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October 29, 2012

Rosemary Chiavetta, Esq., Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, Pennsylvania 17120

**RE: COMMENTS of THE ENERGY ASSOCIATION of PENNSYLVANIA  
IMPLEMENTATION OF THE ALTERNATIVE ENERGY PORTFOLIO  
STANDARDS ACT OF 2004: STANDARDS FOR THE PARTICIPATION OF  
DEMAND SIDE MANAGEMENT RESOURCES –  
TECHNICAL REFERENCE MANUAL 2013 UPDATE  
(Tentative Order at Docket Nos. M-2012-2313373 and M-00051865)**

Dear Secretary Chiavetta:

Enclosed for filing please the Comments of the Energy Association of Pennsylvania filed in the above-referenced docket.

Sincerely,

A handwritten signature in blue ink, appearing to read "Donna M. J. Clark".

Donna M. J. Clark  
Vice President and General Counsel

CC: Robert F. Powelson, Chairman  
John F. Coleman, Vice Chairman  
Pamela A. Witmer, Commissioner  
Wayne E. Gardner, Commissioner  
James H. Cawley, Commissioner  
Megan Good (via electronic mail to [megagood@pa.gov](mailto:megagood@pa.gov) )  
Kriss Brown (via electronic mail to [kribrown@pa.gov](mailto:kribrown@pa.gov) )

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of Alternative Energy	:	
Portfolio Standards Act of 2004:	:	Docket Nos. M-2012-2313373
Standards for the Participation of	:	M-00051865
Demand Side Management Resources –	:	
Technical Reference Manual 2013 Update	:	

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**COMMENTS OF THE  
ENERGY ASSOCIATION OF PENNSYLVANIA  
TO THE 2013 TRM ANNUAL UPDATE  
TENTATIVE ORDER**

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On September 13, 2012, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) entered a Tentative Order proposing changes for the 2013 update to the Technical Reference Manual (“TRM”). The TRM is used to determine deemed savings values for specific measures in Energy Efficiency and Conservation (“EE&C”) Plans developed and implemented by designated electric distribution companies (“EDCs”) in Pennsylvania to comply with the provisions of Act 129 of 2008. It is contemplated that the 2013 update to the TRM, once finalized, will become effective on June 1, 2013 and will be applicable for the first program year of the second phase (“Phase II”) of EE&C Plans under Act 129.

With respect to the majority of technical updates and modifications proposed in the 2013 TRM update, the Commission is referred to comments submitted by the EDCs. The Energy Association of Pennsylvania (“EAP” or “Association”) submits the following general comments

to the timing and policy issues raised by the update process for the proposed 2013 TRM on behalf of its member EDCs subject to the provisions of Act 129.<sup>1</sup>

## **I. COMMENTS**

EAP appreciates the efforts and collaborative approach to maintain an up-to-date TRM for evaluating, measuring and verifying the savings achieved by the deployment of energy efficiency measures through approved EE&C Plans under Act 129. EAP further understands that for the TRM to be an accurate and effective measurement tool that satisfies the provisions of Act 129 and results in cost effective savings for ratepayers, it must be updated periodically to reflect changes to codes, regulations and statutes, to correct algorithms and revise charts, and to encompass new energy efficiency and conservation measures. EAP, however, contends that the Commission's current process for updating and maintaining the TRM is out of sync with the EE&C plan filing schedule, is financially and administratively burdensome and subjects EDCs, stakeholders (including ratepayers) and PUC staff to costly plan revisions and uncertainty.

The modifications proposed to the TRM for 2013 significantly reduce the amount of deemed savings for existing measures which will be counted towards meeting the new energy reduction mandates established for Phase II. Further, the proposed reductions differ, in certain instances, from saving values used by the Statewide Evaluator ("SWE") in completing its Electric Energy Efficiency Potential for Pennsylvania Final Report ("Market Potential Study") earlier this year which, in turn, formed the basis for the Phase II energy reduction mandates.

As with prior modifications to the TRM, the Association continues to believe that the process of annually updating the TRM and applying those changed deemed savings values to

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<sup>1</sup> EAP members subject to Act 129 include Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power Company, PPL Electric Utilities Corporation and West Penn Power Company.

approved Act 129 EE&C Plans creates due process concerns for EDCs that are exposed to penalties under Act 129, increases the costs of administering and implementing plans, and does not create measurable benefits for either ratepayers or participants in EE&C programs. To the extent that the annual updates are applied mid-Phase, and continuously adjust deemed savings values that serve as the underpinnings for the EE&C Plans approved by the Commission, the modifications create a moving target for purposes of compliance in the current phase of Act 129. Applying the changes mid-Phase reduces the prospects of compliance under a statute which initially mandated specific targets and contained firm spending caps. Pennsylvania's targets are aggressive and the statute requires penalties not less than a million dollars for an EDC which misses the target, underscoring the materiality of fairness and due process issues.

With respect to the 2013 proposed modifications which are slated to become applicable at the start of Phase II, EAP continues to question the fairness of applying a different standard of assumptions to the Phase II EE&C Plans than were used as underpinnings for the goals approved by the Commission. EAP asks the Commission to consider the fairness concerns that have been raised by the Association and the EDCs with each TRM update and are evident here where the 2013 update contains different deemed savings values and relies upon different studies and assumptions than those which formed the basis of the recent Market Potential Study. While the 2013 TRM will become effective at the start of Phase II rather than in the course of an already approved EE&C Plan, the same fairness concerns are present where, as here, mandates which were set within the last few months and have been used for Phase II plan formation are subject to modification in the 2013 TRM and future iterations.

The desire to examine and incorporate the most recent research and review practices and TRMs from other states can be tempered with flexibility based on differences in weather, climate

and consumer demographics. Modifications must be weighed against the realities of the Pennsylvania law which demands that goals be achieved in finite timeframes using a variety of measures provided equitably to all classes of customers with a set amount of funds. EAP questions whether annual changes in evaluation, measurement and verification technique provide any tangible benefit to ratepayers or protect against the counting of so-called “fictitious savings”. Technology in the energy efficiency market continues to rapidly evolve. Moreover, the ability to measure and verify the savings achieved from new and existing technologies is constantly being revisited and refined as evidenced by the number of studies which are reviewed in technical discussions between the SWE, EDCs, PUC staff and other stakeholders in a variety of settings.

Constancy in deemed savings values for the life of a plan avoids the cost of frequent plan revisions and re-budgeting while allowing administrators to focus on implementation issues and increasing participation numbers. The focus becomes centered on achieving the goal and improving plan delivery to ratepayers rather than on revising plans and tweaking budgets to avoid penalties. EAP opines that the focus of implementation will necessarily shift to innovative and new energy efficiency measures as the market for the existing measures becomes saturated, minimizing the need to constantly adjust savings values for existing measures. As previously stated in comments to proposed TRM updates, the update should focus on the inclusion of new measures, changes in codes and statutes or corrections in charts or algorithms rather than on revisiting assumptions or parsing studies to determine a new deemed savings value for the existing measures used in approved EE&C Plans.

Under the Commission’s current timeline, when the TRM update results in substantial revisions, particularly for modifications that significantly lower the savings values, EDCs must take action to assure that the current approved EE&C Plan can still achieve compliance target

requirements. To account for the newly-established TRM values (as opposed to the values in place at the time the plans were developed or approved), the recourse is to modify the current EE&C Plan by embarking on the lengthy plan modification process. Initiating these proceedings is costly, administratively burdensome and entails re-engaging stakeholders before modifications can be made. Even the Phase I expedited process can be expensive and ultimately undermine the flexibility needed to meet reduction targets. In addition, as each program year passes, targets become increasingly more difficult and more costly to achieve as the market potential for energy savings shifts to more complex measures at notably greater cost.

EAP strongly recommends that the Commission continue to update the TRM annually but modify the effective date of changes, when such changes impact deemed savings values for measures in existing approved EE&C Plans to coincide with the beginning of the next phase of EE&C plans. Several states employ such an approach and consider the TRM *“to be a planning document in that it provides the documentation for how the PAs [plan administrators] plan to count savings for that program year”*<sup>2</sup> rather than adjusting the savings estimates retroactively.

## II. CONCLUSION

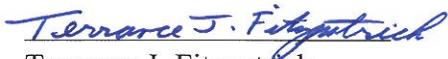
In conclusion, while continued update of the TRM is laudable to account for new measures, modifications to statutes, codes and regulations or to complete charts and correct algorithms, the effective date for any adjustments to deemed savings values for measures in existing approved EE&C Plans must be balanced against the inevitable administrative costs which will occur to modify EE&C Plans. EAP asserts that the benefits to ratepayers which may arguably be identified by annually adjusting the savings value are illusory and outweighed by the

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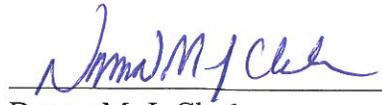
<sup>2</sup> Rhode Island [http://www.nationalgridus.com/non\\_html/ee/ri/2012%20RI%20Technical%20Reference%20Manual.pdf](http://www.nationalgridus.com/non_html/ee/ri/2012%20RI%20Technical%20Reference%20Manual.pdf); and Massachusetts [http://www.ma-eeac.org/docs/MA%20TRM\\_2011%20PLAN%20VERSION.PDF](http://www.ma-eeac.org/docs/MA%20TRM_2011%20PLAN%20VERSION.PDF)

inefficient use of resources which are then directed to modify plans, increase participation for those measures and realign budgets.

Respectfully Submitted:



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