PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Act 129 Energy Efficiency Program – Phase 2	**Public Meeting: May 10, 2012** **2289411-LAW** **Docket Nos. M-2012-2289411; M-2012-2069887**

DISSENTING STATEMENT OF COMMISSIONER GARDNER

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the tentative Order which proposes revised energy efficiency and conservation (EE&C) reductions in electricity consumption that the Commonwealth's electric distribution companies (EDC) must attain during the second phase of the EE&C Program of Act 129 beginning on June 1, 2013. 66 Pa. C.S. §§ 2806.1 and 2806.2.

In phase 1, Act 129 directed the Commission to design an EE&C Program with procedures that would enable the EDCs to exceed the required 1% and 3% reductions in consumption by May 31, 2011 and May 31, 2013, and the required 4.5% reduction in peak demand usage by May 31, 2013. 66 Pa. C.S. § 2806.1(a)(4),(6). Likewise, 66 Pa. C.S. § 2806.1(b)(A-B) and (D) directed the EDCs to meet or exceed those consumption and demand reductions.

It appears that not only will our Act 129 EDCs meet their Phase 1 consumption reduction targets, some EDCs may exceed those targets. That is commendable. Every extra kWh of reduction is money which will remain in Pennsylvania's electric ratepayers' pockets. However, the EDCs that are likely to exceed their targets request that the Commission approve a process whereby the excess reductions achieved in Phase 1 of the Program can be banked and used to satisfy the Phase 2 targets that have been tentatively established by this Order. I do not believe that approval of this request is in the public interest. Allowing accrued excess reductions from Phase 1 to be used in Phase 2 compounds an already complicated process of performing cost-benefit analyses of the individual plans and of evaluating compliance.

The Phase 2 energy efficiency reductions were determined based on a very detailed survey and analysis of remaining efficiency opportunities in each service territory, individual company spending caps equal to 2% of historical revenues, and rather conservative assumptions regarding certain administrative and incentive costs. For these reasons, it does not seem appropriate to allow the transfer of excess efficiency credits from Phase 1, unless the cumulative energy efficiency targets for Phase 2 are raised to the extent of the excess credits. To do otherwise, may encourage inefficient use of ratepayer funds, including an incentive for elevated incentive costs or other administrative spending.

For these reasons, I respectfully dissent from the majority on the tentative determination to allow the EDCs to use accrued excess consumption reductions form Phase 1 in the next phase of EE&C plans.

May 10, 2012

Wayne E. Gardner, Commissioner