

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company :
for Approval of its Act 129 Energy Efficiency :
and Conservation Plan and Expedited : Docket No. M-2009-2093215
Approval of its Compact Fluorescent :
Lamp Program :

**PREHEARING MEMORANDUM
OF STATE REPRESENTATIVE MARK B. COHEN**

**TO ADMINISTRATIVE LAW JUDGES ELIZABETH H. BARNES AND DENNIS
J. BUCKLEY:**

In response to the Prehearing Conference Order dated November 4, 2010, the State Representative Mark B. Cohen ("Cohen") hereby submits this Prehearing Memorandum.

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I. BACKGROUND

By Secretarial Letter dated June 24, 2010, the Pennsylvania Public utility Commission (“Commission”) provided guidance on the annual reporting requirements for Energy Efficiency and Conservation (“EE&C”) plans established under Act 129. Annual Reports were to be submitted by September 15, 2010 with objections or recommendations from interested parties due within thirty (30) days.

PECO Energy Company (“PECO” or “Company”) filed its report in a timely manner. The Office of Small Business Advocate (“OSBA”) objected to the company’s filing and specifically requested Hearings on this matter.

The proceeding was referred to the Office of Administrative Law Judge on November 4, 2010. The Commission directive includes the issuance of a Recommended Decision by December 20, 2010.

The Administrative Law Judges (“ALJ”) assigned to this proceeding are Elizabeth H. Barnes and Dennis J. Buckley. A Prehearing Conference has been scheduled for November 10, 2010 at 10:00 a.m. in Hearing Room 1 of the Commonwealth Keystone Building in Harrisburg.

II. ISSUES

Based upon a review of the PECO filing, Cohen has identified four definitive areas of inquiry. In addition, as the proceeding progresses and testimony is reviewed, Cohen reserves the right to address issues that may develop. The background to most of the issues raised by Cohen is from the proposed changes to the Whole House Performance

Program. (WHP) PECO proposes to modify the WHP it is scope and budget. PECO is proposing to shift \$1.8 million dollars from program's \$3.3 million dollar budget to the CFL Bulb program. In addition, pending the development of appropriate protocols, PECO is proposing to modify the WHP program to include an initial pilot of 50 electric-heated homes with a focus on PECO rate Residential Heat (RH) customers. Finally for reasons cited in their filing, PECO does not propose to begin the remainder of the originally proposed WHP until the third quarter of 2011.

1. ISSUE: TRANSFER OF \$1.8 MILLION DOLLARS FROM THE RESIDENTIAL WHOLE HOME PERFORMANCE PROGRAM TO THE CFL PROGRAM. The residential WHP program is designed to specifically and exclusive to help people conserve electricity in their dwellings. While PECO funds may be spent on contractors, it is self evident the energy will be saved in homes. On the other hand, the CFL program can be used by both businesses and residential PECO customers, along with anyone else who could be buying CFL bulbs and selling them elsewhere. While PECO may classify this program a residential program, the impact of business, non-profit and government purchases along with purchases for resale should not be underestimated or discounted. By transferring money from the Residential WHP program which is only for residential customers to a program that can be used by commercial clients or others, PECO's proposal has the unintended effect of taking money from residential programs and giving part of it to commercial or other users. Cohen opposes any transfers from Act 129 residential programs when the transfer would

not be used to assist people who use electricity in their dwellings. Therefore Cohen first proposes that \$900,000 from WHP should instead be transferred to the Low Income Energy Efficiency Program. Such monies shall be used for additional insulating or other measures to conserve heat that would be produced in a dwelling by electric baseboard or electric furnaces for lower income RH customers who can't receive these measures from under other utility or government sponsored programs. Cohen also proposes that the remaining \$900,000 should be used for similar measures for similarly heated multifamily dwellings. In the alternative, if demand for either of these programs does not require these expenses, Cohen would suggest that \$1.8 million dollars or its remaining portion be used to expand the PECO proposed pilot program under the WHP program from 50 homes to 250 RH heated homes. The pilot would contain a variety of building materials, ages, locations, sizes, heating sources and existing insulation, owned by low- or lower-to-moderate-income levels, families with disabilities and disabled veterans. Also, a variety of contractors and energy efficient solutions could be pursued. Electric baseboard heat is generally acknowledged to be one of highest cost forms of heat because it uses so much electricity to heat a given area. It is a logical conclusion that this pilot program would have the potential to determine significant ways to reduce electricity use for some of the largest residential electricity users in the PECO's service territory. If PECO needs time to calculate and have the actual electricity savings for the Technical Reference Manual for these programs suggested by Cohen, then PECO

could expedite this request. These alternatives, along with the possibility of expediting the implementation of actual WHP program as was originally proposed by PECO should be examined.

2. ISSUE: IMPORTANCE OF TARGETING RH CUSTOMERS FOR ACT 129

PROGRAMS: In this year's plan, PECO is proposing to modify the WHP program to include an initial pilot of 50 electric-heated homes with a focus on PECO rate Residential Heat (RH) customers. PECO did not include any specific programs for or marketing to RH customers in its original Act 129 plan. Cohen was the first party in the earlier PECO Act 129 proceeding to suggest any marketing efforts or pilot programs targeting RH customers in his 2009 Main Brief: beginning on January 1, 2011, RH customers who use more than 600 kw per month will have a three year phase out of their 50% winter discount on additional generation charges. When the loss of this discount is added to the other rates increases related to distribution rate increases and ending of the generation rate caps, Cohen believes that some PECO's RH customers may see their electric bills in the winter increase up to 50% (between the bills they paid last winter to the bills they pay in February 2013). For these RH customers in the winter months, these percentage increases in electric bills may be the largest of any residential electric customers of a for-profit Electric Distribution Company in the Commonwealth of Pennsylvania.

While Cohen believes that PECO opposed any and all of these marketing and pilot

programs focused on RH customers, he welcomes PECO's recognition in the current Act 129 filing that RH customers should have specific programs that should be marketed to them. Cohen believes that PECO should include in its revision of its Act 129 plan the identification and targeting of RH customers for all existing residential Act 129 programs with marketing materials that among other things would provide realistic estimates of future winter electric bills using past customer usage in winter months with the new and future rates. RH customers are providing some of the millions of dollars of ratepayer's dollars that are being spent to market and implement Act 129 programs and with targeted efforts and programs they could play an important role in conserving electricity.

- 3. ISSUE: CFL PROGRAM FOR LED BULBS** Despite the concerns described above about the CFL program, Cohen believes where there is opportunity to improve the program, it should be discussed. Cohen believes that in the beginning of the CFL program, Home Depot carried a very limited selection of LED bulbs and the PECO program provided for a rebate that reduced the price of these LED bulbs by approximately \$15. Today, Home Depot now carries more LED bulbs with similar or close to similar performance without a PECO sponsored subsidy but are close to \$10 or \$15 dollars less than pre-subsidized price of the PECO subsidized bulbs. Cohen believes that instead of reducing the price of a \$45 dollar LED bulb to \$30, it is better to reduce the price of a \$25 or \$20 bulb to \$10 or \$5 dollars. PECO should reexamine the LED bulbs available at its partners and subsidize if possible the more affordable but still reliable LED bulbs.

4. ISSUE: STAKEHOLDER PARTICIPATION

Cohen believes that all parties to the PECO Act 129 proceeding should be invited to attend the regularly scheduled stakeholder meetings convened by PECO and receive the materials distributed at them, especially those related to residential programs. Despite requests to PECO for participation and material by email and by phone, not every party or their representative has been given the opportunity to participate. Cohen believes that Act 129 implementation and the public interest would benefit from increased opportunities for participation and dissemination of information.

III. WITNESSES

If possible, Cohen may seek to call witnesses from PECO who are implementing Act 129 in support of his arguments or to seek expedited discovery.

IV. DISCOVERY

If possible, Cohen may seek to call witnesses from PECO who are implementing Act 129 in support of its arguments or seek expedited discovery for a limited set of facts related to the issues addressed above.

V. SCHEDULE

Cohen acknowledges the schedule included by the Administrative Law Judges in the Prehearing Order.

VI. POSSIBILITY OF SETTLEMENT

The PECO Act 129 filing contains numerous positive programs and by fully presenting these serious concerns on a very limited number of issues that impact a small

portion of the dollars to be expended, Cohen believes there is an opportunity to amicably resolve the issues of this proceeding. Cohen is willing to participate in discussions with the other parties to amicably resolve the issues of this proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel Ocko", with a long horizontal line extending to the right from the end of the signature.

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Dated: November 9, 2010