

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition Of PECO Energy Company :
For Approval Of Its Act 129 Energy :
Efficiency And Conservation Plan And : **Docket No. M-2009-2093215**
Expedited Approval Of Its Compact :
Fluorescent Lamp Program :

**MAIN BRIEF
ON BEHALF OF TURN & AA**

**(TENANT UNION REPRESENTATIVE NETWORK AND
ACTION ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA)**

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August 28, 2009

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CASES

Energy Efficiency and Conservation Program, Implementation Order, Docket No. M-2008-2069887, (Order entered January 16, 2009)4

Petition Of PECO Energy Company For Approval Of Its Act 129 Energy Efficiency And Conservation Plan And Expedited Approval Of Its Compact Fluorescent Lamp Program, Docket No. M-2009-2093215, (Filed on July 1, 2009)5

STATUTES

66 Pa.C.S. § 2806.1(a)(5)4

66 Pa.C.S. § 2806.1(b)(1)(I)(G) 1, 9

The General Assembly of Pennsylvania, HB 2200, Session of 2008 ("Act 129").....passim

I. INTRODUCTION

This Main Brief on behalf of Tenant Union Representation Network and Action Alliance of Senior Citizens of Greater Philadelphia (“TURN and AA”) focuses on the impact of PECO’s proposed Act 129 Plan (the “Plan”) on low income households. TURN and AA generally support PECO’s proposed Act 129 Plan and would support the Commission’s approval of the Plan if conditioned upon certain implementation and reporting requirements.

Act 129 includes a specific objective to ensure “affordable and available electric service to all residents” and requires the direction of proportionate energy savings to low income households, 66 Pa.C.S. § 2806.1(b)(1)(I)(G). In pertinent part, Act 129 provides as follows:

The General Assembly recognizes the following public policy findings and declares that the following objectives of the Commonwealth are served by this Act:

(1) the health, safety and prosperity of all citizens of this Commonwealth are inherently dependent upon the availability of adequate, reliable, *affordable*, efficient and environmentally sustainable electric service at the least cost, taking into account any benefits of price stability, over time and the impact on the environment.

(2) It is in the public interest to adopt energy efficiency and conservation measures and to implement energy procurement requirements designed to ensure that electricity obtained reduces the possibility of electric price instability, promotes economic growth and *ensures affordable and available electric service to all residents*.

(3) it is in the public interest to expand the use of alternative energy and to explore the feasibility of new sources of alternative energy to provide electric generation in this Commonwealth.

The General Assembly of Pennsylvania, HB 2200, Session of 2008 (*emphasis added*). Against this backdrop, PECO’s Plan should be revised to provide more targeted energy savings to those households at greatest risk of disproportionate and unaffordable rate increases, such as Rate RH (residential heating) customers who will soon face the phase-out of the RH rate to much higher rates. Further, more specificity is required in the implementation and reporting requirements to ensure that the low income households will indeed experience measurable energy savings.

II. PROCEDURAL HISTORY

TURN and AA adopt and incorporate by reference section “II. Procedural History” of the Main Brief on behalf of ACORN.

Further, Community Legal Service, Inc., representing the interests of low income customers, participated in the stakeholders meetings hosted by PECO to provide input in the development of the Plan.

III. DESCRIPTION OF PECO’S PLAN

TURN and AA adopt and incorporate by reference section “III. Description of PECO’s Plan” of the Main Brief on behalf of ACORN, describing the Low-Income Energy Efficiency Program.

IV. SUMMARY OF ARGUMENT

TURN and AA generally support PECO's proposed Act 129 Plan and would support the Commission's approval of the Plan if conditioned upon certain implementation and reporting requirements. PECO's Plan should be revised to provide more targeted energy savings to those households at greatest risk of disproportionate and unaffordable rate increases, such as Rate RH (residential heating) customers who will soon face the phase-out of the RH declining block rates. Also, more specificity is required in the implementation and reporting requirements to ensure that the low income households will indeed experience measurable energy savings.

PECO should collect and require its CSPs and other contractors to collect the information necessary in order to identify all of its customers (within the commercial customer class) who operate public and subsidized housing so that appropriate targeted follow-up and outreach can be conducted to focus energy efficiency and conservation measures on this group.

When determining whether PECO hits its low income energy savings targets, the Commission should only measure and use energy savings from households with income at or below 150% FPIG.

PECO should be prohibited from transferring funds out of the Low Income Home Energy Efficiency program without the consent of the Act 129 Stakeholders and Universal Service Advisory Committee or the approval of the Commission.

V. ARGUMENT

A. Act 129 Conservation and Demand Reduction Requirements

1. *Overall Conservation Requirements*

N/A.

a. **2011 Requirements**

N/A.

b. **2013 Requirements**

N/A.

2. *Overall Demand Reduction Requirements*

N/A.

3. *Requirements for a Variety of Programs Equitably Distributed*

Act 129 requires the Commission to establish standards to ensure energy efficiency and conservation measures are provided equitably to all customer classes. 66 Pa.C.S. § 2806.1(a)(5). The Commission's Implementation Order provides an interpretation that separates measures for low income households from equitable distribution rules, as follows:

There are clear requirements in the Act regarding proportionate measures for *low-income customers* (within a residential customer class) as well as for governments, schools, etc. (within a commercial customer class). *Beyond those requirements*, we believe that EDCs should develop plans to achieve the most energy savings per expenditure. The driving principle should be the most cost effective use of resources so that benefits can accrue to all customers, even if only by virtue of more reasonable energy market prices. (*Emphasis added.*)

Energy Efficiency and Conservation Program, Implementation Order, Docket No. M-2008-2069887, (Order entered January 16, 2009), at 22 ("Implementation Order"). The statute is appropriately interpreted by the Commission to assure that low income customers must receive

special targeted savings. Only after these special provisions are addressed should EDCs consider the equitable apportionment of programs among the classes of customers.

PECO's Plan substantially meets Act 129's special provisions for low income savings by targeting sufficient energy savings to low income households. PECO projects 79,660 MWh of energy efficiency savings will accrue to low income households by the end of program year 2012. *Petition Of PECO Energy Company For Approval Of Its Act 129 Energy Efficiency And Conservation Plan And Expedited Approval Of Its Compact Fluorescent Lamp Program*, Docket No. M-2009-2093215, (Filed on July 1, 2009), at Vol. III, Appendix D, Table 2. This 79,660 MWh comprises 13.6% of the total 582,493 MWh saved from all residential programs (including low income) and 6% of total program savings of 1,295,565 MWh. *Id.* These savings substantially meet Act 129's special requirements for low income savings.

4. *10% Government/Non-Profit Requirement*

PECO, in response to TURN and AA Interrogatories, was unable to provide data regarding the number and electric usage of commercial customers who operated public housing and subsidized housing buildings with electric heating systems. TURN and AA Exhibit PL-1. Almost by definition, public and subsidized housing is designated for low income households. This housing category could benefit from the Act 129 measures for nonprofit entities, if PECO properly targets these buildings for treatment. Otherwise, rate increases facing this customer group will be passed on to the low income tenants and residents of these buildings, in the form of higher rents or submetered bills, who can least afford increased expenses. TURN and AA Comments #1 at 8-9. PECO should collect and require its CSPs and other contractors to collect the information necessary in order to identify all of its customers who operate public and

subsidized housing so that appropriate targeted follow-up and outreach can be conducted to focus energy efficiency and conservation measures on this group.

5. *Low Income Program Requirements*

TURN and AA adopt and incorporate by reference subsection “V.A.5. Low Income Program Requirements” of the Main Brief on behalf of ACORN. TURN and AA further submit that PECO’s Plan approval should be conditioned upon certain implementation and reporting requirements.

PECO’s proposed Low Income Energy Efficiency Program includes eligible households up to 200% FPIG, while Act 129 defines a low household as one with income at or below 150% FPIG. When conducting its measurement and evaluation of program performance, the Commission should review whether PECO has met the good faith commitment to first focus on serving households with income at or below 150% FPIG.

The Commission should ensure that funds initially proposed for Low Income Energy Efficiency Program are protected from any of the possible inter-fund or intra-fund transfers that are allowed under PECO’s Plan, in order for the Plan to remain compliant with Act 129’s specific low income provisions.

With regard to the requirement to coordinate Act 129’s low income program with other federal, state and Commission programs, PECO should be encouraged to take a lead in statewide efforts and share its knowledge and experience with agencies and other utilities. PECO is a current participant in the Commission’s newly created Universal Service Coordination Working Group, Docket No. M-2009-2107153. The Working Group’s tasks include exploring the coordination of federal, state and utility weatherization programs, similar to the coordination

provision in Act 129. PECO can further its Act 129 coordination requirements while collaborating with the Working Group members to develop more efficient administration of programs for low income utility customers.

6. *Issues Relating to Individual Conservation and Demand Reduction Programs*

a. **Residential**

N/A.

b. **Commercial**

N/A.

c. **Industrial**

N/A.

7. *Proposals for Improvement of EDC Plan*

a. **Residential**

PECO customers taking electric service under Rate RH (residential heating) should receive special attention under PECO's Plan as they face the expiration of the RH declining block rates, over and above the expiration of electric generation rate caps. TURN and AA support the proposals of State Representative Mark Cohen in his Main Brief at subsection V.A.7.a. to develop a data collection protocol in order to provide targeted outreach and Act 129 measures to households with inefficient electric heating systems, such as baseboard heating.

b. **Commercial**

N/A.

c. **Industrial**

N/A.

B. Cost Issues

1. *Plan Cost Issues*

N/A.

2. *Cost Effectiveness/Cost-Benefit Issues*

N/A.

3. *Cost Allocation Issues*

N/A.

4. *Cost Recovery Issues*

N/A.

C. CSP Issues

TURN and AA support PECO's decision to include in its RFP process for Conservation Service Providers ("CSPs") a criteria favoring providers who recruit and hire unemployed and low income workers. PECO's Plan states:

In addition, PECO will encourage in its RFP process that bidding CSPs investigate opportunities to hire low income, unemployed workers through various programs throughout the State, such as the Pennsylvania Employment,

Advancement and Retention Network [EARN] and Philadelphia Workforce Development Corporation [PWDC]. PECO will include an additional scoring category in its RFP evaluation process for those CSPs that have a plan to utilize the services of welfare-to-work employment agencies, or hire unemployed workers.

PECO Act 129 Plan at 38; TURN and AA Comments #1 at 6. This low-cost provision is consistent with Act 129's requirement that the Plan's low income program be coordinated with federal, state and Commission programs. 66 Pa.C.S. § 2806.1(b)(1)(I)(G). The recent influx of federal stimulus funding into the Commonwealth provides, at least in part, for weatherization jobs training programs, from which PECO should encourage its CSPs to hire unemployed and low income workers. TURN and AA Comments #1 at 6-7. However, PECO's Plan lacks specificity to ensure that this provision will actually result in the hiring of any unemployed and low income workers.

PECO should disseminate relevant information about EARN Center programs in all the counties of the PECO service area and provide the appropriate EARN Center contact information to bidders and contractors to learn about and take advantage of incentives such as wage subsidies and tax credits related to the hiring of TANF recipients. PECO should encourage selected contractors to assist county agencies in the identification of qualified individuals who meet the hiring criteria for employment opportunities.

Further, as discussed earlier, PECO should require its relevant CSPs to collect the information necessary in order to identify all of its customers who operate public and subsidized housing so that appropriate targeted follow up and outreach can be conducted to focus energy efficiency and conservation measures on this group.

D. Implementation and Evaluation Issues

1. *Implementation Issues*

N/A.

2. *QA Issues*

N/A.

3. *Monitoring and Reporting Issues*

PECO should collect the information necessary in order to identify all of its customers who operate public and subsidized housing so that appropriate targeted follow up and outreach can be conducted to focus energy efficiency and conservation measures on this group. Newly collected data should be provided to the Act 129 Stakeholders Group members.

PECO should request that selected contractors provide in their subsequent reports completed actions of the contractor to recruit for vacancies or new positions from the EARN Centers, including the number of job openings listed, the number of participants interviewed, the number of workers actually hired and the duration of each new hire. PECO should compile and track the number of new hires fulfilling this provision who were hired by Act 129 contractors, and should make these numbers known to the EARN and PWDC Center administrators, and the Universal Service Advisory Committee.

As suggested by State Representative Mark Cohen, the Commission should require PECO to identify and collect data on which Rate RH customers are heating via baseboard units and to target these customers for more efficient heating measures.

4. *Evaluation Issues*

When conducting its measurement and evaluation of the low income program performance, the Commission should review whether PECO has met its good faith commitment to first focus on serving households with income at or below 150% FPIG, and not the higher program income eligibility of 200% FPIG.

E. Other Issues

TURN and AA reserve the right to respond in its Reply Brief to other issues raised by other parties.

VI. CONCLUSION

TURN and AA respectfully submit that the Commission should approve PECO's Act 129 Plan, conditioned upon the implementation and reporting requirements proposed above and in the proposed ordering paragraphs below.

VII. PROPOSED ORDERING PARAGRAPHS

IT IS HEREBY ORDERED THAT:

The Act 129 Energy Efficiency and Conservation Plan of PECO Energy, Inc. filed at Docket No. M-2009-2093215, is approved, with the following conditions:

1. Only energy savings from households with income at or below 150% FPIG will be measured and used to determine whether PECO hits its low income energy savings targets.
2. PECO shall actively coordinate its Act 129 Low Income Energy Efficiency program with other federal, state, and Commission programs, making a good faith effort to incorporate

recommendations from its Act 129 Stakeholders and from its Universal Service Advisory Committee.

3. Funding for PECO's Act 129 Low Income Energy Efficiency program will be above and beyond existing funding for PECO's LIURP program.
4. PECO shall collect the information necessary in order to identify all of its customers who operate public and subsidized housing buildings so that appropriate targeted follow up and outreach can be conducted to focus energy efficiency and conservation measures on this group.
5. PECO shall identify and collect data on which of its Rate RH customers are heating via baseboard units and to target these customers for more efficient heating measures.
6. PECO shall not transfer funds out of the Low Income Home Energy Efficiency program without the consent of the Act 129 Stakeholders and Universal Service Advisory Committee or the approval of the Commission.

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