



Citizens for Pennsylvania's Future
610 N. Third St.
Harrisburg, PA 17101-1113

April 27, 2015

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

Re: PUC Docket No. M-2015-2468992

Dear Chairman Chiavetta:

After reviewing the Commission's recent Phase III Tentative 2016 TRC Test Order, a coalition of interested stakeholders including Citizens for Pennsylvania's Future ("PennFuture"), the Clean Air Council, the Sierra Club, the Natural Resources Defense Council and the Environmental Defense Fund, (hereinafter "Joint Commentators") have provided the attached detailed comments on the suggested changes for Phase III as well as a model comprehensive portfolio.

Sincerely,

A handwritten signature in blue ink that reads "Robert C. Altenburg".

Robert Altenburg
Director, Energy Center
Citizens for Pennsylvania's Future

A handwritten signature in blue ink that reads "Logan Welde".

Logan Welde
Staff Attorney
Clean Air Council

A handwritten signature in blue ink that reads "Tom Schuster".

Tom Schuster
Sr. Campaign Representative for PA & NJ
Sierra Club

A handwritten signature in blue ink that reads "Dick Munson".

Dick Munson
Director, Midwest Clean Energy
Environmental Defense Fund



Jackson Morris
Director Eastern Energy
Natural Resources Defense Council

encl: Joint Comments submitted to PUC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Act 129 Energy Efficiency)	
And Conservation Program - 2016)	Docket No. M-2015-2468992
PA Total Resource Cost (TRC) Test)	

**COMMENTS OF JOINT COMMENTATORS: PENNFUTURE, SIERRA
CLUB, ENVIRONMENTAL DEFENSE FUND, CLEAN AIR COUNCIL, AND
NATURAL RESOURCES DEFENSE COUNCIL**

Citizens for Pennsylvania’s Future (PennFuture), Sierra Club, Environmental Defense Fund, Clean Air Council, and Natural Resources Defense Council (hereinafter “Joint Commentators”) appreciate the opportunity to submit these comments in response to the Public Utility Commission’s (Commission) Tentative Implementation Order on the 2016 Total Resource Cost (TRC) Test dated March 11, 2015.

PennFuture is a membership based non-profit advocacy organization focused on energy and environmental issues that impact Pennsylvanians. We work to create a just future where nature, communities, and the economy thrive. We enforce environmental laws and advocate for the transformation of public policy, public opinion, and the marketplace to restore and protect the environment, safeguard public health, and reduce the consequences of climate change within Pennsylvania and beyond.

Sierra Club is a non-profit environmental organization whose mission is to explore, enjoy, and protect the wild places of the Earth and to practice and promote the responsible use of the Earth’s resources and ecosystems. The Sierra Club currently has 24,049 members in Pennsylvania, most

of whom receive electricity service from one of the EDCs required to offer efficiency services under Act 129. These members have a strong interest in both the success of energy efficiency programs and in protecting wild places and their ambient environment from the effects of air, water, and other pollution from electrical generation.

Environmental Defense Fund's mission is to preserve the natural systems on which all life depends. Guided by science and economics, we find practical and lasting solutions to the most serious environmental problems. With more than 1,000,000 members, we work to solve the most critical environmental problems facing the planet. This has drawn us to areas that span the biosphere: climate & energy, oceans, ecosystems and health. Since these topics are intertwined, our solutions take a multidisciplinary approach.

Clean Air Council is a member-supported environmental organization serving the Mid-Atlantic Region. The Council is dedicated to protecting and defending everyone's right to breathe clean air. The Council works through a broad array of related sustainability and public health initiatives, using public education, community action, government oversight, and enforcement of environmental laws.

The Natural Resources Defense Council (NRDC) is a nonprofit environmental organization with more than 1.4 million members and online activists, including nearly 54,000 in Pennsylvania. Since our founding in 1970, our lawyers, scientists, and other environmental specialists have worked to protect the world's natural resources, its public health, and the environment. NRDC's top institutional priority is curbing global warming emissions and building the clean energy

future—a priority that can be advanced by ramping up investments in energy efficiency via strengthened programs such as those administered under Act 129.

We appreciate that the Commission has been willing to work with stakeholders and take our comments into consideration throughout each phase of the program. We continue to support Act 129 and believe that a well implemented program will protect public health and the environment while promoting economic growth and ensuring affordable electricity is available to our citizens. With that in mind, we respectfully submit the following comments:

Commissioner Cawley’s Request for Comments

Commissioner James H. Cawley requested in his statement on the release of the 2016 TRC test that commenters focus on two issues relating to the Tentative Order. The first is whether or not “Act 129 prohibits the inclusion of O&M benefits, such as reduced fossil fuel or water costs, into the TRC calculations related to such measures as insulation, weatherization, or other related programs.”¹ Our comments in response to the first question only are as follows:

Act 129 does not prohibit the inclusion of O&M Benefits such as Fossil Fuel and Water Savings

Fossil fuel and water reduction results in real, tangible monetary benefits. Ratepayers can look to their utility bills to see how much they are saving each month by consuming lower amounts of water and fuel through energy efficiency initiatives they have taken as a result of the Act 129 program. Additionally, as we stated in our comments to the 2012 TRC Tentative Order, “the Commission has already ruled that customer avoided operating and maintenance costs should be

¹ Statement of Commissioner James H. Cawley, Mar. 11, 2015, <http://www.puc.pa.gov/pcdocs/1347077.pdf>.

included as a TRC benefit even though it does not specifically fall under the umbrella of ‘avoided monetary cost of supplying electricity.’ It is inconsistent to allow for inclusion of operation and maintenance savings but not allow for fossil fuel or water savings to count.”²

The Commission has previously stated that, “Non-energy Impacts (NEIs) are contrary to the statutory language pertaining to the exclusion of societal and environmental costs from the PA TRC Test.”³ However, there is no such exclusion in Act 129. In support of the exclusion, the Commission has also referenced the definition of the Total Resource Cost Test⁴ which mentions the use of a “monetary cost.” Since Act 129 does not define “monetary costs,” whether NEIs are contrary to statutory language is a matter of interpretation—and in fact, the objectives of the Act require that “monetary costs” be interpreted to include the wide range of non-energy benefits that can be monetized.

The preamble to Act 129 explicitly suggests that all O&M benefits be included. In the preamble to the Act, the Legislature spoke of the objectives addressing a broader range of benefits finding “the health, safety and prosperity of all citizens of this commonwealth are inherently dependent upon the availability of adequate, reliable, affordable, efficient and environmentally sustainable electric service at the least cost, taking into account any benefits of price stability, over time and the impact on the environment.”⁵ O&M benefits such as insulation and reduced water usage aid in keeping electric service affordable and efficient and they support the health, safety and prosperity of all citizens by minimizing harmful environmental impacts.

² Joint Comments of Keystone Energy Efficiency Alliance (KEEA) and Citizens for Pennsylvania’s Future (PennFuture), Total Resource Cost (TRC) Test 2012 Phase II of Act 129 Docket No. M-2012-2300653.

³ Phase II TRC Order 9.

⁴ 66 Pa.C.S. § 2806.1(m).

⁵ Act 129 of 2008, Preamble.

If the Commission includes Fossil Fuel and Water Savings then it would be inconsistent to continue to exclude other Non-energy Benefits

The reduction in fossil fuel and water usage and efforts such as insulation and weatherization also results in countless other monetary benefits to consumers. In response to the Phase III Secretarial Letter, several commenters discussed the importance of and suggested that the Commission consider including non-energy benefits to ratepayers in the TRC test. In addition to comments we filed, those commenters included the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), Energy Efficiency for All (EEFA), Keystone Energy Efficiency Alliance (KEEA), the Home Performance Coalition (HPC), and the City of Philadelphia.

As shown by the commenters, there has been and continues to be a substantial amount of analysis concerning non-energy benefits and all the results show that the result is a more accurate TRC ratio and program. There are countless non-energy benefits that come hand in hand with energy efficiency that can be monetized. Most importantly, that monetary amount is never \$0 and is most likely increasing. For instance, a study recently conducted by Frances Moore, a PhD candidate in the Emmett Interdisciplinary Program in Environment and Resources in Stanford's School of Earth Sciences, valued the social cost of carbon at \$220 per ton, much higher than the \$37 per ton previously estimated.⁶ By default, the Act 129 program is using \$0 as the non-energy benefit amount and continues to undervalue the benefits to ratepayers.

⁶ <http://news.stanford.edu/news/2015/january/emissions-social-costs-011215.html>

As the Commission stated in the Tentative Order, the TRC test “is not a static, one-size-fits-all tool. It can incorporate different factors and evaluate variables in different ways as determined by the jurisdictional entity using it.”⁷ Thus, the EDCs should not be prohibited from including non-energy benefits in their list of different factors. Doing so would be beneficial to the EDCs because it would allow them to take credit for those benefits.

The Commission has chosen to use the TRC test “to determine whether ratepayers, as a whole, received more benefits (in reduced capacity, energy, transmission, and distribution costs) than the implementation costs of the EE&C plans.”⁸ The majority of the benefits to ratepayers come in the form of non-energy benefits like better health and a cleaner environment. The ratio between customer benefits and costs to obtain those benefits is skewed toward the costs side because a large portion of the benefits are left out.

It is detrimental to the program to leave out non-energy benefits. The Commission cannot accurately weigh the value of the program without including non-energy benefits. If non-energy benefits continue to be excluded, at some point down the line the Commission may determine that the implementation costs of the EE&C plans equal or even outweigh the benefits of reducing capacity, energy, transmission, and distribution costs. That is especially true considering that the 2% cap on EDC spending decreases every year because it is based on 2006 levels and does not account for inflation. However, in reality, the ratepayer benefits always outweigh the implementation costs because the livelihoods of the citizens of Pennsylvania continue to improve under the program.

⁷ T.O. at 4.

⁸ *Id.*

Act 129 permits alternative tests besides the TRC after the first phase

Should the Commission decide that the TRC test does not permit inclusion of non-energy benefits, we note that the TRC test is not required for setting targets beyond the first phase of the program. When analyzing programs to determine if additional incremental reductions are required, the Act says. “The evaluation shall be consistent with a total resource cost test *or a cost-benefit analysis determined by the commission*. If the commission determines that the benefits of the program exceed the costs, the commission shall adopt additional required incremental reductions in consumption.”⁹ The Commission may, therefore, approve an alternate test that includes these benefits.

For instance, in a Synapse Energy Economics and Regulatory Assistance Project report entitled “A Framework for Evaluating the Cost-Effectiveness of Demand Response,” the authors discuss four tests, in addition to the TRC test, for determining the cost-effectiveness of demand response. The alternative tests include societal cost, program administrator cost, participant cost, and rate impact measure.¹⁰ Synapse Energy Economics and Regulatory Assistance Project also describe how the alternative tests are applied to energy efficiency in a report entitled “Best Practices in Energy Efficiency Program Screening: How to Ensure that the Value of Energy Efficiency is Properly Accounted For.”¹¹ In addition, a separate report that Synapse Energy Economics prepared for the National Home Performance Council provides a “comprehensive review of a wide range of problems and inconsistencies in current cost-effectiveness test practices, and

⁹ 66 Pa.C.S. § 2806.1(c)(3) *emphasis added*.

¹⁰ Synapse Energy Economics and Regulatory Assistance Project, “A Framework for Evaluating the Cost-Effectiveness of Demand Response,” Feb 2013, iv-v, <http://emp.lbl.gov/sites/all/files/napdr-cost-effectiveness.pdf>.

¹¹ Synapse Energy Economics and Regulatory Assistance Project, “Energy Efficiency Cost-Effectiveness Screening: How to Properly Account for ‘Other Program Impacts’ and Environmental Compliance Costs,” Nov. 2012, http://www.synapse-energy.com/sites/default/files/SynapseReport.2012-11.RAP_.EE-Cost-Effectiveness-Screening.12-014.pdf.

recommends a range of best practices to address them. These best practices (a) align test implementation with the underlying objectives of the tests as originally designed;(b) ensure that energy resources are developed at the lowest cost; and (c) support public policy goals such as promoting customer equity, serving a broad range of customers, encouraging comprehensive whole-house improvements, and avoiding lost opportunities.”¹²

While the Act does not mention alternatives to the TRC in the areas of program design¹³ and EDC plans,¹⁴ the statute implies they are permitted. Requiring the TRC for these sections when an alternate test may be used for program design would be inconsistent and would render a portion of the statute as meaningless. As the PA Supreme Court has stated, “such a construction is clearly violative of the fundamental rules of statutory construction. Whenever possible each word in a statutory provision is to be given meaning and not to be treated as surplusage.”¹⁵

To resolve this apparent contradiction, the Commission should consider the dates listed in the Act as limiting the requirement to use the TRC under part (a) as only applying to the program adopted by January 15, 2009, and the restriction in part (c) as only applying to the plans developed by July 1, 2009. This is consistent with the Commission’s interpretation in its Tentative Order for Phase III, which uses those sections as a guideline for its order but does not maintain the same requirements in later phases.

¹² Synapse Energy Economics, “Best Practices in Energy Efficiency Program Screening: How to Ensure that the Value of Energy Efficiency is Properly Accounted For,” Jul. 23, 2012, http://www.synapse-energy.com/sites/default/files/SynapseReport.2012-07.NHPC_EE-Program-Screening.12-040.pdf.

¹³ § 2806.1(a)(3).

¹⁴ § 2806.1(b)(1)(i)(I).

¹⁵ *Employees of Student Services v. P.A.L.R.B.*, 495 Pa. 42, 52 (1981).