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June 25, 2012

Via E-Filing

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

**Re: Act 129 Energy Efficiency and Conservation Program Phase Two
Docket No. M-2012-2289411**

Dear Secretary Chiavetta:

Please accept the Comments of Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") in Response to the Tentative Implementation Order entered on May 11, 2012 at Docket No. M-2012-2289411.

Thank you for your assistance, and please feel free to contact me directly should you have any questions.

Very truly yours,

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June 25, 2012

Cc: Megan Good
Chris Brown

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Act 129 Energy Efficiency and Conservation Program Phase Two :
: **Docket No. M-2012-2289411**
:

**COMMENTS
OF
THE COALITION FOR AFFORDABLE UTILITY SERVICES AND
ENERGY EFFICIENCY IN PENNSYLVANIA**

Submitted to the Tentative Implementation Order Entered May 11, 2012

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I. INTRODUCTION¹

These comments are submitted on behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) in response to the Pennsylvania Public Utility Commission’s (“Commission” or “PUC”) Tentative Implementation Order (“Tentative Order”), entered on May 11, 2012 at Docket No. M-2012-2289411, regarding Act 129 Energy Efficiency and Conservation Program Phase Two (“Phase Two”).

CAUSE-PA is a statewide unincorporated association of low-income individuals that advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain affordable water, electric, heating and telecommunication services. CAUSE-PA membership is open to individuals residing in the Commonwealth of Pennsylvania who are committed to the goal of helping low-income families access and maintain affordable utility services and achieve economic independence and family well-being.

CAUSE-PA supports the creation and development of effective energy conservation and energy efficiency programs targeted to assist low-income Pennsylvanians. These programs are an essential component for obtaining and maintaining long term electricity affordability as well as the continued fostering of a household’s health and welfare.

Because the successful implementation of Phase Two of Act 129 is a matter of importance to low-income households, CAUSE-PA, through its attorneys at the Pennsylvania Utility Law Project,² has commented upon and actively participated as a stakeholder in meetings convened by the Commission and individual Electric Distribution Companies (“EDC”s) regarding Act 129. CAUSE-PA thanks the Commission for this opportunity to comment upon

¹ We gratefully acknowledge the assistance of Bryce L. Robertson a Villanova Law student who assisted in the drafting of these Comments on behalf of CAUSE-PA.

² The Pennsylvania Utility Law Project (“PULP”), is a specialized project of the non-profit Pennsylvania Legal Aid Network. PULP provides statewide representation, advice, and support in energy and utility matters on behalf of low-income, residential utility customers and low-income advocacy organizations such as CAUSE-PA.

matters addressed within the Tentative Implementation Order, which directly affect low-income households

II. BACKGROUND

On October 15, 2008, House Bill 2200 was signed into law as Act 129 with an effective date of November 14, 2008. Among other things, Act 129 required Energy Efficiency & Conservation (EE&C) programs for the Commonwealth's largest electric distribution companies and required that the Commission evaluate the costs and benefits of the EE&C programs by November 31, 2013. On March 1, 2012, the Commission, in order to enable a smooth and coordinated transition from the Programs' initial phase to a possible second phase, and to minimize any harmful or disruptive breaks between programs, issued a Secretarial Letter which began the advanced planning process for a potential phase two.³ Since that time, the Commission has held Stakeholder meetings on March 16 and June 5, 2012, received initial comments from interested parties, released the Statewide Evaluator's Pennsylvania electricity baseline study and statewide electricity market potential reports, and, on May 11, 2012 entered its Tentative Implementation Order.

Specifically in terms of low-income households, Act 129 provides that:

The plan shall include specific energy efficiency measures for households at or below 150% of the federal poverty income guidelines. The number of measures shall be proportionate to those households' share of the total energy usage in the service territory. The electric distribution company shall coordinate measures under this clause with other programs administered by the commission or another federal or state agency. The expenditures of an electric distribution company under this clause shall be in addition to expenditures made under Pa. Code Ch. 58 (relating to residential low income usage reduction programs).⁴

³ See Secretarial Letter Re: Act 129 Energy Efficiency and Conservation Program Phase Two, Docket No. M-2012-2289411, dated March 1, 2012.

⁴ 66 Pa.C.S. §2806.1(b)(i)(G).

III. SUMMARY OF COMMENTS

In these comments CAUSE-PA requests that the Commission determine in the Final Phase Two Implementation Order that the design and implementation of the next round of energy efficiency and conservation programs include the following:

- (1) Programs specifically designated to low-income households should continue in Phase Two.
- (2) Four and a half percent (4.5%) should be designated as the *minimum* required level of energy savings within low-income programs to be achieved by each EDC for households at or below 150% of the Federal Poverty Level (“FPL”).
- (3) The quality of programs designated to the low-income sector in Phase Two must, at a minimum, remain as robust and deep as those contained within Phase One and not be diminished in quality or level of measures.
- (4) Low-income households should be specifically excluded from participation in on-bill financing and should not be the subject of consideration by any Work Group convened by the Commission to explore and determine the application and feasibility to each of the customer classes of on-bill financing.
- (5) EDCs shall be required to provide special consideration to multifamily properties providing affordable housing within the government/educational/nonprofit sector. Because of the unique benefits of providing energy efficiency services to previously underserved multifamily properties, the Commission should designate specific funding and savings targets.
- (6) Each EDC shall be encouraged to include innovative projects directed to *de facto* electric space heating

IV. COMMENTS:

A. The Low-Income Sector Carve-Out

Prior to issuing its Tentative Order, the Commission requested comments on whether it should continue to include a low-income element in future EE&C Plans and if so, what form or requirements should the low-income element entail. Each of the parties which addressed this issue supported a low income carve out in some form. The Commission has proposed:

- a. To continue the prescription that each EDC's EE&C Plan is to include specific energy efficiency measures for households at or below 150% of the Federal Poverty Income Guidelines, in proportion to that sector's share of the total energy usage in the EDC's service territory.
- b. That EDC's Phase II EE&C Plans obtain a minimum of four-and-a-half percent (4.5%) of the consumption reduction requirements which the Commission proposed in Section A of the Tentative Order. The Commission has in Phase Two of Act 129 required each EE&C plan to include specific Energy Efficiency (EE) measures for households at or below 150% of the Federal Poverty Income Guidelines in proportion to that sector's share of the total energy usage in the Electric Distribution Company's ("EDC's") service territory.⁵
- c. That, in order to facilitate the EDCs' attainment of a 4.5% reduction in consumption for the low-income sector, each EDC have the flexibility to voluntarily expand the low-income programs to include households up to 250% Federal Poverty Income Guidelines; and

⁵ See 66 Pa.C.S. § 2806.1(b)(1)(i)(G).

- d. That the EDCs be allowed to count savings attained from low-income customer participation in non-low-income programs towards the 4.5% energy consumption goal.

- i. **The low-income carve-out is an integral part of Act 129 and should continue.**

CAUSE-PA supports the Commission proposal that programs specifically designated to low-income households continue in Phase Two. Each of the parties addressing this issue agreed that the carve-out should continue. As a part of the overall reductions in consumption required by Act 129, the Act designates that low-income households with incomes at or below 150% of the federal poverty income guidelines receive specific energy efficiency measures proportionate to those households' share of the total energy usage in the service territory.⁶

This specific low-income carve-out, which designates EE&C services to the most economically vulnerable customers, makes abundant sense. Energy efficiency creates, social, economic and health benefits for these households; however, these households' relative poverty precludes them from taking steps on their own to ensure that their homes are appropriately weatherized without sacrificing other life essential bills such as food, shelter, and medical expenses. Thus targeted savings for this group of households is appropriate on a number of levels.

First, low-income households generally live in older and less energy efficient dwellings as compared to non low-income households. Second, the inelasticity of the low-income household budget renders that household incapable of bearing the costs of high energy use and the inability to pay for energy costs results in higher levels of uncollectible debt and service

⁶Ibid.

termination of low income households.⁷ This inability has been recognized by the development of Universal Service Programs which assist low-income households maintain affordable monthly bills through Customer Assistance Plans (“CAPs”) and which provide efficiency services through the Low Income Usage Reduction Program (“LIURP”). The cost in dollars and social resources of uncollectible expenses related to low-income customer defaults, increasing CAP costs, service terminations and medical resources is significant and energy-efficiency services directed to low-income households is an effective tool to reduce these costs to other ratepayers and to society as a whole. CAUSE-PA strongly supports the continuation of the low-income carve-out. Not only is the carve-out required by Act 129, it is in the public interest as an effective cost control mechanism for other ratepayers.

ii. The Population Designated Eligible to Receive Low-Income Program Sector Status Should Remain at or Below 150% of the Federal Poverty Level.

The Commission proposes in its Tentative Order to permit each EDC to have the flexibility and discretion to voluntarily expand the income eligibility level of low-income programs to include households up to 250% Federal Poverty Income Guidelines. It is posited that such a potential expansion could take the form of “overlapping eligibility with the existing Low-Income Usage Reduction Programs implemented under Chapter 28 of Title 52 of the Pennsylvania Code, would have the potential to make EE measures more affordable to

⁷ 2010 Report on Universal Service Programs & Collections Performance of the Pennsylvania Electric Distribution Companies & Natural Gas Distribution Companies, Pennsylvania Public Utility Commission, Bureau of Consumer Services; Percent of Total Residential Electric Customers in Debt = 10% (p.15), Percent of Confirmed Low Income Electric Customers in Debt = 26% (p.55); Termination Rate of Residential Electric Customers =3.46%(p.11), Termination Rate of Confirmed Low Income Electric Customers=11.72%(p.12).Gross Write-Offs Ratio-Residential Electric Customers=1.78%(p.23), Gross Write-Offs Ratio-Confirmed Low Income Residential Electric Customers=7.9% (p.24).

households in the 151-250% range of the federal poverty guidelines”⁸ and would provide the EDCs with greater flexibility to reach the 4.5% energy savings targets.

CAUSE-PA respectfully asserts that the income level requirement for the low-income sector must remain at 150% FPIG. Although each of these individual rationales may be technically accurate statements, within the context of the language and context of Act 129 they fall short of justifiable reasons for incorporating such a change into Phase Two. In fact, for those with income levels at or below 150% FPL, an expansion of eligibility in this manner may be more detrimental to Act 129 goals and to Pennsylvania’s most vulnerable citizens than it is beneficial. CAUSE-PA respectfully requests that the Commission revisit this proposal and determine that, until the currently targeted population base of those at or below 150% of federal poverty are fully served and their energy efficiency needs met, the 150% income level cap should be maintained. There are several reasons for such a determination.

First, an expansion of the low-income program sector to any level beyond 150% FPL is questionable within the language of the statute. 66 Pa.C.S. § 2806.1(b)(1)(i)(G) specifically designates that the low-income sector EE&C programs are to be directed to households with incomes at or below 150% FPIG.

Secondly, there has been neither a demonstrated indication nor analysis showing that the needs of the statutorily targeted group of households with incomes at or below 150% FPIG have been fully addressed and met. Data suggests the opposite. This population alone comprises more than 1.2 million EDC heating and non-heating households statewide.⁹ There has been no demonstration that effective and efficient energy services has yet been provided to the potential number of households at or below 150% FPL who are eligible, or that maximum energy savings

⁸ See, Energy Efficiency and Conservation Program, Implementation Order, No. Docket M 2012 2289411 at 25-26. (order entered May 11, 2012).

⁹ Report of the Act 129 Low-Income Working Group Docket No. M-2009-214680, March 19, 2010, at 6.

levels have been achieved among this group. In fact, there is reason to believe that certain demographic populations at or below 150% FPL may be underrepresented in receiving services and present a fertile opportunity. For example, the number of Hispanic households in poverty has increased in recent years while the number of households receiving LIURP headed by Hispanics has decreased from 2.3 percent to 0.7 percent.¹⁰ CAUSE-PA respectfully submits that reaching underserved demographic groups with poverty levels at or below 150% FPL should take precedence over an expansion to households with higher incomes.

Thirdly, prematurely expanding the low-income carve-out, designed initially in Phase I to target those at or below 150% of federal poverty, would adversely impact the potential for those most in need to take advantage of beneficial energy efficiency measures while simultaneously making the services which could be provided to each low-income household less effective. Ironically, in declining to waive the assignment of EE&C costs to low-income customers, the Commission itself pointed out:

Although we have great concern for the difficulties experienced by low-income customers in paying their energy bills, we do not believe that exempting such customers from contributing toward the recovery of fairly allocated EE&C costs is the appropriate way to address this concern. We point out that low-income customers will stand to benefit financially from well-designed EE&C measures implemented by the EDCs. Moreover, such customers can take advantage of the many programs currently available to help low-income and payment-troubled customers pay their energy bills.¹¹

It would appear to be a particularly harsh and unjustifiable result for the Commission to decline to waive the costs of Phase Two for the lowest income customers on the theory that they are the beneficiaries of the EE&C programs while at the same time the focus and benefits

¹⁰ Shingler, *Long Term Study of Pennsylvania's Low Income Usage Reduction Program: Results of Analyses and Discussion Consumer Services Information System Project*, Penn State University, January, 2009 at 20: http://www.puc.state.pa.us/general/publications_reports/pdf/PSU-LIURP_Report2008.pdf

¹¹ Tentative Order at 67.

available to those same low-income program participants are being diluted through a significant expansion of those same benefits to customers at higher income levels. Certainly, if households at or below 150% FPL are expected to contribute to the cost of programs on the theory that they are specifically benefiting from those programs, then at the very least, the Commission should do all it can to ensure that the programs reach a maximum number of those same low-income customers, prior to undertaking an expansion of eligibility levels.

The expansion of eligibility has been discussed by a number of organizations, including EDCs themselves. In their initial Phase II comments, Duquesne Light and PECO agreed that the carve-out should remain concentrated on those at or below 150% of federal poverty.¹² Moreover, PPL posed that, given funding restraints, expanded income guidelines may reduce the opportunity for customers at or below 150% of the FPIG who have not yet participated in its Act 129 programs.¹³

The Sierra Club argues that expanding the carve-out to households at or below 250% of the Federal Poverty Income Guidelines should only be undertaken once the opportunities for the funds in the carve-out to benefit households at or below 150% have been fully deployed, to make certain that the households most in need are the ones that benefit first.¹⁴ By the same token, the Sustainable Energy Fund of Central Pennsylvania believes that any discussion of raising the income limit beyond 150% is premature until the 150% of poverty market is fully saturated.¹⁵ Citizens Power, posits that although expanding the definition of low-income to 250% espouses a “valid concern for the affordability of energy efficiency for households,” in that range, there are

¹² See PECO Phase Two Comments to Secretarial Letter at 10; See Duquesne Phase Two Comments to Secretarial Letter at 11.

¹³ See, PPL Phase Two Comments to the Secretarial Letter at 19.

¹⁴ See, Sierra Club Phase Two Comments to the Secretarial Letter at 8.

¹⁵ See, Sustainable Energy Fund of Central Pennsylvania Phase Two Comments to the Secretarial Letter at 11.

other concerns.¹⁶ Specifically, even as, households in the 250% of poverty range also experience difficulty in securing the disposable income necessary to improve energy efficiency in the household, the organization remains concerned that expanding the definition may limit the funding available for those most in need under 150%.¹⁷

Certainly the economic need for EE&C assistance of households at or below 150% FPL remains and continues to need to be addressed. The average household income of electric CAP customers in 2010 was only \$13,540.¹⁸ The simple reality is that households at or below 150% of the FPIGs are in need of additional assistance. Low- income EDC customers at 150% FPIG or below have a significantly higher termination rate than electric residential ratepayers. In 2010, residential electric customers as a whole had a statewide residential EDC termination rate of 3.46%, while in that same year the confirmed low-income termination rate was 14.08%.¹⁹ It is respectfully submitted that a population with a termination rate greater than 4 times the general termination rate requires full and undiluted resources available to achieve energy efficiency services

Moreover, while payment troubled households at 150% FPIG and below are eligible for and receive CAP program benefits as part of the Commonwealth's universal service program requirements, these benefits are paid for by other residential ratepayers. Additionally, CAP customers also bear unique responsibilities such as requirements to maintain energy usage at reduced levels so as not to be removed from CAP or not to exceed maximum energy credits which would require the household to pay full tariff rates. Current and past CAP households are

¹⁶ See, Citizens Power Phase I Comments at 4-5

¹⁷ Ibid.

¹⁸ *Report on Universal Service Programs & Collections Performance of the Pennsylvania Electric Distribution Companies & Natural Gas Distribution Companies*, Pennsylvania Public Utility Commission, Bureau of Consumer Services; at 33.

¹⁹ Ibid at 11-12.

also significantly restricted from receiving any Commission ordered or imposed payment agreement based upon CAP program arrears. It is, therefore, good public policy to target this specific population for energy efficiency services. Expanding the eligibility base, prior to receiving substantially greater penetration within the already existing low-income designation, is simply not in the public interest and will only increase costs generally to all ratepayers.

In regards to energy affordability alone, those individuals at the lowest tier of income suffer the most. For low-income households, particularly those in deep poverty, at or below 150% of the federal poverty level, energy costs have the potential to threaten not only the ability to retain access to energy services, but also threaten access to housing, food, medical care and other necessities of life. What is more, since 2000, across Pennsylvania, the share of low-income households with income at or below 150% of the federal poverty level has grown from 19% to more than 25% while the need for energy continues to rise.²⁰ At the same time; however, energy efficiency programs have assisted these families in meeting the growing energy burden and lowering costs, and any marked dilution of resources in this area would work against this trend.

Furthermore, basic mathematics leads to the inevitable conclusion that expanding the level of enrollment eligibility and thus the numbers of households eligible to receive free services in Phase Two, while maintaining the overall phase one 2% funding cap will lead to either a reduced level of energy efficiency services provided to each household or to fewer households in the lowest income households being served. The PECO LIURP program provides such an example regarding the reduction in the number of households served. As a result of funding caps, the number of households served by LIURP has declined. It served 9,337 households in 2007, while

²⁰ 2000 Census Data prepared by PA State Data Center. 2006-2008 American Community Survey, US Census, prepared by PA State Data Center. 2008 Census data was not available for the following counties: *Cameron, Forest, Fulton, Montour, Potter and Sullivan*; rather Census data from 2000 was used.

in comparison relatively fewer, 8,843 were served in 2008.²¹ The company's currently filed universal service and energy efficiency plan projects that this reduction in the number of households served will continue.

Finally, CAUSE-PA's earlier submitted comments that it would be administratively difficult to effectively identify and target households with incomes between 151-250% of FPIG it bears repeating. There has not been a determination of the confirmed number of households within this group nor of the budget required to target and effectively serve this population. The Commission and the EDCs have had a long history of developing methods of identifying "confirmed" low-income customers at or below 150% FPL through eligibility for LIHEAP, CAP and other related programs. As a result of this history there is data which exists to determine the percentage of low-income energy usage within each service territory. There is no readily apparent parallel method which exists for quantifying the number of households or energy use for a "confirmed" 151-250% FPIG population. Thus, at this time, would be impractical to expand services to a larger population group for whom the scope of service territory energy usage and cost of treatment is unknown.

²¹ PECO Energy Company, "Universal Services Three-Year Plan," (November 10, 2008) at 21.

- iii. The Commission's targeted 4.5% low income sector energy savings level is a readily achievable, conservative figure for the population at or below 150% FPL and should be designated as the level of energy savings to be achieved for that population.**

A target level of 4.5% low income sector energy savings for those at or below 150% FPL is a conservative and reasonable goal because it has been proven achievable. The PUC, in determining 4.5% as the energy saving level to be achieved in Phase Two, considered solid data, such as "...Phase I EE&C Plan portfolio savings projections; the current portfolio status of cumulative program inception to date (CPITD) low-income savings in proportion to total CPITD savings through program year three, quarter three; current and final EE&C budget allocation figures; and input from the SWE's Market Potential Study."²² Furthermore, EDCs have not only demonstrated their capability to achieve the targeted goal, but to exceed it substantially.²³ For example, in Phase I of Act 129 all EDCs achieved an average of 4.57% portfolio savings ratios for the carve-out, which was defined as at or below 150% FPL. Additionally, all but one EDC achieved at least a 5% savings ratio, with several having savings ratios beyond 20% for the low-income segment.²⁴

In its earlier comments, CAUSE-PA, based upon the Detailed Recommendation 1 and Table 1 of the *Report of the Act 129 Low-Income Working Group*²⁵, asserted that there was a concrete basis for the Commission to determine and establish proportional energy savings goals in the low income program sector and recommended that, based upon the Working Group Report, the targeted level of Low-Income household usage as a percentage of total consumption be established at 7.84%-9.51% among the EDCs. Setting energy reduction goals at those levels would have been consistent with the statutory intent to achieve proportional energy reduction within the low-income sector. The 4.5% figure is significantly lower than the energy savings potentially available in the low income program sector of households at or below 150% FPL. The Tentative Order proposes standards which may be reasonably expected without any expansion of the

²² PUC Tentative Implementation Order at 24.

²³ *Id.*

²⁴ *Id.*

²⁵ Report of the Act 129 Low-Income Working Group Docket No. M-2009-214680, March 19, 2010

eligibility levels. The Final Order should therefore designate the 4.5% target as a minimum to be achieved within the existing 150% FPL low-income program subset.

iv. Households in the 151-250% FPL income range

As noted above in these comments, the Tentative Order permits EDC's to voluntarily designate and serve households in the 151-250% FPL income range within the low-income program sector. CAUSE-PA suggests that, while these households should not be considered as part of the low-income carve-out, opportunities exist to assist these customers in other ways, including the following:

a. Multifamily Housing- as discussed in greater detail in these comments below and within the Pennsylvania Housing Finance Agency ("PHFA"), Pennsylvania Utility Law Project ("PULP") and National Housing Trust ("NHT") letter submitted to this Docket as well as the comments by Regional Housing Legal Services ("RHLS") and PWCC in response to the Secretarial Letter, there is significant reason and opportunity for the Commission to target selected PHFA related multifamily properties which provide affordable rents for additional energy efficiency opportunities. For example, there are more than 140,000 affordable multifamily apartments throughout the state of Pennsylvania. These apartments are financed through various federal and state housing programs and are home to families and elderly individuals with incomes less than 60% of the area median income. These properties therefore serve tenants whose incomes may be greater than 150% FPIG but still within the 151-250% FPIG range. This is thus a fertile area in which to direct services and resources to those above the income cap set in Act 129 for the low-income sector.

b. **Economic Incentives-** Households within the 151-250% FPIG income range currently receive no specifically designated EE&C assistance. CAUSE-PA recommends that the EDCs and the Commission provide pilot projects which provide targeted incentives to these households. Such pilots may include providing services and measures at significant discounts based upon a sliding scale calibrated to household income or increasing the levels of rebates proportionately according to the same scale.

c. **Coordination of Services-** As the Commission indicates, this income level group may have overlapping eligibility, to some degree, with a select group of LIURP recipients. Eligibility will also overlap with Weatherization Assistance Program recipients. In order to leverage and maximize the benefits of income eligibility overlap, the Commission should direct that EDCs coordinate, wherever possible, the provision of EE&C measures with these other programs. The Commission's Universal Service Coordination Working Group has already developed protocols for coordination of services within the low-income category. Those protocols could be modified or expanded, where appropriate, to include households which are within the 151-250% FPIG range.

B. Alternative Financing Mechanisms

In the Tentative Order the Commission indicates that the possible benefits of on-bill financing or repayment programs warrant further consideration, and recommends that a working group be convened to explore the various models, identify possible financial partnerships and determine the application feasibility to each of the customer classes.

In its response to the Secretarial Letter, CAUSE-PA indicated its reasons for why it does not support either on-bill financing or on-bill repayment programs for residential customers, particularly low-income residential customers. The simple economic reality of low-income households is that these households have no elasticity in their budgets.

Households at 150% of the federal poverty guideline lack sufficient income to pay for all of their essential needs. Before all of the bills are paid, low-income families scraping by routinely run out of money. Many of them cannot afford to pay for utility service because of the cost of competing essential needs like rent, food, and medicine. This fact is evidenced in the higher termination rate for confirmed low-income customers as compared to all residential customers. In 2010, the average termination rate for confirmed low-income electric customers across all of the EDCs was 11.72% compared to 3.46% of all residential customers.²⁶

Given this reality it is difficult to see any legitimate rationale to have low-income customers assume additional debt for energy efficiency improvements. These households simply cannot afford necessities let alone additional financing.

A key underlying assumption behind implementation of energy efficiency financing,

²⁶ See Report on 2010 Universal Service Programs & Collection Performance of the Pennsylvania Electric Distribution Companies & Natural Gas Distribution Companies at 11-12. Available at: http://www.puc.state.pa.us/general/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2010.pdf (Last visited: April 16, 2012).

including the on-bill financing and on-bill repayment models is the concept of net bill neutrality—that is, the consumer’s energy bill, which includes a loan repayment component, will be equal to or less than the consumer’s bill prior to the installation of energy efficiency upgrades. In short, lenders and consumers enter into the loan agreement assuming that financed energy efficiency measures will generate savings that are greater than monthly principal and interest payments. However, in the case of residential energy efficiency improvements, it is unrealistic or impossible for a lender, utility company or contractor to guarantee that bill neutrality will actually be achieved. Even if energy savings could be accurately predicted, it is, at best, uncertain whether net residential bill neutrality can ever be achieved. Simply put, without *guarantee* of net residential bill neutrality, on-bill financing is simply too big of a risk for low and moderate income households.

Even assuming residential bill neutrality were possible, a host of other concerns remain. For instance, would utilities be permitted to terminate service if all utility bills were paid but the financing charges were not paid? How and under what circumstances would consumers negotiate a payment plan when they have fallen behind on both their utility and loan payments? How are partial utility payments applied? Would LIHEAP funds be permitted to be used to pay energy efficiency loan charges? What are the rules regarding resumption of service after a disconnection for non-payment and what happens to the efficiency loan arrearage? All of these issues, and others, would have to be addressed prior to the initiation of such a program – even in pilot format.

As a result of the significant potential negative consequences of additional debt to low-income households as well as to other ratepayers and company shareholders, and in recognition of the complexities of ensuring that low-income households will not be adversely affected by

utility company on-bill financing, CAUSE-PA submits that any on-bill financing and on-bill repayment programs incorporating low-income consumers do not have a place within the framework of Act 129. *Low income households should be specifically excluded from consideration by any Work Group convened by the Commission to explore and determine the application and feasibility to each of the customer classes of on-bill financing.*

C. Multifamily Rental Housing.

The Commission proposes that multifamily housing be given special emphasis and consideration within the government/educational/nonprofit sector. While no specific funding or savings targets are being proposed for multifamily housing, the Commission encourages the EDCs to recognize the available potential for energy savings present in multifamily housing and develop strategies and programs to sufficiently address this opportunity within their Phase II EE&C plans. The Commission believes this sector provides significant potential for the EDCs' attainment of the proposed government/educational/nonprofit carve-out.

CAUSE-PA fully supports the targeting of energy efficiency upgrades in multifamily rental housing as a cost-effective means to reduce energy consumption, maintain housing affordability, and create healthier, more comfortable living environments for moderate- and low-income families. Many of CAUSE-PA's members are renters and some reside in low-income, multifamily residential buildings.

Energy efficiency improvements in these buildings will supplement the benefits which are provided directly to low-income ratepayers (which should continue through existing low-income utility programs) and otherwise benefit low- and moderate-income residents through reduced utility costs and increased affordable housing opportunities. In properties where owners

pay the utility bill, energy efficiency improvements will lower operating costs, reducing the need for owners to raise rents. All Pennsylvania taxpayers will benefit through reduced demand on the state's energy system and increased economic output.

CAUSE-PA supports the creation and implementation of a multifamily carve-out that will serve as an effective supplement to enhance and complement the low-income carve-out that is already in place. To that end, CAUSE-PA supports the proposal to include these properties within the government/educational/nonprofit carve-out. However, CAUSE-PA is concerned that that without a specifically designated energy savings target or budgetary allocation, this important new initiative will run the danger of being neglected or at best receive limited attention. We therefore strongly urge the Commission to require that multifamily housing be addressed in each EDC plan and to include specifically designated savings targets and budget amounts in the Final Order.

D. The EDCs should be encouraged to address the use of *de facto* electric heating and the treatment of multifamily buildings housing low-income residents at affordable rents.

In the Tentative Order, the Commission did not address the issue of *de facto* heating which was raised in comments to the Secretarial Letter by CAUSE-PA. Act 129 provides to both the Commission and to EDCs significant flexibility in the manner in which cost effective energy savings may be achieved while at the same time enabling the Commission to focus on finding solutions for significant challenges which are not currently and cannot adequately be addressed through other low-income energy efficiency programs such as the Weatherization Assistance Program and LIURP. CAUSE-PA respectfully suggests that the Commission take this opportunity, in its Final Phase Two Implementation Order, to consider methods of addressing some of these challenges which are complementary, but not duplicative of currently existing

programs. As an example, incentives should be provided to EDC's and customers to enable, through repair or replacement, the reduction in the utilization of *de facto* electric heating such as electric space heaters with a more efficient central heating system.

The EDCs should also be encouraged to create innovative elements to address important and presently unmet opportunities such as the use of *de facto* electric heating and the treatment of multifamily buildings housing low-income residents at affordable rents.

De facto electric space heating is one area of significant concern which is not currently being adequately addressed. The term "*de facto* heating" is used to describe when customers use portable space heaters as their primary heating source because they do not have use of their central heating system. The situation most often occurs when the customer's central heating system is broken and in need of repair, or when the delivery of natural gas or other non-utility delivered heating fuel, such as fuel oil, wood or coal has been terminated or depleted. Using portable space heaters for whole-house heating is a potentially unaffordable and unsafe alternate central heating source. The number of customers doing so has risen dramatically over the past several years, especially with the dramatic increase in the cost of home heating oil. In the aggregate, *de facto* electric space heating is a source of significant energy inefficiency. Addressing the reduction of *de facto* heating provides the Commission and EDCs a path to achieve energy usage reductions, ratepayer cost reductions and safer living conditions.

The essential problem presented is that *de facto* heating most generally occurs within low-income households that are unable to pay for furnace repair or replacement, oil delivery, or restoration of natural gas service. For these low-income households the use of electric space heating is often the last and only remaining alternative to freezing during the winter. In the short term, purchasing space heaters is significantly cheaper than furnace repair or replacement, the

cost of a minimum delivery amount of fuel oil, or being able to pay a past due balance, or a deposit and reconnection fee to a Natural Gas Distribution Company (NGDC.) However, in the long term, the direct and indirect cost to that household and to other ratepayers becomes expensive. Space heaters are inefficient, sometimes unsafe, and quite costly to operate. Users of electric space heating are generally paying a more expensive non-heating electric rate than consumers using a central heating system. Furthermore, if that household participates in a CAP, their maximum CAP credit level is set at a lower level than if they were designated as a heating customer; leading to depletion of CAP credits and potential removal from CAP rates. The resulting full tariff rates create an unaffordable energy burden requiring additional subsidization by other rate payers. Ultimately, once April arrives and the moratorium has ended, service termination will likely occur.

CAUSE-PA therefore recommends that in Phase Two the Commission direct EDCs to develop innovative pilot programs within each of its EE&C plans directed to the reduction of the utilization of inefficient space heating and the replacement with more efficient alternatives. Attention to this matter will aid in resolution of multiple policy concerns for low-income households and at the same time provide significant levels of energy savings.

V. CONCLUSION

In Conclusion, CAUSE-PA again thanks the Commission for the opportunity to submit these comments to the Phase Two Tentative Implementation Order and looks forward to a successful Phase Two. CAUSE-PA respectfully requests that the Commission issue a Final Order reflecting the comments expressed herein and which incorporates a low income carve out containing specified energy savings of at least 4.5% specifically targeted only to low-income households at or below 150% FPL; that the Commission specifically exclude the consideration

of low-income residential customers from participation in any on-bill financing program; that the Commission direct that each EDC achieve specifically targeted savings and allocate a sufficient budget to multifamily properties serving the low-income; and encourage each EDC to develop and execute an innovative approach to the issue of de facto electric heating.

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