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January 4, 2016

**Via Electronic Filing**

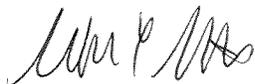
Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

Re: Joint Petition for Consolidation of Proceedings and Approval Of Energy Efficiency and Conservation Plans Phase III of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company;  
Docket Nos. M-2015-2514767, M-2015-2514768, M-2015-2514769 and M-2015-2514772

Dear Secretary Chiavetta:

Enclosed please find the Comments and Recommendations of the Retail Energy Supply Association in the above-referenced proceeding. All parties have been served in accordance with the attached Certificate of Service.

Sincerely,



Sarah C. Stoner

SCS/dsc

cc: Cert. of Service w/enc.

**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of the foregoing filing upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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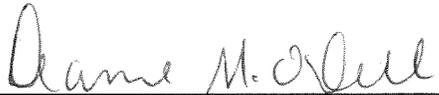
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Date: January 4, 2016

  
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Deanne M. O'Dell, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition for Consolidation of	:	
Proceedings and Approval Of Energy	:	Docket No. M-2015-2514767
Efficiency and Conservation Plans Phase	:	Docket No. M-2015-2514768
III of Metropolitan Edison Company,	:	Docket No. M-2015-2514769
Pennsylvania Electric Company,	:	Docket No. M-2015-2514772
Pennsylvania Power Company and West	:	
Penn Power Company	:	

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**COMMENTS AND RECOMMENDATIONS OF  
THE RETAIL ENERGY SUPPLY ASSOCIATION**

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**I. INTRODUCTION**

By Public Notice dated December 12, 2015, the Commission invited comments and recommendations to be filed on or before January 4, 2016 regarding the Energy Efficiency and Conservation (“EE&C”) Plans filed by the major electric distribution companies (“EDCs”).<sup>1</sup> Pursuant to 66 Pa. C.S. § 2806.1 (referred to as “Act 129”), the Commission is required to develop and adopt an energy efficiency and conservation program to require EDCs to reduce energy demand and consumption within their service territories. The most recent version of these EE&C Plans (“Phase III”), which are the subject of this proceeding, detail the specific EDC’s programs and proposals for the period of June 1, 2016 through May 31, 2021.

The Retail Energy Supply Association (“RESA”)<sup>2</sup> is a trade association of retail energy suppliers who share the common vision that competitive retail electricity markets deliver a more

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<sup>1</sup> See, 45 Pa.B. 7078 (December 12, 2015)

<sup>2</sup> The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).

efficient, customer-oriented outcome than does the monopoly-protected, rate-regulated utility structure. To that end, energy efficiency and demand response are best delivered by competitive retail suppliers offering market-based solutions rather than through regulated distribution companies. However, to the extent such products are offered through regulated distribution companies (as required by Act 129), then these EDC offerings should be structured in a manner to leverage the competitive market whenever possible. Additionally, any program incentives should be deployed in a competitively neutral manner whenever there are EDC-offered products and services that effectively compete against products and services offered by EGSs and other competitive providers.

Based on a review of the Phase III EE&C Plans, there does not appear to be any recommendations regarding the interplay of these plans with the competitive market. As such, RESA is concerned about how continuing down this path serves to further entrench the relationship between the monopoly EDC and its traditional customer base while not considering reasonable opportunities presented within the EE&C Plans to leverage the competitive market. Even though RESA is separately filing a petition to intervene in this proceeding, RESA does not anticipate being actively involved in the litigation process due to resource constraints. As the Commission is aware, during 2016, each EDC will file its next default service plan and RESA must focus its resources on those proceedings. Additionally, the statutory requirements of Act 129 are directed specifically to EDCs which impedes RESA's ability to advocate for its preferred policy outcome – shifting all EE&C programs to the competitive market. In light of these practical realities, RESA offers these comments and recommendations for the Commission's consideration as it issues a decision regarding the Company's petition and, more broadly, continues to implement energy efficiency and demand response programs in Pennsylvania.

## II. COMMENTS AND RECOMMENDATIONS

An expressed purpose of the Competition Act is to “transition from the current regulated structure to a structure under which retail customers will have direct access to a competitive market for the generation and sale or purchase of electricity.”<sup>3</sup> To achieve this, the Competition Act requires the Commission to “allow customers to choose among electric generation suppliers in a competitive generation market through direct access.”<sup>4</sup> There is no dispute that the Commission has done much to accomplish this goal and, as a result, there is a healthy variety of retail competitive offerings in the Pennsylvania market today with a significant number of Pennsylvanians currently receiving competitive generation service.<sup>5</sup> This has only resulted, however, from due diligence on the part of the Commission and stakeholders to foster an environment where retail competition has been able to develop.

The Competition Act also requires the EDCs to implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within their specific service territories.<sup>6</sup> Like the laudable efforts regarding retail electricity competition, the Commission and stakeholders have made significant strides in meeting the requirements of the energy efficiency and demand response requirements of Act 129 as detailed in the various positive assessments and evaluations of the specific EE&C Plans.

To date, however, the pursuit of these two goals has generally followed separate tracks. During the Retail Markets Investigation (“RMI”), the Commission sought comment on whether

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<sup>3</sup> 66 Pa.C.S. § 2802(13).

<sup>4</sup> 66 Pa.C.S. § 2804(2).

<sup>5</sup> See, <http://extranet.papowerswitch.com/stats/PAPowerSwitch-Stats.pdf?/download/PAPowerSwitch-Stats.pdf>. As of November 2015, approximately 35.8% of all Pennsylvania customers were receiving service from a competitive supplier.

<sup>6</sup> 66 Pa. C.S. § 2806.1(a).

EDCs should continue to be required to provide EE&C programs and ultimately concluded that EDCs should maintain that responsibility.<sup>7</sup> Notwithstanding this, the Commission specifically encouraged EGSs to provide energy efficiency offerings to increase the diversity of products and services and to aid in the reduction of energy consumption across the state.<sup>8</sup> More recently, the Commission concluded that the Act 129 EE&C programs are “not intended as competitive products” and again “strongly encouraged EGSs to provide EE&C-related products and services to customers.”<sup>9</sup>

As the Pennsylvania competitive retail electricity market and the EE&C Plans continue to develop and evolve, RESA submits that the Commission can better accomplish its goals of energy efficiency and demand response (both as offered by EDCs and EGSs) by ensuring that the EDC EE&C Plans identify and include ways to leverage the competitive market. In other words, separating energy efficiency plans as those offered by the EDC and those offered by the EGSs misses potential opportunities to provide all customers a full opportunity to have access to these products and services (regardless of which company is offering them). Thus, there may be opportunities, within the context of the EE&C Plans, to include simple, low-cost modifications to some (or all) of the programs to enhance competitive neutrality and/or to reference a competitive offering. By doing this, customers would benefit from having the options available and more competitive suppliers would likely want to make similar offerings thereby increasing the number

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<sup>7</sup> *Investigation of Pennsylvania's Retail Electricity market: End State of Default Service*, Docket No. I-2011-2237952, Final Order entered February 15, 2013 at 82-83 (“*RMI End State Order*”).

<sup>8</sup> *RMI End State Order* at 82.

<sup>9</sup> *Submission of the Electronic Data Exchange Working Group's Web Portal Working Group's Solution Framework for Historical Interval Usage and Billing Quality Interval usage Data; petition for Clarification and/or Reconsideration of the NRG Retail Affiliates*, Docket No. M-2009-2092655, Order entered November 5, 2015 at 13 (“*Web Portal Working Group Reconsideration Order*.”)

and variety of energy efficiency and demand response products and services in the Pennsylvania marketplace. A concerted effort by the Commission to ensure that the EDC Plans leverage the competitive market, or at least mitigate competitive advantages accruing to the EDCs and their contracted conservation service providers, would also reassure EGSs and other competitive service providers that Pennsylvania's marketplace will be fair and balanced. Such result would have the benefit of addressing the concerns RESA raises here regarding the interplay of the EE&C Plans and the goal of fostering a workable competitive market.

This issue is becoming increasingly important now. This is because the EDCs continue to refine, tweak and further expand the EE&C Plans making consumers more likely to perceive these offerings as only available from the traditional monopoly provider or otherwise reinforce the EDC-customer relationship. This misperception cements the relationship of the EDC and the consumer in contravention of the requirement of the Competition Act to foster the development of a competitive retail market. In other words, there is a real risk that the EDCs' EE&C Plans will eventually "crowd out" similar competitive market offerings. In addition, as highlighted in the *Web Portal Working Group Reconsideration Order*, EGS access to the data infrastructure of the EDCs necessary to acquire near real-time customer data so that EGSs can offer energy efficiency and demand response products continues to be a struggle in Pennsylvania.<sup>10</sup> Thus, to the extent EDCs can and do offer consumers benefits through the EDC EE&C Plans that EGSs are unable to offer due to a lack of access to needed customer information, EGSs are placed at an unfair competitive disadvantage.

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<sup>10</sup> *Web Portal Working Group Reconsideration Order* at 11-12.

To be clear, the issue RESA is focused on here is not who should provide these programs but rather how the EDC's provisioning of these programs can be improved to leverage the competitive market. As explained further below, a review of the EE&C Plans filed by Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, "FirstEnergy") reveal a few areas where these issues are highlighted.<sup>11</sup>

More broadly, however, RESA recommends that the Commission convene a stakeholder collaborative with the express purpose of exploring opportunities to better leverage the competitive market and mitigate competitive harm consistent with the discussion below in Section II.B.

**A. FirstEnergy's Phase III EE&C Plan**

All of the FirstEnergy EDCs are proposing the following residential sector programs:<sup>12</sup>

- (1) Appliance Turn-In Program which provides rebates to consumers for turning in working appliances.
- (2) Energy Efficient Homes Program which provides customers with energy efficiency education and awareness along with measures and incentives to improve energy efficiency of homes. Additionally the program provides an opportunity for residential customers with smart meters to reduce usage during Act 129 demand response events,<sup>13</sup> and,

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<sup>11</sup> While RESA is filing an intervention in the proceeding addressing the Company's Phase III Plan, resource constraints do not enable RESA to be actively involved in the litigation of the EE&C Plan. Therefore, RESA offers these comments and recommendations for the Commission's consideration as it issues a decision regarding the Company's petition and, more broadly, continues to implement energy efficiency and demand response programs in Pennsylvania.

<sup>12</sup> See, e.g., Metropolitan Edison Company Phase III Energy Efficiency & Conservation Plan (For the Period June 1, 2016 through May 31, 2021) dated November 23, 2015 at 33 ("Met-Ed Phase III Plan").

<sup>13</sup> Unlike the other FirstEnergy EDCs, Penelec did not propose any new demand response programs because the Commission did not prescribe a peak demand reduction requirement for Penelec. See *Energy Efficiency and Conservation Program Final Implementation Order*, Docket No. M-2014-2424864, entered June 19, 2015 at 34-35.

- (3) Energy Efficient Products Program which promotes the purchase of energy efficient products, such as HVAC equipment, appliances, lighting, home electronics and other home products, through consumer rebates or incentives and support to retailers and manufacturers.

According to the testimony submitted by FirstEnergy in support of its EE&C Plan:

These residential programs were designed with a progression from general to specific. Home energy kits, energy usage reports and home energy audits are expected to serve as a “portal” (but not a requirement) for the other programs, because they serve a dual purpose of providing customers with both energy efficiency education and information regarding other potential energy savings opportunities and specific energy savings measures or recommendations. The energy efficiency programs then address the higher first cost of energy efficient appliances and products by providing rebates to overcome cost barriers and tap a variety of delivery channels and vendors. The Companies have also included a behavioral demand response program for residential customers with smart meters. Through this program, the Companies will provide notification messages to motivate customers to reduce usage during demand reduction events. The program will also provide post-event customer feedback about the customer’s usage performance during the event and recommendations to reinforce their usage reduction behavior in future demand reduction events.<sup>14</sup>

To implement the EE&C Plan, the Companies plan to rely on a number of Conservation Service Providers (“CSPs”), program allies and other entities engaged in energy-efficiency to promote, deliver, and support effective deployment of the programs.<sup>15</sup> Marketing channels may include but are not limited to: bill inserts, newspaper, television and radio spots, search engine optimization, and e-mail, cross-marketing through retailers and other residential programs, dealer incentives, giveaways, promotional events.<sup>16</sup>

To the extent that these programs (and the others that are not discussed here) are providing tangible customer benefits for participating (i.e. bill credits, discounts on products and

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<sup>14</sup> Met-Ed/Penelec/Penn Power/West Penn Statement No. 2 at 12-13.

<sup>15</sup> Met-Ed/Penelec/Penn Power/West Penn Statement No. 2 at 19-20.

<sup>16</sup> See, e.g., Met-Ed Phase III Plan at 37, 40, and 46.

services), customers who avail themselves of similar products and services from the competitive market should receive the same benefit. In addition, as FirstEnergy continues to further develop its programs and marketing, it should be required to consider how to leverage the competitive market both in terms of future relationships with suppliers as well as its marketing campaigns.

### **B. Broad Recommendations Going Forward**

Regarding the continued implementation of EE&C Plans beyond the Company's specific proposal here, RESA recommends that the Commission encourage a stakeholder process tasked with the purpose of looking at ways to encourage utilities to leverage the competitive market in the context of their EE&C Plans. More specifically, any rebates or consumer benefits offered as a part of participating in any of the programs should be available to all customers whether shopping or non-shopping. So, for example, if an EGS is offering a product or service similar to the EDC EE&C offering, then the shopping customer should receive the same benefit. Thus, if an EGS offers a smart thermostat, home energy audit, or in-home energy management device that is comparable to the EDC EE&C program, then the customer should receive the same benefit – whether that involves a rebate or an on-bill credit.

In addition, the stakeholder process should survey the various marketing channels used by the various EDCs to market the EE&C programs and identify low-cost, easily implementable ways to include information about comparable EGS products. The Standard Offer Customer Referral Programs and other retail market enhancements directed through the Retail Markets Investigation, provide a conceptual framework for this recommendation in the sense that consumers are provided information through the EDC about comparable EGS offerings. Recognizing the cost and complexity of establishing the customer referral programs, RESA is not recommending that the same type of infrastructure be developed here. Rather, low-cost

options should be considered such as a link to supplier offers on a specific EDC's website devoted to an EE&C program.

Another potential option would be to include information about comparable competitive market products and services in any mailings or bill inserts from the EDC regarding its EE&C programs. This type of information sharing could be modeled after the direct mail program of the FirstEnergy companies.<sup>17</sup> Pursuant to this direct mail program, Met-Ed and Penelec issued mailers to all residential and small business customers which included specific retail offers from suppliers choosing to participate. The program offered significant flexibility to participating suppliers and allowed them to present a wide range of offers to customers. The participating suppliers designed marketing inserts that were included in the residential and small business customer mailers. Replicating this program in the context of the EE&C Plan may be a low-cost and reasonable way to leverage competitive market energy efficiency and demand response offerings.

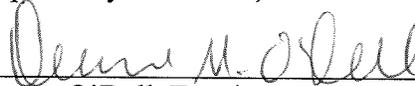
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<sup>17</sup> *Joint Petition of Metropolitan Edison Company and Pennsylvania Electric Company for Approval of Their Default Service Programs* Docket Nos. P-2009-2093053 and P-2009-2093054, Opinion and Order entered November 6, 2009 at 20-21.

### III. CONCLUSION

RESA appreciates this opportunity to provide its viewpoint regarding this important proceeding. As the Commission continues to foster the development of energy efficiency and demand response programs in Pennsylvania, RESA urges that the Commission also direct consideration be given to identifying and utilizing low-cost, reasonable opportunities presented within the EE&C Plans to leverage the competitive market.

Respectfully submitted,



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Date: January 4, 2016

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