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| **PENNSYLVANIA****PUBLIC UTILITY COMMISSION****Harrisburg, PA 17105-3265** |
| Public Meeting held February 28, 2013 |
| Commissioners Present:Robert F. Powelson, ChairmanJohn F. Coleman, Jr., Vice ChairmanWayne E. GardnerJames H. CawleyPamela A. Witmer |
| Petition of PECO Energy Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan | Docket No. M-2012-2333992  |

**OPINION AND ORDER**

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**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition of PECO Energy Company (PECO or Company) for Approval of its Act 129 Phase II Energy Efficiency and Conservation (EE&C) Plan (Petition), filed on November 1, 2012. As discussed, *infra*, on January 24, 2013, PECO submitted a revised Phase II EE&C Plan (Revised Plan). In accordance with the Commission’s Order in *Energy Efficiency and Conservation Program*, Docket Nos. M-2012-2289411 and M-2008-2069887 (Order entered August 3, 2012) (*Phase II Implementation Order*), Administrative Law Judge (ALJ) Dennis J. Buckley certified the record in this proceeding on January 28, 2013. For the reasons fully delineated, *infra*, PECO’s Petition is granted, in part, and denied, in part.

# 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 requirements, Act 129 directed that EE&C Programs be developed by each of the Commonwealth’s largest electric distribution companies (EDCs) and be approved by the Commission. Specifically, Act 129 required each EDC with at least 100,000 customers to adopt a plan to reduce energy demand and consumption within its service territory. Initially, the Act required each affected EDC to adopt a plan to reduce electric consumption by at least one percent of its expected consumption for June 1, 2009, through May 31, 2010, by May 31, 2011. By May 31, 2013, the total annual weather-normalized consumption was to be reduced by a minimum of three percent. Also, by May 31, 2013, peak demand was to be reduced by a minimum of four-and-a-half percent of each EDC’s annual system peak demand in the 100 hours of highest demand, measured against the EDC’s peak demand during the period of June 1, 2007 through May 31, 2008.

On January 15, 2009, the Commission adopted an Implementation Order at Docket No. M-2008-2069887 (*Phase I Implementation Order*) which established the standards each plan must meet, and which provided guidance on the procedures to be followed for submittal, review and approval of all aspects of the EE&C plans. The Commission subsequently approved an EE&C plan (and, in some cases, modifications to the plan) for each affected EDC.

Another requirement of Act 129 directs the Commission to evaluate the costs and benefits of the adopted EE&C Program by November 30, 2013, and every five years thereafter. The Act provides that the Commission must adopt additional incremental reductions in consumption and peak demand if the benefits of the EE&C Program exceed its costs. In accordance with that directive, the Commission issued a Secretarial Letter on March 1, 2012, at Docket No. M-2012-2289411 seeking comments on several issues related to the design and implementation of any future phase of the EE&C Program, and whether additional incremental consumption and peak demand reduction targets would be adopted. On May 10, 2012, in response to the comments received pursuant to the Secretarial Letter, the Commission issued a Tentative Implementation Order (*Phase II* *Tentative Implementation Order*) to begin the process of evaluating the costs and benefits of the initial EE&C Plans and the possible establishment of new reduction targets. In the *Phase II* *Tentative Implementation Order*, the Commission found that the benefits of a Phase II Act 129 Program will exceed the costs. Therefore, the Commission proposed the adoption of additional required incremental reductions in consumption for another program term and sought additional comments on its specific proposals.

Subsequently, in response to the comments filed pursuant to the *Phase II* *Tentative Implementation Order*, on August 2, 2012, the Commission adopted the *Phase II Implementation Order* that established the standards each plan must meet (including the additional incremental reductions in consumption that each EDC must meet) and provided guidance on the procedures to be followed for submittal, review and approval of all aspects of EDC EE&C plans. Within the *Phase II Implementation Order*, the Commission tentatively adopted EDC-specific consumption reduction targets which varied from a high of 2.9% for PECO to a low of 1.6% for West Penn Power Company. *Phase II Implementation Order* at 24. The *Phase II Implementation Order* provided that these targets would become final for any applicable EDC that did not petition the Commission for an evidentiary hearing by August 20, 2012. *Id.* at 30-32.

On August 20, 2012, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, FirstEnergy) filed Petitions for Reconsideration and Clarification of the *Phase II Implementation Order.* Also, on August 20, 2012, PPL Electric Utilities Corporation (PPL) filed a Petition for Reconsideration of the *Phase II Implementation Order*. On August 30, 2012, the Commission granted the Petitions filed by FirstEnergy and PPL pending further review of, and consideration on, the merits. The Office of Consumer Advocate (OCA) filed separate Answers to the FirstEnergy and PPL Petitions on August 30, 2012, and on the same date, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Response to PPL’s Petition.

Also on August 20, 2012, PECO filed a Petition for an Evidentiary Hearing on the Energy Efficiency Benchmarks Established for the Period June 1, 2013 through May 31, 2016 (Benchmark Petition). This matter was assigned to the Office of Administrative Law Judge with a certified record deadline of November 2, 2012. Petitions to intervene were filed by the following Parties: (1) the Community Action Association of Pennsylvania; (2) CAUSE-PA; (3) the Clean Air Council and the Sierra Club (CAC/SC); (4) Comverge, Inc. (Comverge); (5) Citizens for Pennsylvania’s Future (PennFuture); (6) Duquesne Light Company; and (7) the Philadelphia Area Industrial Energy Users Group (PAIEUG). By Order Certifying the Record dated November 2, 2012, ALJ Elizabeth H. Barnes provided a history of the proceeding; delineated the transcripts, statements and exhibits admitted into the record; and certified the record to the Commission for our consideration and disposition.

On September 4, 2012, PECO filed a Motion for Leave to File a Petition for Reconsideration and a Petition for Reconsideration of the *Phase II Implementation Order.* On September 13, 2012, the Commission adopted an Order granting PECO’s Motion for Leave to File a Petition for Reconsideration. On September 19, 2012, the CAC/SC filed an Answer to PECO’s Petition for Reconsideration.

By Reconsideration Order entered September 27, 2012, at Docket Nos.
M-2012-2289411 and M-2008-2069887 (*Phase II Reconsideration Order*), the Commission denied the Petitions for Reconsideration and Clarification filed by FirstEnergy and the Petitions for Reconsideration filed by PPL and PECO.

By Opinion and Order entered December 5, 2012, at Docket No.
P-2012-2320334 (*PECO Phase II Benchmark Order*), the Commission*, inter alia*, denied PECO’s Benchmark Petition and reaffirmed that PECO’s Phase II consumption reduction target shall remain at 2.9%.

# Procedural History

In the *Phase II Implementation Order*, the Commission reaffirmed that EDCs were to file their Phase II EE&C Plans by November 1, 2012. *Phase II Implementation Order* at 63. On November 1, 2012, the Commission issued a Secretarial Letter notifying the EDCs that it would accept Phase II EE&C Plans on either November 1, 2012 or November 15, 2012, due to Hurricane Sandy and the need for EDC personnel to focus on storm response duties.

On November 1, 2012, PECO filed its Petition requesting approval of its Phase II EE&C Plan (Phase II Plan or Plan). PECO asserted that the Phase II Plan is intended to reduce energy consumption in compliance with the requirements of Act 129 and the *Phase II* *Implementation Order*. PECO requested that the Commission issue an Order: (1) approving PECO's Phase II EE&C Plan and finding that the Plan satisfies the requirements of 66 Pa. C.S. § 2806.1(b)(1) and the *Phase II* *Implementation Order*; (2) approving PECO's proposed tariff provisions to implement a Section 1307 surcharge to recover Phase II Plan costs; (3) approving Phase II treatment for certain Phase I projects; and (4) approving the contract between PECO and JACO Environmental. Petition at 1.

Petitions to Intervene were filed by PAIEUG on November 21, 2012; the City of Philadelphia (City) on November 27, 2012; Wal-Mart Stores East, L.P. and Sam’s East, Inc. (Walmart) on November 28, 2012; PennFuture on November 29, 2012; CAUSE-PA on December 3, 2012; and Comverge on December 19, 2012. On November 28, 2012, the OCA filed a Public Statement and Notice of Intervention and on December 5, 2012, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention.

A Prehearing Conference was held on Friday, November 30, 2012. That hearing was convened to discuss procedural issues relative to the Commission’s *Phase II Implementation Order*, to determine the further course of this proceeding, and to rule on the various Petitions to Intervene submitted up to that date.[[1]](#footnote-1)

A Notice of PECO’s Phase II Plan was published in the *Pennsylvania Bulletin* on December 1, 2012. 42 *Pa.B*. 7371. The Notice stated, *inter alia*, that the Plan was available on the Commission’s website and that responsive pleadings, along with comments and recommendations, were to be filed within twenty days.

On December 4, 2012, the Parties filed a Joint Petition to Modify the Procedural Schedule with the Commission. On December 14, 2012, the Commission entered an Opinion and Order at this Docket tentatively granting the Joint Petition, subject to the submission of any comments on the revised schedule for this proceeding. No subsequent comments were submitted. As a result, the revised procedural schedule became final without further action by the Commission.

A hearing was held on January 9, 2013, in Harrisburg. All of the Parties were present and participated though counsel. PECO presented two witnesses that were cross-examined. PECO, the OCA, the City, CAUSE-PA, and PennFuture submitted exhibits and/or statements that were admitted into the record.[[2]](#footnote-2)

On January 15, 2013, Main Briefs were filed by PECO, the OCA, CAUSE-PA, the City, Comverge, PAIEUG and PennFuture. On January 24, 2013, PECO filed a Reply Brief and a Revised Plan.[[3]](#footnote-3)

By Order Certifying the Record dated January 28, 2013, the ALJ provided a history of the investigation into PECO’s Phase II Plan; delineated the transcripts, statements, exhibits and briefs admitted into the record; and certified the record to the Commission for our consideration and disposition.

# Description of the Revised Plan

The *Phase II Implementation Order* established a Phase II consumption reduction target for PECO of 2.9% of its expected load as forecasted by the Commission for the period of June 1, 2009 through May 31, 2010, or 1,125,851 MWh. PECO explains that it selected thirteen energy efficiency programs for its Phase II Plan that are tailored for its residential, commercial and industrial customers and will reduce annual energy consumption by 1,184,222 MWh.[[4]](#footnote-4) PECO states that six of the thirteen programs are already successful components of PECO’s Phase I EE&C Plan. PECO submits that the seven new programs, such as the Smart Multi-Family Solutions Program and the Smart Energy Saver Program, will create new savings and educational opportunities for important segments of the population. In its Petition, PECO provided the following summary of its thirteen programs:

**PECO Smart Appliance Recycling Program.** This program is designed to eliminate retention of old refrigeration equipment from operation as secondary units in homes and to ensure these units do not re-enter the marketplace by providing safe and environmentally responsible disposal of these units. It offers free pickup of units from residences plus customer incentives and education about the benefits of secondary unit disposal, to encourage customer participation.

**PECO Smart Home Rebates Program.** This program is designed to encourage and assist residential customers in improving the energy efficiency of their homes through a broad range of energy efficiency options that address all major energy end uses. It offers cash rebates to residential customers who install high-efficiency electric equipment and engages equipment suppliers and contractors to promote the rebate eligible equipment.

**PECO Smart House Call Program.** This program is focused on customers with electric heated homes and aims to help them gain a better understanding of their home energy use and achieve savings while also improving the comfort of their homes. The program involves an on-site energy assessment or audit with the direct installation of low-cost measures and rebates for eligible building envelope retrofits only available through the Smart House Call Program. Customers will be made aware of other efficient measures for which rebates are available through the Smart Home Rebate program, and they will be encouraged to participate in these measures as well.

**PECO Smart Builder Rebates Program.** This program is intended to accelerate the adoption of energy efficiency in the design, construction and operation of new single-family homes by leveraging the EPA's ENERGY STAR® Homes certification. It will provide education and rebates to inform and encourage architects, builders, and home buyers on the benefits of ENERGY STAR® homes as well as the requirements for gaining certification.

**PECO Low-Income Energy Efficiency Program.** The Low-Income Energy Efficiency Program ("LEEP") will educate income-eligible customers on how to make their homes more energy efficient and thereby reduce their energy bills. It will provide home energy audits to participants and the direct installation of needed energy efficiency measures in coordination with other federal and state programs, at no charge to the participants. While modeled on PECO's successful LIURP [Low Income Usage Reduction Program], LEEP is separate. While LEEP targets customers with household incomes at or below 150% of the Federal Poverty Income Guidelines ("FPIG"), the program also has the flexibility to include customers with incomes up to 200% of the FPIG, who are also eligible for assistance through the American Recovery and Reinvestment Act of 2009.

**PECO Smart Energy Saver Program.** This program consists of an energy-based classroom curriculum in which students will be instructed on energy saving approaches that can be implemented in their homes. Students will be provided a "take home" kit designed to raise awareness about how individual actions and low-cost measures can create significant reductions in electricity and water consumption. The take-home kit will include a range of low-cost, easy to install energy efficiency measures and educational materials.

**PECO Smart Usage Profile Program.** This program works by making customers aware of their energy consumption patterns relative to those of other similar customers. The information is presented in the form of regular reports that show energy use relative to other similar homes and suggests ways to decrease energy use. This initiative is designed to increase awareness of energy using behaviors and promote real and lasting behavior change to more energy efficient behaviors.

**PECO Smart Equipment Incentives Program (Commercial and Industrial).** The program is designed to encourage and assist nonresidential customers in improving the energy efficiency of their existing facilities through a broad range of energy efficiency options that address all major end uses and processes. This program offers incentives to customers who install high-efficiency electric equipment and engages equipment suppliers and contractors to promote the incentive-eligible equipment.

**PECO Smart Business Solutions Program.** The program provides streamlined, one-stop, turn-key energy efficiency services delivered through registered local contractors. It generates energy savings through the direct installation of eligible measures and incentives. The program includes lighting, refrigeration, and water heating measures that are typically low-cost with reliable, prescriptive energy savings and costs per unit.

**PECO Smart Multi-Family Solutions Program.** The program is available for both residential customers and commercial and industrial customers. It targets multi-family property owners and individual accounts in multi-family properties and focuses on replacing existing equipment and providing free direct-install of low cost measures such as [Compact Fluorescent Lamps (CFLs)], advanced power strips, low-flow showerheads, and low-flow faucet aerators.

**PECO Smart Construction Incentives Program.** The program is designed to instill and accelerate adoption of design and construction practices so that new commercial and industrial facilities are more energy efficient than the current stock. It provides facility designers and builders with training, design assistance, and incentives to incorporate energy efficient systems and construction practices in newly constructed and renovated facilities.

**PECO Smart Equipment Incentives Program (GIN-P).** This program provides financial incentives and technical assistance to achieve significant electricity savings in public sector facilities. The program offers the same financial incentives to reduce energy use in public sector facilities as in other nonresidential facilities, but also provides assistance in identifying key improvement opportunities and addressing the special planning and purchasing protocols of public and non-profit agencies.

**PECO Smart On-Site Program.** This program is designed to encourage installation of Combined Heat and Power ("CHP") projects that maximize operational savings and minimize operational and maintenance costs. It offers incentives to customers who install CHP technologies to reduce facility energy use.

Petition at 8-10.

As noted, *supra*, PECO submitted a Revised Plan on January 24, 2013. The significant changes of the Revised Plan are summarized as follows:

* The Smart House Call program was amended to indicate that PECO will collect and analyze participant energy consumption data to facilitate the evaluation of housing stock energy performance that will be used to influence marketing strategies and program improvements. Revised Plan at 43-44.
* The Smart Builder Rebates program was amended to indicate that PECO will make necessary adjustments to the program design as shifts in baseline energy consumption occur. *Id*. at 47.
* The LEEP program was amended to clarify that only savings generated by households at or below 150% FPIG will be utilized for meeting the Commission’s 4.5% low-income savings requirement, and that PECO will track program expenses for LEEP participant at or below 150% FPIG s separately from other LEEP participants. In addition, PECO will determine whether LEEP participants are eligible for PECO’s LIURP. *Id*. at 55.
* The Smart Usage Profile program was amended to indicate that PECO will work with the CSP to ensure that multiple communication channels are considered to market the program*. Id.* at 67.
* The Smart Multi-family Solutions program was amended to clarify that the customer population for this program will include both individually-metered and master-metered multi-family buildings, as well as low-income and lower-income customers served by PECO. *Id*. at 101.
* The Smart On-Site program was amended to permit CHP projects that are substantially completed during Phase I and in commercial operation prior to December 31, 2013(during Phase II), to receive incentives at the higher Phase I levels. PECO clarified that the incentives offered for CHP projects that were initiated during Phase I, but completed after December 31, 2013 will receive the proposed Phase II incentives. PECO also clarified that all incentives paid during Phase II will paid out of the Phase II budget*. Id*. at 148.
* PECO added a glossary of acronyms and a glossary of terms and definitions. *Id*. at 226-233.

# Discussion

## **Legal Standards**

The Company has the burden of proof in accordance with 66 Pa. C.S.
§ 332(a). Courts have held that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied,* 529 Pa. 654, 602 A.2d 863 (1992). That is, the Company’s evidence must be more convincing, by even the smallest amount, than that presented by the other Parties. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, this Commission’s decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC,* 489 Pa. 109, 413 A.2d 1037 (1980).

We note that any issue that we do not specifically address has been duly considered and will be denied without further discussion. It is well settled that the Commission is not required to consider, expressly or at length, each contention or argument raised by the parties. *Consolidated Rail Corporation v. Pa. PUC*,

625 A.2d 741 (Pa. Cmwlth. 1993); *see also*, *generally*, *University of Pennsylvania v.*

*Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

## **Procedural Issue – Review of Conservation Service Provider Contract**

In its Petition, PECO requested that the Commission approve a contract between PECO and JACO Environmental, Inc.[[5]](#footnote-5) Petition at 1-2. In our *Phase I* *Implementation Order*, we delegated to the Commission staff the authority to review and approve contracts between EDCs and Conservation Service Providers (CSPs). *Phase I* *Implementation Order* at 40. Consistent with the other contracts between PECO and CSPs that have been reviewed by the Commission, the contract between PECO and JACO Environmental Inc. has been assigned to the Commission staff for its review and will not be addressed in this Opinion and Order. Pursuant to the *Phase I Implementation Order*, Staff has forty-five days to review the contract and the staff review shall begin upon entry of this Opinion and Order. Staff’s determination will be communicated in a Secretarial Letter and the determination is appealable to the full Commission within twenty days of its issuance, per 52 Pa. Code § 5.44. *Phase I* *Implementation Order*
at 27, 40.

## Phase II Conservation Requirements

### Overall Conservation Requirements

As noted, *supra*, the *Phase II Implementation Order* established a Phase II energy consumption reduction target of 1,125,851 MWh for PECO, which was based on a 2.9% reduction in the Company’s expected load as forecasted by the Commission for the period of June 1, 2009 through May 1, 2010. *Phase II Implementation Order* at 23-24. PECO projected that the three-year total energy savings generated by the thirteen Phase II programs will be 1,093,417 MWh.[[6]](#footnote-6) Revised Plan at 6.

In the *Phase II Implementation Order,* the Commission determined that EDCs, which have achieved their three percent Phase I target before the end of Phase I, could continue the Phase I programs as long as those EDCs had Phase I funds available. The Commission also determined that the EDCs could credit the Phase I energy savings above the three percent target towards their Phase II targets. PECO projected that 91,005 MWh of Phase I “bank” savings will be applied to its Phase II energy savings. Revised Plan at 5-6.

Combining the energy savings projected for the thirteen Phase II programs with the savings carried over from Phase I, PECO estimated that its total savings for Phase II will be 1,184,422 MWh and that the Company will exceed its Phase II target by 58,571 MWh, or about 5.2%. Therefore, we find that PECO’s Plan complies with the *Phase II Implementation Order* in that it exceeds the overall conservation requirements established for PECO.

### Requirements for a Variety of Programs Equitably Distributed

Act 129 requires that the Commission’s EE&C Program must include “standards to ensure that each plan includes a variety of energy efficiency and conservation measures and will provide the measures equitably to all classes of customers.” 66 Pa. C.S. § 2806.1(a)(5). Each EDC is required to demonstrate that its plan “provides a diverse cross section of alternatives for customers of all rate classes.” 66 Pa. C.S. § 2806.1(b)(1)(i)(I).

In the *Phase II Implementation Order*, the Commission stated that, beyond the specific carve-outs for the low-income and government/educational/nonprofit sectors, the EDCs should develop plans to achieve the most energy savings per expenditure. The Commission also stated that the EDCs must offer a well-reasoned and balanced set of measures that are tailored to usage and to the potential for savings and reductions for each customer class. The Commission noted that it is entirely possible that the most cost-effective energy efficiency programs may not come proportionally from each customer class. *Phase II Implementation Order* at 87. The Commission further explained:

The Commission believes that all classes of customers will benefit from a general approach because it has the best potential to impact future energy prices. The Commission will not require a proportionate distribution of measures among customer classes. However, the Commission directs that each customer class be offered at least one energy efficiency program. The Commission believes that, as with Phase I, the initial mix and proportion of energy efficiency programs should be determined by the EDCs, subject to Commission approval. The Commission expects the EDCs to provide a reasonable mix of energy efficiency programs for all customers.

*Id*. at 88.

#### Positions of the Parties

Based on its reading of 66 Pa. C.S. § 2806.1(a)(5) and the *Phase II Implementation Order,* PAIEUG avers that it is important that customer classes neither receive a disproportionate share of EE&C Plan benefits nor bear a disproportionate burden of the costs in relation to the overall plan. PAIEUG submits that comparing the parity between the overall revenue received by an EDC from a customer class and the Phase II EE&C Plan budget allocated to the same customer class provides a useful metric. PAIEUG M.B. at 11.

PAIEUG argues that PECO’s Plan proposes to allocate significantly more costs to the large Commercial and Industrial (C&I) customer class than is justified by this class’ contribution towards PECO’s annual revenue. PAIEUG submits that in 2011, large C&I customers generated only eleven percent of PECO’s revenue while PECO proposes to allocate twenty-seven percent of its Phase II costs to this class. PAIEUG states that, in comparison, PECO has allocated fifty-one percent of Plan costs to the residential class while this class represents sixty-eight percent of PECO’s 2011 revenue. PAIEUG avers that this “substantial disparity” between revenue and costs clearly fails to reflect any parity between EE&C costs and overall annual revenue contribution. *Id*. PAIEUG also argues that the proposed Plan saddles large C&I customers with an inequitable portion of PECO’s overall Plan Costs. *Id*.

PAIEUG states that, in response to its request for the Company’s 2011 annual revenue, PECO provided a revenue figure that included both distribution revenue from all customers and both transmission and generation revenue from default customers. PAIEUG avers that PECO failed to provide an “apples to apples” comparison of revenue contribution by customer class. *Id.* at 12. PAIEUG submits that PECO was unable to quantify how the percentages of revenue by customer class would change if only distribution revenue were examined. PAIEUG explains that PECO could only claim that the percentage of revenue from large C&I would “increase” without providing any type of quantification. *Id.*

PAIEUG argues that because of the mandates of Act 129 and the *Phase II Implementation Order* “modifications should be made to the allocation of Phase II costs to the large C&I class in order to create parity that would reflect an allocation of costs more in line with the resulting revenue contribution.” *Id.*

In response to PAIEUG’s arguments, PECO submits that Act 129 mandates reductions in kilowatt-hour sales, not revenues. PECO avers that, given that the sales contribution of the large C&I class is over forty percent, the twenty-seven percent of the Plan costs assigned to this class are “actually quite reasonable.” PECO R.B. at 11.

PECO also submits that it has ensured that no customer class receives a disproportionate amount of costs or benefits by assigning and allocating Plan costs in accordance with generally accepted cost of service principles. PECO states that “For example, the costs of programs that target specific rate classes will be directly assigned to those classes and all administrative/common costs will be allocated according to the ratio of each program's individual spend to the total program spend.” *Id.*

#### Disposition

We reject PAIEUG’s arguments that the allocation of Plan costs should be based on the overall revenue received from the customers of a class or that PECO is proposing to allocate an unreasonable share of the costs to the large C&I class. As discussed, *supra*, in the *Phase II Implementation Order*, we stated that the EDCs should develop plans to achieve the most energy savings per expenditure and that it is entirely possible that the most cost-effective energy efficiency programs may not come proportionally from each customer class. On Table 2 of the Revised Plan, PECO presents the projected overall Total Resource Cost (TRC) Test benefit-cost ratio for the five customer classes. PECO estimates the TRC ratio for the entire Plan to be 1.4 and the TRC ratio for the large C&I class to be 1.6. The TRC ratio for the large C&I class is above the average for the Plan and is only exceeded by the projected 1.9 TRC ratio for the government/education/non-profit class. Revised Plan at 7**.** Consequently, with the projected above-average long-term benefit-cost ratio for the large C&I class, we find that the programs proposed for the large C&I class appropriately focus on realizing the most energy savings per expenditure.

We also find that the mix of programs proposed by PECO provides a diverse cross-section of alternatives for customers of all rate classes. Of the thirteen programs proposed to be included in the Phase II Plan, seven are available to the residential class, five are available to the small C&I class, and four are available to the large C&I class. In addition, as discussed, *infra*, PECO has proposed specific programs for the low-income and government/education/non-profit customer classes. Revised Plan Table C-6A at 190-191.

### Ten Percent Government/Non-profit Requirement

For the Phase I EE&C Plans, Act 129 required that such plans obtain a minimum of ten percent (10%) of all consumption and peak demand reduction requirements from units of the federal, state and local governments, institutions of higher education and nonprofit entities (government/educational/nonprofit). 66 Pa. C.S.
§ 2806.1(b)(1)(i)(B). In the *Phase II Implementation Order,* the Commission prescribed a ten percent energy reduction requirement for this sector from the EDCs’ Phase II EE&C Plans. *Phase II Implementation Order* at 45*.*

In its Phase II Plan, PECO has proposed a Smart Equipment Incentives program for the Government, Institutional and Non-Profit (GINP) sector which is projected to produce 103,748 MWh of energy savings over the three years of the Phase II Plan. This program represents 9.5% of the total 1,093,417 MWh savings for all of the Phase II Plan savings. Revised Plan at 6. While the 9.5% savings from the Smart Equipment Incentives - GINP program is below the ten percent requirement set forth in the *Phase II Implementation Order*, we note that GINP customers may also be served under the Smart Business Solutions, Multi-Family Solutions, Smart Construction, and Smart-On-Site programs. Revised Plan at 132. Therefore, in consideration of GINP customers’ eligibility to participate in these programs, we find that PECO has satisfied its requirement to submit a plan that demonstrates compliance with the ten percent energy reduction requirement for government/educational/nonprofit customers.

To ensure compliance with the ten percent energy reduction requirement for the government/educational/nonprofit sector, PECO shall report the actual savings from this sector as part of its annual reporting on its Phase II Plan. *See, Phase II Implementation Order* at 77-78.We also note that PECO may propose to make subsequent modifications to its programs for government/educational/nonprofit if necessary to achieve the ten percent target.

### 4. **Low-income Program Requirements**

Act 129 prescribed that in Phase I, each EDC’s EE&C Plan must include specific energy efficiency measures for households at or below 150% of the federal poverty income guidelines (FPIG), in proportion to that sector’s share of the total energy usage in the EDC’s service territory. *See* 66 Pa. C.S. § 2806.1(b)(1)(i)(G). In the *Phase II Implementation Order*, the Commission directed the EDCs to obtain a minimum of 4.5% of their total consumption reduction from customers with incomes at or below 150% of the FPIG. The Commission also clarified that EDCs were permitted to include savings from customers with incomes at or below 150% of the FPIG living in multifamily housing toward meeting the 4.5% goal. *Phase II Implementation Order* at 53-54.

As discussed, *supra*, PECO proposes to implement LEEP, which will educate customers with incomes up to 200% of the FPIG on how to make their homes more energy efficient, provide home energy audits to participants and perform direct installation of needed energy efficiency measures in coordination with other federal and state programs, at no charge to the participants. Petition at 8-9. In addition to LEEP, PECO estimates that it will realize savings toward the 4.5% target from customers at or below the 150% FPIG that participate in other Phase II programs and banked savings from its Phase I programs. PECO St. 1-R at 3. PECO provided the following breakdown of how it plans to meet the 4.5% low-income target:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Participating Customers at or below the 150% FPIG** | **Energy Savings****(MWh)** | **Percent of Total****Phase II Savings** |
|  | LEEP Customers | 47,884 | 4.25% |
|  | Other Phase II Programs | 1,480 | 0.13% |
|  | Banked Phase I Savings | 1,299 | 0.12% |
|  | Total | 50,663 | 4.50% |

*Id.*

#### Positions of the Parties

Initially, the OCA and CAUSE-PA were concerned that PECO’s Plan would not meet the 4.5% low income savings requirement because customers with incomes up to 200% of the FPIG would be eligible for LEEP and the savings PECO projected for LEEP were less than 4.5% of the total savings projected for the Plan. To address these concerns, PECO and CAUSE-PA entered into a Stipulation containing the following three elements:

* For the purpose of meeting the 4.5% low-income savings requirement, PECO will only count savings generated by households at or below 150% of the FPIG.
* PECO will separately track LEEP expenditures for customers at or below 150% of the FPIG.
* When a customer at or below 150% of the FPIG participates in a Phase II program other than LEEP, the Company will provide the customer’s information to the Company’s [LIURP] and/or LEEP to determine eligibility for those programs.

PECO/CAUSE-PA Exh. 1 at 3. In its Main Brief, the OCA states that it supports the Stipulation. OCA M.B. at 20-21.

Through its direct testimony, CAUSE-PA explained that households with incomes at 150% of the FPIG lack sufficient income to pay for all of their critical needs and many cannot afford to pay for utility service because of the cost of competing essential needs like rent, food and medicine. CAUSE-PA submitted that PECO’s low-income electric customers are more likely to have service terminated and are often financially unable to pay to have service restored. CAUSE-PA avers that PECO’s emphasis on increasing light bulb distribution in LIURP and LEEP and on its public outreach will not effectively reduce electrical usage of low-income households where conditions require more aggressive remediation efforts. CAUSE-PA St. 1 at 12-14. CAUSE-PA recommended that PECO achieve effective levels of individual household savings through: (1) exchanging high savings ENERGY STAR® appliances to replace older, less efficient appliances; (2) installing efficient hot water heaters; (3) where feasible, eliminating *de facto* electric heating; and (4) promoting the conversion of electric heat to an efficient natural gas system. CAUSE-PA also recommended that PECO should continue to leverage its Phase II funds by coordinating with other public-funded programs such as the Pennsylvania Department of Community and Economic Development’s Weatherization Assistance Program. *Id*. at 17-19.

In response to CAUSE-PA’s recommendations, PECO notes that its proposed LEEP includes comprehensive home weatherization audits and the direct installation of measures, which may encompass the replacement of inefficient appliances such as refrigerators, room air conditioners, and electric water heaters with ENERGY STAR® units, at no cost to the customer. PECO explains that LEEP also includes a separate refrigerator replacement program to replace old inefficient working refrigerators with new ENERGY STAR® units. PECO avers that LEEP is designed to provide the wide array of meaningful savings opportunities for low-income customers that
CAUSE-PA seeks. PECO R.B. at 3.

#### Disposition

As an initial matter, we concur with the Stipulation and the corresponding revisions to the Revised Plan. Revised Plan at 55. These modifications will, *inter alia*, ensure that PECO has met the 4.5% low-income savings requirement and that LEEP participants are aware of opportunities under LIURP, where applicable.

With the exception of CAUSE-PA’s recommendations regarding the conversion of electric heating to gas heating and coordination of LEEP with other low-income conservation programs, we concur with PECO that the appliance, water heating and heat pump installation/replacement components of LEEP should address CAUSE-PA’s recommendations.

While the Commission’s Technical Reference Manual (TRM) has an algorithm for the conversion of electric heat to gas heat, the record in this proceeding does not support a finding that a fuel switching component for PECO’s low-income program would be at least as cost-effective as the measures currently proposed by PECO for low-income customers. Therefore, we are not inclined to direct PECO to add a fuel switching component at this juncture. However, CAUSE-PA may continue to address the cost-effectiveness of fuel-switching opportunities with PECO through the stakeholder process.

We find that PECO has not adequately responded to CAUSE-PA’s recommendations regarding the coordination and leveraging of LEEP with other conservation programs that serve low-income customers. While PECO’s summary of LEEP presented in the Petition states that the program will provide the direct installation of needed energy efficiency measures in coordination with other state and federal programs, the detailed program description of LEEP presented in the Plan does not address this coordination. Petition at 9; Plan at 54-61. We note that the leveraging of LEEP with applicable collaborative resources was a facet of the Phase I Plan. Consequently, we shall direct PECO to meet with the Commission’s Bureaus of Consumer Services (BCS) and Technical Utility Services (TUS), to address improvements in the coordination of LEEP with specific conservation programs.

We also note that there may be an inconsistency in the estimated 47,884 MWh savings from LEEP participants presented in PECO St. 1-R and the 49,364 MWh savings presented in the Plan.[[7]](#footnote-7) Accordingly, we shall direct PECO to file an explanation with staff of BCS and TUS regarding this data.

### Proposals for Improvement of the EDC’s Plan

#### Smart Builder Rebates Program

The Smart Builder Rebates Program is intended to accelerate the adoption of energy efficiency in the design and construction of new single-family homes. Petition at 8. To achieve this goal, PECO proposes to educate architects, builders, and buyers about the benefits of the ENERGY STAR® Homes certification and to offer an incentive of $400 for achieving the certification. PECO also proposes to pay a performance bonus for the first year of $0.10 per kWh of savings as verified for each home. PECO explains that the incentive is designed to cover roughly thirty percent of the incremental costs of meeting the ENERGY STAR® standard. PECO states that the rebates will be paid to the builder. Plan at 47.

##### Positions of the Parties

The OCA is concerned about the effectiveness of the program as well as the TRC of only 0.2. The OCA is also concerned with the implementation of this program at a time when the building code standards used in Pennsylvania will be updated. OCA M.B. at 11. OCA witness Mudd testified that a program based on ENERGY STAR® version 3.0 could create an incentive for homes that fall short of the state building code requirements if Pennsylvania were to adopt the 2012 International Energy Conservation Code (IECC). OCA St. 1 at 11-12.

The OCA also avers that the proposed incentives of approximately $600 to $800 per new home are too low to induce the modification of building plans to meet improved energy efficiency standards. The OCA projects that the proposed incentive will mostly capture the twenty to forty percent of new homes built in Pennsylvania that would meet these standards without incentives. OCA M.B. at 12. Ms. Mudd testified that neighboring jurisdictions are offering incentives ranging from $850 to $3,750 per home based on the Home Energy Rating of each ENERGY STAR® certified home. OCA St. 1 at 10.

The OCA recommends that the Smart Builder Rebates Program be delayed until the issues surrounding the adoption of the 2012 IECC are resolved. The OCA also recommends that PECO should be directed to collaborate with the stakeholders to redesign the program to better address and incentivize the new home construction market. OCA M.B. at 14.

In response to the OCA’s recommendations, PECO states that the Smart Builder Rebates Program already reflects stakeholder input. PECO R.B. at 5. PECO notes that the Revised Plan has been amended to reflect that “It is common for baseline energy consumption to shift and PECO will make the necessary adjustments to program designs as these baseline shifts occur.” Revised Plan at 47. The Revised Plan also indicates that PECO will make rebate level adjustments over time depending on market reaction and program participation*. Id.* PECO does not agree with the OCA that the likelihood of future revisions warrants delaying implementation of the program. PECO argues that if this were the case, EE&C Plan implementation would be constantly disrupted by the evolution of other key standards, such as the TRM which is revised on an annual basis. PECO R.B. at 5-6.

##### Disposition

While we share the OCA’s concerns regarding the projected cost-effectiveness of the program and the potential changes to building code standards, we concur with PECO that the implementation of the Smart Building Rebates program should not be delayed. In the *Phase II Implementation Order,* the Commission required each EDC to develop plans that contain at least one comprehensive measure, such as whole-house treatments. *Phase II Implementation Order* at 20. Consequently, we will approve this program as an initial component of PECO’s Phase II Plan. However, we shall direct PECO to continue to work with stakeholders to develop modifications that will improve the long-term cost-effectiveness of the program. We would like this collaborative to begin shortly after the Phase II program begins and will direct PECO to begin to meet with stakeholders within six months of the date of entry of this Opinion and Order. PECO shall also propose modifications to this program in response to changes in building codes or changes in energy conservation practices of builders in PECO’s service area, as necessary.

#### Multi-Family Housing Solutions Program

This program targets multi-family property owners as well as individual ratepayers in multi-family properties and focuses on replacing existing equipment and providing free direct-install of low cost measures such as CFLs, advanced power strips, low-flow showerheads, and low-flow faucet aerators. Petition at 9. This program has been budgeted to realize participation from about 4.5% of both the residential and C&I rate classes. Revised Plan at 5-6.

##### Positions of the Parties

As background to its recommendations, the OCA notes that master-metered multi-family homes are considered to be part of the C&I customer class while only those customers with individual meters can be properly accounted for under the residential customer class. The OCA explains that there are two types of individually-metered residential customers, those who own their residences and those who rent. The OCA submits that, according to the U.S. Department of Housing and Urban Development, eighty-eight percent of multi-family households are renters. OCA M.B. at 17.

The OCA avers that, where multi-family units are individually metered, the incentive to install energy efficiency measures can be split between the landlord and the tenant. The OCA opines that, while a tenant may want to experience energy savings in the short-run, the tenant may not plan on living in the unit long enough to recover the upfront costs necessary to install a measure. The OCA also opines that, while a landlord may want to make the unit more attractive to the renting public, the landlord will not receive the benefit of lower energy costs. The OCA argues that this program focuses on building-owner interest and building owners are not likely to invest the time and money necessary to improve energy efficiency where they receive no direct benefit. As an alternative, the OCA proposes a “neighborhood blitz” type program where concentrated areas of multi-family housing are targeted and the housing units receive low-cost direct installation measures. *Id*. at 17.

The OCA recommends that, since renters have fewer options under the other residential programs in the Plan, PECO should focus the residential portion of the Multi-Family Housing Solutions Program on rental properties. The OCA also recommends that this program provide renters with direct-install measures with little or no upfront costs. *Id.* at 17-18.

The OCA points out that fifty-one percent of the costs of this program are allocated to the residential customer class and the remaining forty-nine percent to the C&I class. The OCA submits that, based on the implementation strategy and roles and activities provided in the program description, this program emphasizes activities that are more closely related to multi-family building owner needs. PECO also avers that, in multi-family units that are individually-metered, the owners have an incentive to participate in other residential programs. Therefore, the OCA recommends that the residential portion of the program budget be reduced. *Id.* at 18-19.

CAUSE-PA states that, in master-metered buildings with low-income tenants, the landlord may redistribute the electricity to the tenants through a resale arrangement. CAUSE-PA explains that because the landlord is the customer of record, the low-income household may be barred from participating in LEEP or LIURP. CAUSE-PA recommends that PECO develop a component in its Smart Multi-Family Solutions Program to address this issue by working with the Pennsylvania Housing Finance Agency (PHFA). CAUSE-PA submits that PHFA is uniquely qualified to identify low-income multi-family buildings and to identify the technical and financial assistance available to building operators and tenants. CAUSE-PA M.B. at 9-10.

PAIEUG supports PECO’s proposed budget allocation for the Smart Multi-Family Solutions Program and opposes the OCA’s recommendation to reduce the residential allocation. PAIEUG avers that residential customers will not be subsidizing the costs incurred for multi-family property accounts because each customer class will only be responsible for those program costs actually occurred. PAIEUG M.B. at 16-18.

##### Disposition

We find that PECO’s Multi-Family Housing Solutions Program addresses the needs of an often underserved segment of customers by targeting both master-metered and individually- metered multi-family housing units, as well as resident-owned and landlord-owned dwellings. PECO has developed distinct program components that are designed to overcome the split-incentive concerns that often present a challenge to multi-family energy efficiency programs. Among the broad array of measures are direct-install, no-cost and low-cost measures that should be attractive to both residents of individually-metered units and owners of master-metered buildings. In addition, there are incentives for common areas of multi-family buildings and incentives that will be attractive to owner-occupied units. Revised Plan at 105-108. Accordingly, we find that the program should be approved as proposed by PECO.

We disagree with the OCA that the current proposed allocation of fifty-one percent of the program costs to the residential customer class and the forty-nine percent of the program costs to the C&I customer class should be modified at this time. As pointed out by PAIEUG, the costs allocated to the residential customer class will only reflect the costs of those measures actually provided to residential customers over the three years of the Plan. Consequently, the cost allocation will be adjusted automatically based on the customers in each class that participate in the program and the extent of their participation.

While the OCA’s suggestion of a “neighborhood blitz” could be an effective marketing strategy, we are not inclined to direct PECO to amend the program at this time. However, PECO should consider modifications to this program, such as targeted neighborhood campaigns, if actual participation rates are less than projected.

We agree with CAUSE-PA that PHFA is uniquely qualified to identify low-income multi-family buildings and to identify the technical and financial assistance available to building operators and tenants. In addition to PHFA, we direct PECO (and its CSP) to carefully consider all strategies and collaborative resources that promote the program.

We do not concur with CAUSE-PA that an exclusive component of the program needs to be developed to specifically address low-income occupants within multi-family housing buildings. PECO has indicated that all segments of customers will be served by the program. Revised Plan at 101. Therefore, the Multi-Family Housing Solutions Program will encompass the segment of low-income customers and renters who may not be eligible for LIURP or LEEP because of the usage requirements of those programs. We note that PECO will be able to count savings from low-income households that participate in this program toward the 4.5% low-income energy reduction target, *supra*, to the extent that PECO can verify that participating customers do not exceed the 150% of FPIG threshold. We also note that low-income customers are eligible to participate in PECO’s other Phase II residential programs, particularly if they live in individually-metered units.

#### Smart On-Site Program

PECO explains that the proposed On-Site Program is designed to build interest in CHP projects by making the customer economics attractive by offering incentives to customers that install CHP technologies. Capacity incentives are offered in declining tier rates based on installed capacity as follows:

|  |  |
| --- | --- |
| **Incentive** | **Capacity** |
| $250 - $300 per kW | First 500 kW |
| $100 - $150 per kW  | 500 kW – 1.5 MW |
| $50 - $75 per kW | 1.5 MW – 10 MW |

In addition to the installation incentive, PECO proposes a performance incentive of $0.02 per kWh generated during the first year of operation. PECO also proposes that the capacity incentive can be no more than forty percent of the project costs and the maximum total incentive is no more than fifty percent of project costs up to $ 1 million. Revised Plan at 152.

##### Positions of the Parties

The City explains that the Philadelphia International Airport is currently evaluating two 4.0 MW CHP units with a design build cost of roughly $13.5 million. The City states that the reimbursement scheme proposed for Phase II would appear to significantly reduce the funding for large C&I projects as compared to the funding available for such projects under Phase I. The City estimates that the proposed incentive structure and the new incentive caps proposed by PECO for Phase II would cover about 8.5% of the Airport project costs. The City avers that the 8.5% reimbursement potential does not provide enough of an incentive to impact decision making regarding whether the City or other customers would undertake such projects. The City also argues that, based on incentive levels available for other EE&C measures in the Phase II Plan, CHP projects could be supported at a higher reimbursement level. City M.B. at 7-8.

The City recommends that PECO either: (1) re-incorporate CHP projects into the Smart Equipment Incentives Program and determine incentives based on the Phase I Plan; or (2) keep the proposed Smart On-Site Program, but remove the caps and create an incentive structure that will provide incentives that reflect a higher percentage of project costs. The City submits that the low costs, lower emissions and availability of natural gas make gas-fired CHP projects an important option for addressing the City’s energy needs. *Id.* at 8.

While Comverge did not address the specific concerns raised by the City, Comverge outlines the array of benefits of CHP projects and supports PECO’s On-Site Program and its design for the CHP program. Comverge M.B. at 7-10.

PECO avers that its proposed incentive structure is adequate and appropriate for a variety of CHP projects. PECO states that, through the discovery process in this proceeding, it provided the City with detailed information regarding the various incentive strategies that were reviewed and benchmarked as PECO developed the proposed Smart On-Site Program. PECO submits that the $1 million incentive cap ensures that the incentive budget will not be dominated by a single large project. PECO explains that the maximum incentive limit of fifty percent of project cost and declining tiered incentive rates are appropriate in light of the fact that the cost of installing capacity (cost/MW) declines as capacity increases. PECO argues that, therefore, larger projects have less of a need for incentives as cost/MW declines with increasing project size. PECO M.B. at 7.

##### Disposition

At this juncture, we will approve PECO’s Smart On-Site Program as proposed in its Phase II Plan. While we fully support the City’s commitment to CHP projects, we concur with PECO that its proposed incentive scheme preserves incentive funds for a variety of CHP projects and reflects how the economics of CHP projects vary with size.

#### Direct Load Control Program

The Commission has excluded demand reduction targets and corresponding required demand reduction (DR) programs from the EDCs’ Phase II EE&C Plans at this time. In the *Phase II Implementation Order*, the Commission explained that our interpretation of Section 2806.1(d)(2) of Act 129, 66 Pa. C.S. § 2806.1(d)(2) is that, in order for the Commission to prescribe specific peak DR targets for subsequent phases of Act 129, the DR programs must be proven to be cost-effective. *Phase II Implementation Order* at 32. Therefore, in order to determine the cost-effectiveness of current and potential future DR programs, the Commission has directed the Statewide Evaluator (SWE) to complete a DR study.[[8]](#footnote-8) *Id*. Because the Commission had not yet received information on the cost-effectiveness of the EDCs’ current DR programs, the Commission did not set any peak demand reduction targets for the Phase II EE&C program period in the *Phase II Implementation Order*. *Id*. at 33.

While demand reduction targets have not been established for Phase II, the Commission recognizes that the EDCs, and residential electric customers in particular, have made significant strides in the implementation of residential curtailment measures, such as direct load control programs. Therefore, to minimize customer confusion or adverse customer reaction if these programs were interrupted, we stated in the *Phase II Implementation Order* that the EDCs may continue, under the Act 129 EE&C Program, residential DR curtailment measures, such as direct load control programs, that will be cost effective, if continued. We noted that such specific measures, if continued, could be viewed as providing an interim DR program until the Commission determines whether or not there is a cost-effective Act 129 peak demand reduction program design. *Id.* at 42. We also noted that EDCs seeking to establish new, or continue existing, load management programs that are prudent and cost-effective are free to file a petition with the Commission for approval of such programs under 66 Pa. C.S. § 1505(b) (related to the Commission’s authority to order conservation and load management programs). We explained that all prudent and reasonable costs incurred with such programs are recoverable in accordance with 66 Pa. C.S. § 1319 (related to the recovery of conservation or load management program costs). *Phase II Implementation Order* at 43.

In its Benchmark Petition, PECO*, inter alia*, requested that it be permitted to allocate Phase II funds to: 1) continue its existing Mass Market Direct Load Control (DLC) Program; and 2) to prepare for anticipated Phase III demand reduction targets. We denied PECO’s request because we found, *inter alia*, that it would not be prudent to carve out Phase II funds for DR programs if the EDC could not also meet its Phase II consumption reduction targets until the Commission has made a cost-effectiveness determination and has set additional peak demand reduction requirements. *PECO Phase II Benchmark Order* at 16-17*.*

PECO did not include any DR programs in its Phase II Plan.

##### Positions of the Parties

The OCA submits that it has consistently supported the continuation of PECO’s residential Mass Market DLC program because the infrastructure costs have already been incurred. The OCA avers that, once implemented, DR should be sustained so that the continuing savings made possible by the initial investment in the program can be realized. OCA M.B. at 21. The OCA notes that PECO’s DLC program has a TRC of 2.38 which demonstrates significant benefits to its customers. *Id*. (citing PECO St. 1-S at 3). The OCA supports the Company’s efforts to continue the DLC program during Phase II in a manner that does not require the Company to reduce its established energy efficiency targets. The OCA recommends that PECO work with its stakeholders to determine how the DLC program can be implemented within the framework and budget of PECO’s Phase II Plan. *Id.* at 21.

PECO points out that, in a Secretarial Letter dated January 14, 2013, at Docket No. M-2012-2289411, the Commission indicated that it would hold its second DR study stakeholders' meeting in February 2013, and that the Commission anticipates that the results of the SWE’s DR study will become available in April 2013. PECO states that it will review the SWE DR study when it becomes available and will work with stakeholders as the Company continues to evaluate whether DLC programs can be funded in Phase II without jeopardizing its ability to meet its 2.9% energy savings target. PECO R.B. at 7-8.

##### Disposition

Consistent with the *Phase II Implementation Order* and the *PECO Phase II Benchmark Order,* wewill address the continuation of DR programs in the context of Act 129 following the completion of the SWE’s DR study. However, we note that in the *PECO Phase II Benchmark Order,* we invited PECO to present evidence that it could fund cost-effective DR programs as part of Phase II budget and still meet its 2,9% Phase II energy reduction target. *Phase II Benchmark Order* at 25.

## Cost Issues – Phase I Measures under the Phase II Budget[[9]](#footnote-9)

In its Petition, PECO requested that it be permitted to utilize Phase II funds and generate Phase II energy savings in the following two circumstances: (1) when a customer completed a measure-eligible action during the Phase I period, but did not apply for an incentive until the Phase II period; and (2) when a customer completed a measure during the Phase I period after being placed on a waitlist. PECO submits that, by granting this request, the Company would be able to get a “jump start” on its Phase II energy savings target. Petition at 13.

### Positions of the Parties

PennFuture opposes PECO’s request to allow for Phase II funds to be spent when a customer completes a measure during the Phase I period. PennFuture avers that in the *Phase II Implementation Order,* the Commission stated that program measures installed and commercially operable on or before May 31, 2013, as well as CSP or administrative fees are considered Phase I expenses. PennFuture also avers that the *Phase II Implementation Order* further states that, in order for an EDC to claim savings in Phase II, the measure must be installed and commercially operable no earlier than June 1, 2013. PennFuture M.B at 3 (citing the *Phase II Implementation Order* at 107, 113).

PennFuture argues that PECO will have significant funding left in its Phase I budget to pay for measures installed on or before May 31, 2013. PennFuture notes that as of December 31, 2012, PECO’s anticipated total costs of Phase I are $216.5 million which is well below PECO’s Phase I budget of $341.9 million. PennFuture M.B at 3 (citing PennFuture Cross-Examination Exh. 2). PennFuture also notes that, as of November 2012, PECO had only spent $178.0 million of its Phase I budget. PennFuture M.B at 3-4 (citing PennFuture Cross-Examination Exh. 1). PennFuture points out that the Commission has permitted the EDCs to continue Phase I spending thorough May 31, 2013, even if they have already attained their three percent Phase I reduction targets. PennFuture M.B. at 4 (citing *Phase II Implementation Order* at 107).

PennFuture disagrees with PECO’s request to get a “jump start” on its Phase II savings. PennFuture submits that the Commission has already addressed this issue by allowing EDCs to accrue savings beyond their Phase I targets toward Phase II compliance. PennFuture explains that, according to PECO’s Phase II Plan, PECO estimates that 91,000 MWh of banked Phase I savings will be available for Phase II compliance. PennFuture M.B. at 4 (citing Plan at 5-6).

PennFuture also argues that allowing PECO to use Phase II funds for projects completed during Phase I will unnecessarily reduce total Phase II funding. PennFuture states that this reduced Phase II funding would limit PennFuture’s members’ ability to participate in energy efficiency programs and reduce their electric bills accordingly. PennFuture M.B. at 4-5.

PAIEUG states that PECO has yet to begin the notification process or identify specific notification channels for those customers who completed an eligible measure during Phase I but delayed applying for the incentive until Phase II. PAIEUG recommends that PECO alert customers of the availability of these funds as soon as possible, as well as provide a streamlined process by which eligible customers can apply for such funds, while still ensuring fair and reasonable treatment among all customers applying for Phase II funds. PAIEUG M.B. at 16.

The City points out that the proposed incentives for CHP projects are much lower under the Phase II Plan than they are under the Phase I Plan. The City explains that, if the Phase II incentives were applied to a CHP project that the City began before the waitlist was established for Phase I measures but will not be completed until Phase II, the incentive available under Phase II would be $2.3 million less than the incentive available under Phase I. The City requests that PECO clarify in the Phase II Plan that CHP projects, for which applications were made during Phase I and applicants have invested substantial costs, will receive incentives at the Phase I levels. City M.B. at 9-10.

While PECO did not directly respond to these issues in its Reply Brief, we note that it did clarify the circumstances under which CHP projects completed during Phase II would qualify for Phase I incentive levels. The following language was added to the Program Description of the Smart On-Site Program in the Revised Plan:

If a customer completes a substantial portion of a CHP project in Phase I (i.e., facilities have been constructed and CHP generating equipment has been received on-site), and the anticipated date of commercial operation (completion date) is prior to December 31, 2013, incentives will be paid at Phase I incentive levels with the funds proposed for the Phase II PECO Smart On-Site Program. If project construction is initiated during Phase I, project construction is not substantial during Phase I (i.e., facilities have not been constructed and/or CHP generating equipment has not been received), and the anticipated date of commercial operation (completion date) of the project is during Phase II after December 31, 2013, incentives will be paid at Phase II levels with funds and program rules proposed for the Phase II PECO Smart On-Site Program.

Revised Plan at 148.

### Disposition

We deny PECO’s request to utilize Phase II funds when a customer completed a measure-eligible action during the Phase I period, including when a customer completed a measure during the Phase I period and was placed on a waitlist. As noted by PennFuture, our *Phase II Implementation Order* states that “program measures installed and commercially operable on or before May 31, 2013, as well as, CSP or administrative fees related to Phase I are considered Phase I expenses.” *Phase II Implementation Order* at 107. As such, if a customer completed a measure-eligible action during the Phase I period (i.e., on or before May 31, 2013), that customer’s incentive is to be paid out of the EDC’s Phase I budget. If a customer completed a measure-eligible action on or after June 1, 2013, that customer’s incentive is to be paid out of the EDC’s Phase II budget.

With regard to a customer who completed a measure-eligible action during the Phase I period, but did not apply for an incentive until the Phase II period, we recognize that there is a potential lag time between the installation and operation of a measure and the submission of an incentive application. We also recognize that this lag time may lead to issues when transitioning from one phase to the next. However, consistent with our finding in the *Phase II Implementation Order,*  incentives for measures installed and commercially operable before May 31, 2013, are considered Phase I expenses. As PennFuture noted, as of December 31, 2012, PECO’s anticipated total costs of Phase I were approximately $125 million below its Phase I budget of $341.9 million. With a potential excess budget of $125 million, we question why PECO is requesting to utilize its Phase II budget to fulfill the incentive applications for measures installed and operational during Phase I.

To the extent that Phase I funds are available, we recommend that PECO consider setting deadlines for the submission of incentive applications for measures installed in Phase I. The Commission does not believe the completion of Phase I accounting by PECO should be delayed significantly in order for PECO to provide rebates to customers who completed a measure-eligible action during the Phase I period, but did not apply for an incentive until the Phase II period. We stress that, if Phase I funds are available for such customers, PECO should fulfill those rebate applications within a reasonable timeframe from the end of the Phase I period, such that PECO may complete its Phase I reconciliation within a reasonable period after May 31, 2013.

We also believe it would be beneficial for PECO to set reasonable deadlines for the submission of all incentive applications following the in-service date of a measure during Phase II, and any future phases of EE&C plans. Therefore, we shall direct PECO to establish reasonable deadlines as part of its Phase II incentive application process.

In addition, we will not approve PECO’s request to utilize Phase II funds and generate Phase II energy savings when a customer completed a measure during the Phase I period and was placed on a waitlist. As noted*, supra*, the *Phase II Implementation Order* states clearly the delineation between Phase I and Phase II spending. Additionally, PECO has provided inadequate supporting documentation for this request. Specifically, PECO failed to identify: (1) which program waitlists it is referring to; (2) how long the programs have been waitlisted; (3) how many customers are on the waitlists; or (4) the funds, by program, by customer class and in total needed to provide the incentives to the waitlisted customers. As such, we are unable to assess whether PECO has adequate Phase I funds available or the impact that providing incentive payments to those customers would have on the implementation of the Phase II Plan. We note that PECO’s C&I Smart Equipment Incentives Program has been in waitlist mode. Again noting PECO’s potential budget excess of $125 million, we question why PECO is requesting to utilize Phase II funds to fulfill the incentive applications of customers on such a waitlist and whether funds can be reallocated among programs in the same customer class.

We recognize that a program that is in waitlist mode in Phase I would no longer be in waitlist mode if implemented during Phase II due to the availability of a new Phase II budget. If PECO’s intent is to not only fulfill the incentive applications of those waitlisted customers, but also to reduce customer confusion regarding a change to a program that moves it from waitlist to non-waitlist mode, we strongly urge PECO to review its Phase I budget to determine whether or not funds are available to fulfill the incentive applications of currently-waitlisted customers. Additionally, PECO should make it clear to customers that its programs will be changing starting June 1, 2013, and that incentives fulfilled for projects before that date may vary from incentives fulfilled for projects on or after that date.

In consideration of the City’s concerns regarding the impact of the changing incentive levels on nearly-completed CHP projects, we will approve PECO’s proposed change to its Phase II Plan that extends the Phase I incentive levels for CHP projects completed and operational after May 31, 2013, but prior to December 31, 2013. These incentives will be paid out of PECO’s Phase II budget, but the level of incentive will vary based on the status of the CHP installation as of May 31, 2013, and its operational date. We recognize that CHP projects take substantially longer than other measures to install and become commercially operable. Additionally, we recognize the significant energy savings garnered from such systems. As such, the Commission believes it beneficial to ratepayers for those projects to be incentivized as proposed by PECO in its Phase II Plan changes in order to account for a customer’s reliance on PECO’s programs in a reasonable manner.

## E. Cost Allocation Issues – Allocation of Incentive v. Non-Incentive Costs

Of the total Phase II Plan budget of $256.4 million, $104.4 million or 40.7% have been allocated for participant incentives and the remaining $152.0 million or 59.3% have been allocated for all other costs. Revised Plan at 192.

### Positions of the Parties

PAIEUG submits that PECO’s Plan does not provide a detailed breakdown of non-incentive costs. PAIEUG avers that, although the Commission has adopted the TRC test as the cost-benefit metric for EE&C plans, the TRC test may not accurately reflect Act 129’s goal of achieving maximum energy and conservation benefits. PAIEUG recommends that the Commission should further review the ratio of customer incentive expenses to administrative or third-party expenses in order to ensure that the benefits flowing directly to customers are as robust as possible in comparison to the benefits flowing to third-party providers. PAIEUG M.B. at 13-15.

PECO states that PAIEUG made little or no attempt to develop an evidentiary record in this proceeding. PECO avers that PAIEUG’s concern misconstrues the requirements imposed by Act 129 and implemented by the Commission. PECO opines that Act 129 does not mandate that EE&C plans maximize customer benefits or define benefits as only encompassing incentives paid directly to customers. PECO submits that Act 129 requires an EDC to analyze plan costs and benefits using a TRC test approved by the Commission and demonstrate that its plan is cost-effective. PECO explains that, consistent with that directive, the Company applied the Commission’s approved methodology for analyzing costs and benefits and determined that its overall TRC score was 1.36, which demonstrates significant benefits to PECO’s customers. PECO R.B. at 11-12.

### Disposition

This Commission has undertaken a rigorous and open process to develop and refine the TRC and TRM methodologies since we first began to implement the EE&C program shortly after the enactment of Act 129 in 2008. PAIEUG has had numerous opportunities to address the criteria and methodologies that have been developed to assess the cost-effectiveness of the EDC’s EE&C programs. Moreover, PAIEUG has not taken the opportunity to develop the record in this proceeding to challenge the specific assumptions used by PECO in assessing the cost-effectiveness of the individual Phase II programs proposed by the Company. While the judicious and effective use of ratepayer funds is a paramount concern, we reject PAIEUG’s broad challenge of PECO’s Plan based on the overall ratio of the total incentive and non-incentive costs.

## F. Cost Recovery Issues – Proposed Tariffs

Consistent with Section 2806.1(g) of Act 129, 66 Pa. C.S. § 2806.1(g), PECO’s proposed Phase II annual budget is based on the maximum recovery equal to two percent of its total revenues for calendar year 2006. Therefore, PECO proposes to recover $85,477,166 for each of the three years of Phase II for a total budget of $256,431,497. Revised Plan at 173.

PECO proposes to recover the cost of its Phase II Plan through an Energy Efficiency & Conservation Program Charge (EEPC) in a manner similar to that used in Phase I. PECO submits that the EEPC in Phase I was designed to comply with Section 1307 of the Public Utility Code and was reconcilable and nonbypassable. PECO explains that, as required by the Commission in PECO’s EE&C Phase I Final Order, Docket No. M-2009-2093215 (Order entered October 28, 2009), the EEPC was not a separate line item on residential customers’ bills and was not included in the price to compare (PTC). Instead, residential customers’ distribution rates were adjusted by the amount of the charge calculated for each rate class. For residential and small commercial customers, the EEPC was based on energy use or kWh. For large commercial customers, the charge was based on a PJM Peak Load Contribution (PLC). PECO also explains that, for Phase I, the EEPC was listed as a separate item on small and large commercial customers’ bills and was not included in the PTC. For its EE&C Phase II Plan, PECO proposes to follow the same format as used in Phase I. Revised Plan at 174.

The *Phase II Implementation Order* requires the EDCs to remove SWE costs from the EE&C Phase II budget in the same manner as was done in Phase I. *Phase II Implementation Order* at 69-70. PECO proposes to track the Phase II SWE costs separately from the EE&C costs but will still recover them through the EEPC. PECO notes that the Phase II SWE costs will be determined through a request for proposals (RFP) bidding process that will have a contract that is effective as of March 1, 2013. PECO explains that, until the final SWE costs are known, it has included an estimate of these costs for the Phase II EEPC based on the SWE costs ($2.6 million) used for Phase I. Revised Plan at 175.

As indicated, *supra*, PECO’s Petition requests that we approve its proposed tariff provisions to implement a Section 1307 surcharge to recover Phase II Plan costs. Petition at 1. PECO has submitted a proposed tariff supplement to*, inter alia*, recover Phase II Plan costs effective June 1, 2013. PECO St. No. 3. The proposed tariff contains the following EEPC surcharges that will be charged to each rate schedule:

|  |  |
| --- | --- |
| **Rate Schedule** | **EEPC Surcharge** |
| Rate R, RS,RH,CAP | $ 0.0035/kWh |
| Rate GS | $ 0.0025/kWh |
| Rate SL-E | $ 0.20/location |
| Rate AL | $ 0.08/location |
| Rate TLCL | $ 0.0035/kWh |
| Rate HT, PD, EP | $ 0.79/kW based on PJM PLC  |

PECO Exh. RAS-1, Revised Page 40C.

PECO states that these cost recovery rates were developed based on the total program expenditures allocated to each rate class for the duration of the Phase II Plan. PECO explains that, to develop the recovery charge for each rate class, the total expenditure for that class was divided by the appropriate projected class billing units for the period from June 1, 2013 through May 31, 2016, on a levelized basis. PECO submits that the resulting charge per billing unit was grossed up to provide for recovery of Pennsylvania Gross Receipts Tax. Revised Plan 174.

In the *Phase II Implementation Order*, we directed the EDCs with a final Phase I reconciliation process in their Phase I tariff to follow those procedures for the final reconciliation of Phase I costs and revenues. *Phase II Implementation Order* at 119. In PECO’s revised EEPC tariff submitted in conjunction with its Phase II Plan, PECO amended the provision dealing with reconciliation filings and rate adjustments set forth in its current Phase I EEPC tariff to address Phase II reconciliations and rate adjustments. The revised provision states as follows:

**Filings and Reconciliations** A reconciliation filing will be made by June 30 of each year although the rates will not be adjusted until May 31, 2013 of the final plan year for Phase I, and May 31, 2016 of the final plan year for Phase II. At that time any under or over recoveries will be reflected in rates in effect through December 31, 2013 for Phase I and through May 31, 2017 for Phase II. If it is apparent that such methodology would result in significant over or under recovery at May 31, 2013 for Phase I or May 31, 2016 for Phase II for an individual customer class the Company may propose a rate adjustment prior to May 31, 2013 for Phase I or May 31, 2016 for Phase II. Interest will not be applied to any over or undercollections.

PECO Exh. RAS-1, Revised Page 40C.

While PECO’s current Phase I reporting and reconciliation process has been established in a Commission-approved tariff, as a result of our experience with the implementation of Phase I to date, we shall direct PECO to make some modifications to the Phase I and Phase II reporting and reconciliation processes set forth in its proposed EEPC tariff.

The proposed tariff states that “a reconciliation filing will be made by June 30 of each year although the rates will not be adjusted until May 31, 2013, of the final plan year of Phase I, and May 31, 2016, for the final plan year of Phase II.” PECO Exh. RAS-1, Revised Page 40C. Therefore, according to the proposed tariff language, the rates would be adjusted before a reconciliation filing is submitted. Our preference is that the reconciliation filing be submitted to the Commission before the final reconciliation rates are placed into effect. Consequently, we direct PECO to modify the proposed EEPC tariff so that the final Phase I and Phase II reconciliation filings are submitted at least thirty days prior to the adjustment in the EEPC rates. The EEPC tariff should also contain an explanation of how the Phase I and Phase II true-up rates will be calculated and an explanation of how any under- or over-collections will be addressed at the end of the true-up period. To ensure that appropriate revisions are made to PECO’s tariff, we direct PECO to consult with the Commission’s Bureau of Audits within thirty days of the entry of this Opinion and Order to address any concerns with the proposed EEPC tariff and reconciliation filings.

We also note that the proposed tariff has an effective date of June 1, 2013, and contains the *current* EEPC rates for Phase I cost recovery. As indicated in the description of the reconciliation process, *supra*, PECO is proposing Phase I rates for the refund or recoupment of any over- or under recoveries between June 1, 2013, and December 31, 2013. Consequently, a proposed tariff to be effective June 1, 2013, should contain the rates applicable to the reconciliation of Phase I over- or under-collections (or temporary placeholder rates) and not the Phase I EEPC rates currently in effect. The proposed tariff must be modified to replace the current EEPC rates with either or the placeholder rates or the refund or recoupment rates when they become known.

## G. Monitoring and Reporting Issues – Smart House Call Program

While this program has several components, the program is based upon two types of residential audits that will be provided at discount rates. The first is a comprehensive energy audit restricted to PECO electric heating customers that will utilize diagnostic testing (such as blower door and combustion safety) to identify and quantify energy efficiency opportunities. The second is an energy assessment for any PECO customer that will consist of a general walk through that is designed to identify common opportunities for energy efficiency improvements, especially through low-cost measures. Revised Plan at 38.

### Positions of the Parties

The OCA supports the implementation of the program and recommends that the data gathered from the audits could provide the basis for additional energy savings. OCA M.B. at 15. OCA witness Mudd testified that gathering the aggregate data acquired through the energy assessment and audit process will enable PECO and its CSP to better understand the inefficiencies of residential homes built at different times, using different equipment. Ms. Mudd stated that this information should be compiled and shared to better direct program resources. OCA St. 1 at 14.

PECO accepted the OCA’s recommendation. The Company explains that it is committed to: (1) work with the CSP to determine what data would be reasonable and beneficial to collect; and (2) use the information to support future energy efficiency opportunities. PECO R.B. at 6. PECO has added language to its Revised Plan to reflect its commitment. Revised Plan at 43.

### Disposition

We concur with both the OCA and PECO that capturing and analyzing data from the residential energy audits will enhance PECO’s ability to target its conservation endeavors in the future. However, we also believe that this information would be a valuable resource to the Commission and the Parties in developing more accurately targeted programs. Therefore, we shall direct PECO to meet with TUS and interested stakeholders to address the timetable and means for the dissemination of this data.

#  Conclusion

For the reasons set forth, *supra*, we will grant, in part, and deny, in part, the Petition. We shall grant PECO request to approve its Revised Plan. We shall deny PECO’s request to approve: (1) the proposed tariff provisions to implement a Section 1307 surcharge to recover Phase II Plan costs; (2) Phase II treatment for certain Phase I projects; and (3) the contract between PECO and JACO Environmental; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition of PECO Energy Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan, is granted, in part, and denied, in part, consistent with this Opinion and Order.
2. That PECO Energy Company is permitted to implement its Revised Phase II Energy Efficiency and Conservation Plan, as filed on January 24, 2013, consistent with this Opinion and Order.
3. That the request of PECO Energy Company for approval of the contract between PECO Energy Company and JACO Environmental, Inc. in this proceeding is hereby referred to the Commission’s Law Bureau and Bureau of Technical Utility Services for review consistent with our Opinion and Order entered January 16, 2009, at Docket No. M-2008-2069887, *In re: Energy Efficiency and Conservation Programs.*
4. That PECO Energy Company shall demonstrate, as part of its Annual Reports to the Commission on its Phase II Energy Efficiency and Conservation Plan, that at least ten percent of the energy savings generated by the Plan have been derived from government, educational and non-profit customers.
5. That within sixty (60) days of the entry of this Opinion and Order, PECO Energy Company shall meet with the Commission’s Bureaus of Consumer Services and Technical Utility Services to address improvements in the coordination of the Low-Income Energy Efficiency Program with specific ongoing conservation programs.
6. That within sixty (60) days of the entry of this Opinion and Order, PECO Energy Company shall establish maximum time periods for the submission of incentive applications for conservation service measures following the in-service date of a measure. These deadlines shall be established as part of PECO’s application process for incentives under the Phase II Energy Efficiency and Conservation Plan.
7. That within thirty (30) days of the entry of this Opinion and Order, PECO Energy Company shall file an explanation with the Commission’s Bureaus of Consumer Services and Technical Utility Services to address the inconsistency in the energy savings estimates presented in its Phase II Energy Efficiency and Conservation Plan for the Low-Income Energy Efficiency Program.
8. That within six months of the entry of this Opinion and Order, PECO Energy Company shall begin to meet with stakeholders to develop modifications to the Smart Builder Rebates Program that will improve the long-term cost-effectiveness of the program. PECO Energy Company is also directed to propose modifications to the Smart Builder Rebate Program in response to changes in building codes or changes in energy conservation practices of builders in PECO Energy Company’s service area.
9. That within six months of the entry of this Opinion and Order, PECO Energy Company shall meet with the Commission’s Bureau of Technical Utility Services and interested stakeholders to address the timetable and the means to disseminate the data collected from the Smart House Call Program.
10. That PECO Energy Company’s request to use funds from its Phase II Energy Efficiency and Conservation Plan when: (a) a customer completed a measure-eligible action during the Phase I period, but did not apply for an incentive until the Phase II period; and (b) when a customer completed a measure during the Phase I period after being placed on a waitlist, is denied.
11. That the proposed Electric Service Tariff submitted as PECO Statement No. 3, Exhibit RAS-1 is rejected. PECO Energy Company shall, after consultation with the Commission’s Bureau of Audits, submit revised tariffs that address the concerns with the current and proposed reporting, reconciliation and recovery process delineated in this Opinion and Order.
12. That any directive, requirement, disposition or the like contained in the body of this Opinion and Order, which is not the subject of an individual Ordering Paragraph, shall have the full force and effect as if fully contained in this part.
13. That a copy of this Opinion and Order be served on all active parties of record.



**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: February 28, 2013

ORDER ENTERED: February 28, 2013

1. Also discussed at the Prehearing Conference was the scheduling of a public input hearing. Tr. at 39-40. In his Order Certifying the Record to the Commission (Certification Order), the ALJ noted that ultimately a public input hearing was not requested. Certification Order at 3. [↑](#footnote-ref-1)
2. On January 14, 2013, the ALJ issued an Order admitting the testimony of Comverge’s witness, Raymond G. Berkebile, into the record. [↑](#footnote-ref-2)
3. A summary of the significant changes contained in the Revised Plan is presented in the Description of the Revised Plan, *infra*. [↑](#footnote-ref-3)
4. As discussed, *infra*, PECO’s total projected Phase II energy savings include 91,005 MWh of excess Phase I savings that have been credited to Phase II. [↑](#footnote-ref-4)
5. The Contract was submitted to the ALJ on January 16, 2013, as Confidential Appendix B to PECO Exhibit 1. [↑](#footnote-ref-5)
6. As indicated*, infra*, the 1,093,417 MWh savings from the thirteen Phase II programs combined with the 91,005 MWh carried over from Phase I yields a total projected savings of 1,184,422 MWh. [↑](#footnote-ref-6)
7. *See,* Revised Plan Table 1 at 5, the LEEP Program Description at 60, and Appendix C-2 at 185. [↑](#footnote-ref-7)
8. *See, Energy Efficiency and Conservation,* Secretarial Letter, (dated March 4, 2011) at Docket No. M-2008-2069887. [↑](#footnote-ref-8)
9. This section will also address the related issues of: (1) the eligibility of measures completed during Phase II to receive higher Phase I incentive levels; and (2) time limits for the submission of applications for incentives after a measure has been placed into service. [↑](#footnote-ref-9)