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July 9, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

Re: Energy Efficiency and Conservation Program
Docket No. M-2012-2289411

Dear Secretary Chiavetta:

Enclosed for filing please find the Office of Consumer Advocate's Reply Comments in the above-captioned proceeding.

Sincerely,

Jennedy S. Johnson

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Assistant Consumer Advocate
PA. Attorney ID# 203098

Enclosures
cc: Megan Good, CEP (E-Mail Only)
Kriss Brown, Law Bureau (E-Mail Only)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLY COMMENTS
OF THE OFFICE OF CONSUMER ADVOCATE

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DATED: July 9, 2012

I. INTRODUCTION

On May 11, 2012, the Pennsylvania Public Utility Commission entered its Tentative Implementation Order (Tentative Order) regarding Phase II of the Energy Efficiency and Conservation Program required under Act 129 of 2008. 66 Pa.C.S. § 2806.1. In accordance with the Tentative Order, the OCA and other stakeholders submitted Comments on June 25, 2012. The OCA now submits these Reply Comments to the Comments submitted by other stakeholders.

In these Reply Comments, the OCA will not respond to each issue identified in the Comments of the other stakeholders. Instead, the OCA will focus on several key issues it has identified. The issues that the OCA will address in these Reply Comments are the annual savings targets, the appropriate level of acquisition costs, energy savings targets for the low income customer sector, and the continuation of existing Demand Response programs as part of any Phase II Plans.

II. COMMENTS

A. Annual Savings Targets

A number of stakeholders discussed setting annual savings targets, in addition to an overall savings target for the entirety of Phase II, with the majority of Commenters stating that interim annual goals are needed to ensure that each EDC is on track to meet the cumulative target. See, e.g, ACEEE at 1-2, KEEA at 5-6, OPower at 3-4, PennFuture at 7-8, Sierra Club at 7-8. The OCA agrees with these Commenters that EDCs should achieve energy savings each and every year of the program. This is especially important given the persistence of the savings seen in Energy Efficiency installations. For example, a highly efficient light bulb installed in year one, although only "counted" once for compliance purposes, will provide benefits to customers and the system as a whole in every year of its life after it is installed. Setting interim goals can ensure that these benefits are maximized. Further, as OPower points out, Act 129 includes a 1% reduction goal by 2011 and a 3% reduction goal by 2013, evidencing the General Assembly's intent to include interim targets in the Plans.[1] OPower at 7-8.

Additionally, the discontinuation and re-start of programs that could result if interim goals are not set, especially with respect to those programs that were part of Phase I, would be confusing to customers and may lead to dissatisfaction. As PennFuture points out, an annual saving target provides consistency and "ensures that EDCs are investing in programs evenly each year to provide for clear signals to both the marketplace and customers." PennFuture at 8. Indeed, according to KEEA, Pennsylvania is the only state with mandated energy efficiency programs that does not require interim-year savings goals to be met. KEEA at 5.

Therefore, the OCA urges the Commission to favorably consider those Comments calling for the implementation of annual savings targets as part of any Phase II EE&C Plans.

B. Appropriate Level of Acquisition Costs

In their Comments, a number of stakeholders presented excellent information regarding the acquisition costs contained in the Market Potential Study and the methods by which appropriate levels of those costs can be established. See, e.g, ACEEE at 3-6, KEEA at 1-4, NEEP at 2-4, OPower at 12-13, PennFuture at 2-7, Reinvestment Fund at 1-7, Sierra Club at 4-6, Sustainable Energy Fund at 3-7. Determining the appropriate level of acquisition costs is especially important in light of the Commission's proposal to continue the Energy Efficiency Plans with new savings targets based on those acquisition costs and the total EDC budget under

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1 For these same reasons, the OCA recommended the establishment of both two-and four-year goals as part of its four-year plan proposed in its April 17th Comments. OCA Comments of April 17, 2012 at 5-7.

the Act. Specifically, a number of Commenters call into question the need for the 25% adder to the actual cost data from Phase I programs that was included in the Market Potential Study. See, e.g, ACEEE at 3-6, KEEA at 1-4, NEEP at 2-4, OPower at 12-13, PennFuture at 2-7, Reinvestment Fund at 1-7, Sierra Club at 4-6, Sustainable Energy Fund at 3-7. The Commenters point to acquisition costs in other states with similar levels of market maturity, which are significantly lower than those used to set the savings targets in Pennsylvania. See, e.g. KEEA at 2-3, PennFuture at 3-4.

The OCA submits that the Comments provided by the stakeholders demonstrate that the Commission's proposed targets are achievable within the 2% budget for each EDC. These Comments also demonstrate that the existing budgets support the inclusion of the carve-out for the low-income and governmental/educational/non-profit sectors, as well as the continuation of existing Demand Response programs.

C. Low-Income Carve-Out

The Commission is proposing to continue the requirement that each EDC's EE&C Plan 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. Tentative Order at 23. The Commission is also proposing that each EDC's Phase II EE&C Plan obtain a minimum of 4.5% of the total consumption reduction target from this sector. Tentative Order at 24. In their Comments, the EDCs uniformly opposed the proposal to obtain 4.5% of the total consumption reduction target from the low-income sector. See Duquesne at 8, FirstEnergy Companies at 11, 13-15, PECO at 14-15, PPL at 18-21, see also EAP at 9-10. Both PECO and Duquesne raise issues with the potential costs of compliance, while the FirstEnergy Companies assert that no low-income carve-out is necessary because it is "redundant with the other programs and measures" offered to the residential class and the cost to serve the low-income customers is expected to rise. Duquesne at 8, PECO at 14, FirstEnergy Companies at 11, 13-15.

As discussed in its Comments, the OCA supports the Commission's proposal and submits that it is consistent with the General Assembly's intent in Section 2806.1(b)(1)(i)(G) to ensure that low income customers receive a significant share of the benefits that energy efficiency can bring to all customers. This position was shared by CAUSE-PA and Community Legal Services. CAUSE-PA at 4-6, 13, CLS at 1. The OCA disagrees with the arguments of the EDCs and supports the Commission's proposal in the Tentative Order. With respect to concerns about the cost of compliance, the OCA would note that the Phase I Low-Income measures were designed to achieve savings from this sector and those savings were achieved within the Plan budgets. Indeed, all but one of the EDCs *substantially* exceeded what would have been the 4.5% total saving in Phase I. CAUSE-PA at 13 (citing Report of the Act 129 Low-Income Working Group, Docket No. M-2009-214680, March 19, 2010). The achievement of savings from the low-income sector benefited the participating low-income customers and the system as a whole.

Accordingly, the OCA reiterates its supports for the Commission's proposal to have EDC programs attain 4.5% of the total reduction in consumption from the low income sector.

D. Demand Response

As was discussed in its Comments, the OCA strongly urges the Commission to continue the Phase I Demand Response programs, while allowing some program design changes to better target the demand response to high value time periods and to address other implementation issues identified in Phase I.[2] The numerous benefits of Demand Response programs—reducing the amount of peak load that must be served (thus avoiding costly increments of capacity resources), impacting high peak hour prices, and reducing customer bills—were recognized by a number of Commenters. See, e.g, City of Philadelphia at 1, Joint Demand Response Comments[3] at 5-18, Letters of Rep. George.

The OCA reiterates the importance of not losing the significant benefits of demand response measures *that have already been paid for* by customers. A number of stakeholders, such as the City of Philadelphia, the Joint Demand Response Commenters and PECO, supported the continuation of such existing Demand Response programs. City of Philadelphia at 1-2, Joint Demand Response Comments at 9-11, PECO at 11-12. This is particularly critical for the residential demand response programs, such as the direct load control programs, that have significant up front costs that have already been sunk, but also have significant long-term benefits when properly maintained and deployed each year over the life of the equipment. To put it another way, the OCA submits that demand response programs, once implemented, should generally be sustained so that the continuing savings made possible by the initial investment in the programs can be realized.

The OCA also agrees with the Joint Demand Response Commenters that, at this time, PJM programs cannot be a meaningful stand-in for Act 129 DR programs. Joint Demand Response Comments at 11. Of importance, the Act 129 DR programs help residential and other

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2 The OCA would note that if its proposed timeline, set forth in both its June 25, 2012 and April 17, 2012 Comments, is adopted the Commission would be able to analyze the DR results from summer 2012 before Phase II Plans are finalized, and new DR targets could then be included in Phase II Plans.

3 The OCA would note that the Joint Demand Response Commenters are comprised of a wide variety of stakeholders. The list is as follows: AK Steel, PennFuture, Clean Air Council, Comverge, Conservation Voters of PA, Enernoc, Environmental Defense Fund, Group Against Smog and Pollution, KEEA, Natural Resources Defense Council, Penn Environment, Wal-Mart and Sam's Stores East, Association for Demand Response and Smart Grid, and Philadelphia Physicians for Social Responsibility.

small customers to overcome the obstacles to market program participation that exist in PJM. Id. As the Joint Demand Response Commenters point out, "The limited potential curtailment from any one small customer does not normally justify the costs of marketing, sales, contracting, program management and settlement…In other words, the benefit to an individual residential customer may not warrant the investment in direct load control equipment on an individual home, however, the societal benefit across the utility or state significantly outweighs the cost of the equipment deployed across an entire program." Id. at 11-12. In sum, the OCA agrees that while PJM market-based programs may support DR participation by some large customers, the program goals and the breadth of customers who can actually participate in PJM programs are materially different from those of Act 129.

The OCA respectfully submits that the best means of maintaining the benefits of the significant investment in demand response that has already been made is to continue the existing programs in Phase II and to set new targets as soon as practicable.

III. CONCLUSION

The OCA thanks the Commission for the opportunity to submit Reply Comments to the Comments filed by other stakeholders.

Respectfully Submitted,

Jennedy S. Johnson

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DATED: July 9, 2012
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