

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17105-3265**

**Act 129 Energy Efficiency & Conservation  
Program Implementation Order**

**Public Meeting: June 11, 2015**  
**2424864 - LAW**  
**Docket No. M-2014-2424864**

**JOINT MOTION OF CHAIRMAN GLADYS M. BROWN**  
**AND COMMISSIONER JAMES H. CAWLEY**

Before the Commission is the Act 129 Phase III Implementation Order (Implementation Order or Order). The Order, *inter alia*, tentatively sets new energy efficiency and demand response targets to be achieved by electric distribution companies (EDCs) over a five-year time period. We would like to thank the stakeholders for helping to inform the Commission during this process. We believe the framework set by this Order will foster robust energy efficiency and demand response (DR) programs to the economic benefit of the state and EDC customers.

However, there are two issues we would like to address. The first issue involves the prohibition of PJM's Emergency Load Response Program (ELRP) registered demand response accounts from participating in Act 129 DR programs, a situation referred to as "dual-participation." In the Commission's tentative order for Phase III, we proposed to prohibit dual participation, submitting that such a framework "prevents the payment of Act 129 EE&C Program funds to a customer for an event during which the customer was already curtailing due to signals from PJM." We received a substantial number of comments from parties in opposition to this proposal. For the following reasons we propose to revise this prohibition and design a DR program that allows dual-participation in Act 129 and PJM's ELRP with appropriate safeguards.

First, we are convinced that forbidding dual-participation will materially obstruct the EDCs' opportunities to comply with the set DR goals. As argued by Duquesne Light Company, such a structure will significantly limit the pool of customers available because many eligible accounts are already enrolled in PJM's emergency DR. Further, service territories such as that of Pennsylvania Power Company have load shapes that are heavily influenced by a few major customers. If these customers are barred from participation in the Act 129 DR program because of their participation in PJM's ELRP, the efforts required for compliance may be overly burdensome.

Second, we note that this competition between PJM programs and Act 129 programs is compounded by PJM's procedures to add back dispatched DR to Peak Load Contributions (PLC). In summary, accounts that are dispatched under PJM's emergency DR during a PLC defining hour have that DR dispatch "added back" to their PLC in the next year in order to maintain the value of their DR resource. Customers who do not participate in PJM's ELRP lose the ability to add back their DR dispatch. Therefore, an account only enrolled in Act 129 DR that is dispatched during a PLC recording hour will potentially diminish its ability to participate in future PJM programs. This PJM design feature reduces, to some degree, the ability for customers to profit simultaneously from both programs.

Third, we note that the Act 129 DR programs are paid for and supported by all EDC customers via a non-bypassable rider. We submit that the proscription of participation by a certain set of customers who are financing these programs is an unjust design.

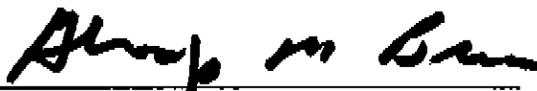
In Phase I of Act 129, we permitted dual enrollment. Given the comments in this proceeding, we believe a more gradual transition to a discounted dual enrollment option with safeguards is more appropriate than an outright ban. The imposition of a 50% discount on Act 129 DR incentives for dual enrolled accounts in Act 129 and PJM ELRP should mitigate concerns about accounts receiving revenues from Act 129 for dispatch that were already mandated to reduce load under PJM's emergency program. Additionally, this proposal will help account for existing DR capacity that has already installed the infrastructure required to perform in DR markets. We further note that customers who do not dual enroll are still fully entitled to receive 100% of the Act 129 DR incentives designed by the EDCs.

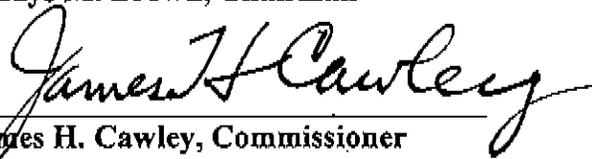
Further, we advise EDCs to design appropriate record retention requirements so that this Commission can evaluate the results of this dual-participation discount design at the end of Phase III. We must be able to determine the extent, if any, of dual-participant Act 129 DR that was already dispatched under PJM's emergency DR program.

The second issue involves the dispatch of DR based on the PJM regional transmission organization (RTO) wide forecast versus the EDC's zonal forecasts. The Commission originally proposed the use of EDC zonal forecasts as the benchmark for DR dispatch. FirstEnergy submits that the Commission should consider using the RTO wide forecast so as to best target the five coincident peak (CP) days over the summer. We agree with this proposal. Using the RTO wide forecast will make dispatch simpler and will work to better target the five CP days. This in turn will provide the best long-term benefit to customers through reductions in capacity procurement requirements for future years.

**THEREFORE, WE MOVE THAT** the Law Bureau draft an appropriate Order consistent with this Motion.

June 11, 2015  
Date

  
Gladys M. Brown, Chairman

  
James H. Cawley, Commissioner