would prohibit a customer from receiving compensation twice for the exact same service.

As part of the Phase III Implementation Order the Commission should adopt cost-effective demand response programs that provide value to Pennsylvania, regardless of the incremental peak demand reduction value provided to Pennsylvania by the PJM demand

response programs. The SWE's Act 129 Demand Response Report recommends that the Commission consider adding peak demand reduction programs that are incremental to the existing PJM programs - if it is cost-effective.³² Demand Response Supporters endorse this conclusion and believe that there will be many residential, commercial and industrial customers interested in an alternative program. The uncertainty of the PJM demand response programs supports the intent of the Act 129 legislation, to provide both energy efficiency and annual peak reduction benefits to the Commonwealth, from EDCs operating in Pennsylvania, and funded by Pennsylvania ratepayers with benefits accruing to all Pennsylvania ratepayers.

The Act 129 Demand Response Report stated that a large subset of customers who participated in the Phase I demand response program also participated in PJM's programs.³³ However, as PJM continues to modify the regional demand response programs there will be more and more customers that find it difficult – or impossible – to participate in the PJM programs. Those seeking alternative demand response options will be great candidates for the Commonwealth's Act 129 programs.

Compensation for demand response services is typically provided in the form of a capacity (or standby) payment and/or an energy payment. In PJM, the capacity payment is paid to a customer who is “standing by”, ready to curtail load in the case of a system emergency. These emergencies can happen on peak days or non-peak days. The Act 129 standby payment is for customers who are prepared to shed load on the peak days, when there may or may not be system emergencies. The two programs are unrelated and therefore, customers should be allowed to participate in both. There is no double payment issue for capacity payments if a customer

³² *Id.* at 64.

³³ *Id.* at 29, 63.

participates in the PA Act 129 and PJM emergency programs. PJM is an emergency capacity program. ACT 129 is a peak load reduction mandatory program. Call criteria differ for each, and hours may or may not overlap.

The only potential problem with this approach arises when a PJM event is called simultaneous with an Act 129 curtailment and the potential for a double payment for energy is created. This is an easily resolvable conflict. In this situation, the market (PJM) should make the energy payment and the EDCs would not make an energy payment for any overlapping hours.

In addition to allowing demand resources to participate in complementary programs, Demand Response Supporters suggest that the Commission should also take steps to ensure that the strong presence (and benefits) of state-wide DR participation is preserved if options on the regional level are foreclosed because of federal court action or PJM market rule changes. The PJM demand response programs have been very well received in Pennsylvania and have provided tremendous benefits to all Pennsylvanian electricity customers. PJM has identified just over 5,300 sites in Pennsylvania that are participating in PJM's load management programs for the current delivery year (2014-2015).³⁴ Those 5,300 sites are offering just over 2,000 megawatts of demand response resources into the PJM load management programs.³⁵ In fact, there are more sites and megawatts from Pennsylvania in the PJM load management programs than from any other state.

³⁴ PJM 2014 Demand Response Operations Markets Activity Report: June 2014 (dated June 18, 2014, at Figure 1 (Delivery Year 14/15 Active Participants in PJM Economic and Load Management DR Programs).

³⁵ *Id.*

The Demand Response Supporters submit that DR should have an important role in the Phase III Plans. The strong demand response participation from Pennsylvania resources in the PJM market has provided Pennsylvania with significant benefits in the form of added reliability, lower prices for all customers and economic development opportunities. Some key details are set forth in the Background Section of these Comments. Demand Response Supporters urge the Commission to consider that thoughtful and careful design of Act 129 load reduction programs for Pennsylvania, with CSPs and other market participants can provide the framework for rapid deployment of alternative demand response markets should pending issues disrupt or disband the PJM demand response markets.

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

Many of the Demand Response Supporters work extensively with state and local governments and educational institutions. They are often good candidates for demand response and have the long term perspective to value energy efficiency investments. Typically, they do not require additional assistance to participate in these programs and so, in general, a carve-out for them is not required. However, because Pennsylvania energy customers are also taxpayers, directing funds towards this segment may make policy sense and therefore the Demand Response Supporters have no objection to such a carve-out.

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

The Demand Response Supporters support the inclusion of a Carve-Out for the Low-Income Sector. It is important to make sure that all Pennsylvania ratepayers, including low-income customers, benefit from the program. As stated above, all customers benefit from lower

energy and capacity prices when DR reduces peak load. However, low-income customers can benefit even more if they participate in EE and DR programs and there is no technical reason why they cannot. However, traditionally, programs aimed at these customers have not been as cost-effective as other programs, due to their generally low consumption and the difficulty sometimes of reaching them. Therefore it is important to have a carve-out to ensure the widest possible participation among Pennsylvanians.

5. Inclusion of Whole-House Measures

The Demand Response Supporters support the inclusion of whole-house measures. Demand Response Supporters only urge that when calculating cost-effectiveness, the Commission consider the useful life of the measures deployed. For example, a thermostat deployed in the context of a whole-house measure will likely have a useful life longer than any reasonable-length program cycle. The cost-effectiveness calculation should not be constrained by the program cycle because the devices deployed will continue to provide benefits to the participant and to the market for a period of time that is completely independent of the program cycle.

6. EDC's Phase III Budgets

a. Accumulated Savings in Excess of Reduction Requirements

Question (a) Should the Commission allow for the continued spending of Phase II budgets after targets are met?

The Commission should allow utilities to continue spending Phase II budgets after targets are met. We support a similar policy for Phase III as well. These programs are cost effective and simply reaching a goal should not be reason enough for an EDC to stop capturing incremental benefits for consumers if they are still available.

Question (b) Should the Commission allow the EDCs to apply any excess consumption reductions from Phase II towards their Phase III consumption reduction requirements?

No, savings achieved above target levels in Phase II should not be rolled from Phase II to Phase III. The utilities should be encouraged to achieve high levels of savings each year, rather than relying on earlier savings to meet later targets. However, the Commission should consider adopting some form of performance incentives to encourage utilities to achieve savings above the levels required.

b. Finalizing Phase II Spending

Question (a) Should the Commission prescribe a deadline for the submission of rebate applications following the in-service date of the measure?

There should be standard rebate submission deadlines for customers. The EDCs are in the best position to evaluate a reasonable amount of time. Demand Response Supporters suggest that

180 days is the appropriate window. The standard deadline should be in place throughout the implementation of the program.

Question (b) Should the Commission prescribe a deadline for the submission of rebate applications for measures installed at the end of a Phase?

There should be standard rebate submission deadlines for customers. The EDCs are in the best position to evaluate a reasonable amount of time. Demand Response Supporters suggest that 180 days is the appropriate window. The standard deadline should be in place throughout the implementation of the program.

Question (c) What is the appropriate length of time for the EDCs to "True-up" their costs/budgets for Phase II?

Any budgetary residuals from Phase II should be rolled over into a single unified surcharge for Phase III.

7. Updating of the Technical Reference Manual

As the Commission has expended considerable effort in the development of its TRM, the Demand Response Supporters would suggest that the manual has reached a level of stability and an annual update process is perhaps no longer required. It is certainly true that evolving technology suggests that periodic reviews and updates are necessary and that a biannual update process would be more appropriate. We further suggest that an update of the TRM be timed to support the beginning of the phase III implementation.

Under the assumption of a five year duration for phase III appropriate new releases of the TRM would be before the start of phase III and before the start of year 3 of phase III.

8. Updating the Total Resource Cost Test

Demand Response Supporters believe that the TRC Test methodology should remain consistent throughout Phase III so that DR program design need not be changed to align with any updates to the TRC Test Methodology. To the extent that time is available, we suggest that the Methodology be reviewed once prior to the start of Phase III. We then suggest that a review start in the final year of Phase III in anticipation of a Phase IV to consider any technology, market or regulatory changes that would impact the Methodology. If for some reason, the Commission deems this unacceptable, Demand Response Supporters recommend that the TRC Test methodology be reviewed bi-annually, consistent with the framework outlined above in Section 7.

B. Other Comments

Act 129 is long on “sticks” for EDCs who do not comply, but short on “carrots.” Demand Response Supporters encourages the Commission to use its rate setting authority to consider financial incentives for EDCs who not only do a good job of implementing Act 129 but for implementing all demand-side activities, there are a number of ways to do this and a number of states have already taken such action.

IV. CONCLUSION

The Demand Response Supporters appreciate the opportunity to offer comments on issues relevant to the Phase III Plans, and look forward to working cooperatively with all interested stakeholders in this proceeding.

The Demand Response Supporters submit that DR should have an important role in the Phase III Plans. Including DR programs in Phase III will be beneficial to Pennsylvania electric customers and the Commonwealth. The Demand Response Supporters urge the Commission to adopt the comments, suggestions and recommendations described in these Comments to ensure that all Pennsylvanians and the Commonwealth receive the benefits provided by demand response resources as intended by the Legislature when Act 129 was enacted.

Respectfully submitted,



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