



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 Energy Curtailment Specialists, Inc. ("ECS") comments in the above captioned proceeding.

Sincerely,

A handwritten signature in black ink that reads "B. Marie Pieniazek". The signature is written in a cursive style with a large, looped "P" at the end.

B. Marie Pieniazek
Chief Operating Officer
Energy Curtailment Specialists, Inc.

COMMENTS OF ENERGY CURTAILMENT SPECIALISTS, INC.
DOCKET NO. M-2012-2289411

Energy Curtailment Specialists, Inc. (“ECS”) respectfully submits these comments as a reply to various comments submitted, pertaining to the Commission’s Tentative Implementation Order. The order was discussed at a Commission stakeholder meeting on June 5, 2012, and while comments were due on June 25, 2012, and reply comments to be submitted by July 6, 2012, ECS respectfully seeks the ability to file our comments out of time. ECS appreciates being given the opportunity to address the issues surrounding the implementation order and would like to do so here.

ECS is a large privately held demand response provider in North America, has participated in the Act 129 demand response program since its implementation and currently holds a sizable amount of megawatts (MW) enrolled in the program through its customers. While we respect the decision of the Commission to exclude demand response from Phase II, we do not agree with it for a number of reasons, and instead support a proposal to extend the existing programs by one year, allowing the Commission to obtain the results from the cost-effectiveness they need in order to decide whether to continue these programs throughout Phase II. This will also sustain the momentum needed for a successful and robust demand response program in the event these programs are found to be cost-effective; something ECS believes is highly likely. We have reviewed all comments received after the stakeholders meeting and are compelled to issue our reply below.

The Avoided Costs Associated with New Transmission and Distribution Infrastructure Should be Part of the Demand Response Cost-Effectiveness Equation

ECS is in agreement with EnerNOC's solo comment that the Pennsylvania Total Resource Cost (TRC) methodology has failed to consider "the avoided cost of new transmission and distribution (T&D) infrastructure" when analyzing the cost-effectiveness of demand response programs.¹ Historically, demand side management programs began to grow, in large part, because they effectively reduced the need for constructing and maintaining costly new generation. The overall purposes and benefits of demand response have not changed. By shaving off peak load during high demand periods, not only is stress alleviated from the power grid, but the need to substantiate more erratic weather patterns and a growing population with costly additional transmission and distribution lines becomes better contained and is often unnecessary.

The Commission states under section *D: Cost-Benefit Analysis Approval Process* that "[t]he purpose of using the TRC test ... [is to] track the relationship between the benefits to customers and the costs incurred to obtain those benefits... [and to] determine whether ratepayers, as a whole, received more benefits (in reduced capacity, energy, **transmission, and distribution costs**) than the implementation costs of the EDCs' EE&C plans." [Emphasis added.] Clearly, if demand response is proven to reduce T&D costs, then, as per the Commission's own ruling, those benefits should be calculated into the overall cost-effectiveness of demand response programs.² Considering the positive results demand response has shown on curbing costly new T&D infrastructure³, which, in turn, creates cost savings for ratepayers and retail customers, ECS requests that the

¹ See *Comments on Behalf of EnerNOC, Inc.* at 5

² See also 66 Pa. C.S. §§ 2806.1(c)(3), (d)(2) and (m) by which the Commission based its decision regarding the TRC test.

³ See *Comments on Behalf of EnerNOC, Inc.* at 6-7

Commission consider the same when analyzing the cost-effectiveness of demand response for Act 129's Phase II program.

A. No Language Exists in Act 129 Forcing the Commission to Eliminate Peak Demand Reduction Targets in Absence of a Cost-Effectiveness Report.

ECS agrees with the interpretation of Act 129 described in comments made by the Joint Demand Response Supporters. While the draft language requires peak demand reduction requirements to be set if found to be cost-effective, there is no language, overt or obscure, that insinuates a duty of the Commission to restrict the implementation of peak demand reduction requirements before a cost-effectiveness analysis has been completed. What the Act *does* require is certain demand reductions to be made by the year 2017, and suspending these programs for three years would certainly run contrary to the statutory language.⁴

The Joint Demand Response Supporters go on to show that the legislative intent of the General Assembly shows a tenacity to ensure that the Act included a robust peak demand reduction program, operating continuously over time.⁵ We agree with this finding. Why would the General Assembly implement reduction goals for 2017 while creating a scenario in which the programs put in place to reach that goal would go dark for three years? We believe a reading of the legislative intent, coupled with the plain reading of the statutory language shows conclusively that they did not intend to create such a scenario. We also find the comments of State Representative George especially helpful to the Commission in order to determine intent. As Rep. George points out, there

⁴ See *Joint Demand Response Comments* at 6-7.

⁵ *Id.* At 7.

are already a plethora of studies that demonstrate great benefits to the consumers, the very people the Act was implemented to assist.⁶ We are further encouraged-though in no way surprised-by his subsequent letter affirming tangible evidence that rural utilities save themselves an average of five million dollars per year.⁷

This is not a new view for ECS, adapted at the eleventh hour in order to stave off the elimination of demand response programs from Phase II. When Act 129 was implemented, ECS-and we suspect other CSP's-signed our customers to multi-year contracts that go beyond Phase I because there was no doubt that the demand reduction programs implemented by Act 129 would be continuous. As covered in further detail below, demand response programs are not meant to be discontinued without cause because the implications to the participants are serious, further evidence that the General Assembly did not hold such intent.

B. The Commission Should Continue the Act 129 Demand Reduction Programs in Phase II, at Least by One Year in Order to Avoid Extensive Damage to Program Participants

ECS agrees with the views of both the Joint Demand Response Supporters and the Office of the Consumer Advocate that significant damage to the long-term feasibility of the demand reduction goals of Act 129 will occur if these programs are blacked out.⁸ Both filings identify the sizable amount of “stranded” costs that will occur if these already deployed programs are undermined by the Commission, costs that permeate both the commercial and residential programs. ECS supports the views of the Joint DR

⁶ See *Comments of Representative Camille “Bud” George* at 1.

⁷ See *Additional Comments of Representative Camille “Bud” George* at 1.

⁸ *Id.* At 8-10; see also, *Comments of the Office of Consumer Advocate* at 10

Supporters; these programs require installation of metering, communications and DLC customer equipment,⁹ costs that have been paid in anticipation of the significant benefits these demand response programs will bring. As put so well by the OCA, “demand response programs, once implemented, should be sustained so that the continuing savings made possible by the initial investment in the programs can be realized.”¹⁰ ECS also echoes the warning of the Joint DR Supporters, that an interruption of demand response under the Act will skew the required cost-benefit analysis, requiring more activation in order to be beneficial.¹¹

Currently there are thousands of customers committed to the programs under Act 129, many or even most of which are enrolled to multiple years of commitment. As the Joint DR Supporters explain, these programs are complex; they require extensive education and marketing costs, training staff as to the protocol during a reduction event and the benefits on both a macro (load reduction) and micro (individual customer) scale.¹² These burdens increase as the size of the customer and therefore the size of the reduction in MW increases. If the Commission is to cancel all demand response programs under Act 129 for 2013 without cause, it will be very difficult for the PUC to re-obtain those MW if the Commission finds that the programs were indeed cost effective.

⁹ See *Joint DR Comments* at 9

¹⁰ See *Comments of the Office of Consumer Advocate* at 10

¹¹ See *Joint DR Comments* at 10

¹² *Id.* At 9

The damage to the customers cannot be understated. Those who manage the DR programs may likely lose their jobs in the event of a cessation (causing a need for rehiring/retraining of new managers when the programs are reinstated). The customer will be left without confidence that the PUC is supportive of demand response programs. The recruitment of new customers to replace them will be difficult without being able to give them the proper reassurance that their participation will be valued. Indeed this is why most similar programs are assumed to be cost-effective unless something drastic happens, such as a large exodus of customers or other indications of declining participation.

C. PJM Programs are not a Meaningful Replacement for Act 129

Duquesne Light and the EDC's of Met Ed, Penelec, Penn Power and West Penn Power all urge the Commission to discontinue the peak demand reduction programs under Act 129, citing the competitive, market-based and robust programs of PJM as the proper venue for peak load reduction.¹³ Duquesne goes so far as to call PJM's programs "duplicative" with the EDC-run programs backed by the General Assembly in Act 129.¹⁴ We do not know how these EDC's came to this conclusion unless they simply do not want to run, administer, and manage peak demand reduction programs. The inescapable fact is that the PJM and Act 129 programs bear little semblance to each other and indeed do not provide similar benefits.

¹³ See *Comments of Metropolitan Edison Company et al* at 8-9

¹⁴ See *Comments of Duquesne Light* at 6

The Office of Consumer Advocates lays out in their comments that PJM does not provide a tenable alternative for residential demand response programs because no means of funding even exists for these programs to sustain themselves in the present. The main economical facet of PJM involves bidding into the base residual capacity auction (RPM auction), designed to obtain commitments three years in advance.¹⁵ Certainly the EDC's and Duquesne Light do not expect these residential programs to stay afloat without funding until 2015. If commenter's believe that the incremental auctions can provide the funding instead, they are similarly mistaken. The inconsistent and unpredictable prices obtained in these auctions are insufficient to operate any residential program that could provide even the slightest benefit to demand response.

ECS would like to reiterate to the Commission that it is impossible for PJM programs to serve as a suitable replacement for a continuation of Act 129 peak demand reduction programs when both programs seek reduction for completely different reasons. ECS will not reiterate the full argument by the Joint DR Providers laying out the differences between PJM and Act 129, but we feel there two points so important, so vital to understanding the importance of the Act 129 demand response programs, that we must stress our support for them. First, Act 129 programs are motivated by the ultimate goal of giving all Pennsylvanians access to reduced electricity bills. This is a goal that does not prejudice one utility to the next across the peak 100 hours of demand. PJM, on the other hand operates by giving financial incentive for customers reducing their power in times of *emergency*. This may often coincide with peak load, but that is certainly not

¹⁵ See *Comments of the Office of Consumer Advocate* at 11

always the case.¹⁶ These cases are dispatched regionally, which means that only a handful of customers may be actively reducing during an event. This is fundamentally opposite to the effect of 129; to be similar could mean customers in Bradford, Johnsonburg, and Ridgway would reduce and thus reap financial benefits while customers throughout the rest of the state see no reduction or benefit.

Second, PJM's ELRP allows customers to choose when to curtail, based on the price of energy and when it is convenient to that customer. This would not satisfy any of the peak load reduction targets set by the Commission in accordance with Act 129.¹⁷ As for PJM's PRD, customers must allow, and be equipped for their load to be reduced without any action by the customer while at the same time being barred completely from participating in the energy market.¹⁸ ECS is certain that based on these transparent and significant differences, the Commission can see that the programs of PJM will in no way serve as a replacement for those imposed in Act 129.

D. The Commission Should Amend Act 129's Top 100 Hours Methodology

ECS requests that the Commission, in its Final Order, approve and implement an alternative to the "Top 100 Hours Methodology" for demand response programs as allowed under Sec. 2806.1(d)(2) of Act 129. ECS agrees with the multiple comments, already submitted to the Commission, that the "100 hours of highest demand" provision would be difficult to predict, costly, and counter-intuitive to Act 129's objective to ensure

¹⁶ See *Joint DR Comments* at 11-13

¹⁷ *Id.* At 13

¹⁸ *Id.* At 13

cost-effective demand response programs. As already indicated by multiple other demand response supporters, curtailing “a minimum of 4.5% of annual system peak demand in the 100 hours of highest demand”, as required in §2806.1(d)(1) would be difficult to accurately measure every annual peak period. Such a measurement would most likely compel DR providers to “over comply” those estimates as a means to cover any inaccurate predictions and ensure that the total 100 hours are properly met.¹⁹ As noted by the Pennsylvania Office of Consumer Advocate (OCA), the “need to over comply has cost consequences which may reduce the comparative benefits of a more properly designed demand response program.”²⁰

It is noteworthy to mention that some of the comments filed agree with the Commission’s Tentative Order, to not implement demand response programs in Phase II, however they also stressed that the Commission should eliminate the “100 hours of greatest demand” and approve an alternative reduction in its place as per § 2806.1(d)(2).²¹ That is, of course, should the Commission later decide to allow demand response back into Act 129’s Phase II program. The joint comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company comment on the necessity to “guess” and “over comply” with those 100 peak annual hours, and the increasing costs that over complying would create.²² Duquesne Light Company, likewise, recommends an alternative to the “100 hours of highest demand” even though they support the Commission’s decision to exclude DR from Phase

¹⁹ See *Joint Demand Response comments* at 16-17.; see also, *Comments of the Office of Consumer Advocate* at 12-14.

²⁰ *Comments of the Office of Consumer Advocate* at 12-14

²¹ See *Comments of Duquesne Light Company on the Commission’s Energy Efficiency & Conservation Plan Tentative Implementation Order* at 5-6; see also *Comments of Metropolitan Edison Company, et al.* at 9-10

²² See *Comments of Metropolitan Edison Company, et al.* at 9-10;

II.²³ All in all, whether a company is for or against implementing demand response in ACT 129's Phase II, the consensus seems clear that the Commission should eliminate the 100 hours of highest demand methodology and, instead, enact its right to create an alternative reduction plan. ECS is in agreement with multiple individual members in previous filings that Con Edison's Commercial System Relief Program ("CSR") in New York State is a good example of an alternative method that can effectively curtail at least 4% of highest peak hours.²⁴

Conclusion

ECS deeply appreciates the opportunity to reply to comments pertaining to the Commission's Tentative Implementation Order. We find it imperative that the peak demand reduction programs currently in place be extended unless there comes a time where it is proven that they are not cost-effective. We believe those that oppose this do so only for their own benefit and not the long-term benefit of Pennsylvanians. We believe there is no language directing the Commission to cease the operation of their demand reduction programs in the absence of a cost-effectiveness test and we believe the legislative intent backs that up. ECS agrees with those that have highlighted the grave effect blacking out these programs will have both for customers and the long-term viability of peak demand reduction programs under Act 129. We do not accept the claims that PJM's demand response programs are suitable substitutes in the event the Act 129 programs are eliminated and echo the comments of those that have provided evidence to the contrary. Finally, we agree with the plethora of comments that object to the current

²³ See *Comments of Duquesne Light Company* at 5-6;

²⁴ See *Joint DR Comments* at 17; see also *Comments of the Office of Consumer Advocate* at 13-14

top 100 hours methodology and prefer that the Commission undertake the adoption of a new more predictable methodology, perhaps something along the lines of the current Con Edison system in New York State, triggering the Act 129 program based on a percentage of a peak load forecast. We look forward to further discussion on all of these topics with the Commission and pledge our continuing support to establish robust demand response programs for the benefit of Pennsylvanians.

Respectfully submitted,

/s/ B. Marie Pieniazek

B. Marie Pieniazek

Chief Operating Officer

Energy Curtailment Specialists, Inc.

Dated: July 9, 2012