

**ECKERT
SEAMANS**
ATTORNEYS AT LAW

Eckert Seamans Cherin & Mellott, LLC
213 Market Street
8th Floor
Harrisburg, PA 17101

TEL 717 237 6000
FAX 717 237 6019
www.eckertseamans.com

Sarah C. Stoner
717.237.6026
sstoner@eckertseamans.com

January 4, 2016

Via Electronic Filing

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

Re: Petition of PPL Electric Utilities Corporation For Approval of its Act 129 Phase III
Energy Efficiency and Conservation Plan; Docket No. M-2015-2515642

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.

Via Email and/or First Class Mail

Paul E. Russell, Esquire
Kimberly A. Klock, Esquire
PPL Electric Utilities Corporation
2 North Ninth Street
Allentown, PA 18101
perussell@pplweb.com
kklock@pplweb.com

David B. Macgregor, Esquire
Post & Schell PC
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
dmacgregor@postschell.com

Devin T. Ryan Esquire
Post & Schell PC
17 North 2nd Street - 12th Floor
Harrisburg, PA 17101-1601
dryan@postschell.com

Amy E. Hirakis, Esquire
Darryl Lawrence, Esquire
Office of Consumer Advocate
5th Floor Forum Place
555 Walnut Street
Harrisburg, PA 17101
ahirakis@paoca.org
dlawrence@paoca.org

Elizabeth Rose Triscari, Esquire
Office of Small Business Advocate
300 North Second Street - Suite 202
Harrisburg, PA 17101
etriscari@pa.gov

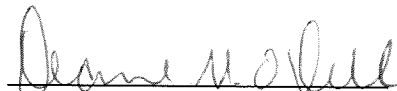
Date: January 4, 2016

Judith D. Cassel, Esquire
Micah R. Bucy, Esquire
Hawke McKeon and Sniscak LLP
100 N. Tenth Street
Harrisburg, PA 17101
jdcassel@hmslegal.com
mrbucy@hmslegal.com

Elizabeth R. Marx, Esquire
Patrick M. Cicero, Esquire
Joline Price, Esquire
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net

Adeolu A. Bakare, Esquire
Pamela C. Polacek, Esquire
McNees Wallace & Nurick, LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
abakare@mwn.com
ppolacek@mwn.com

Honorable Susan D. Colwell
Administrative Law Judge
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
scolwell@pa.gov


Deanne M. O'Dell, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities :
Corporation for Approval of Its Act 129 : Docket No. M-2015- 2515642
Phase III Energy Efficiency and :
Conservation Plan :

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

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”).¹ 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”)² is a trade association of retail energy suppliers who share the common vision that competitive retail electricity markets deliver a more efficient, customer-oriented outcome than does the monopoly-protected, rate-regulated utility

¹ See, 45 Pa.B. 7078 (December 12, 2015)

² 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.

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.”³ 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.”⁴ 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.⁵ 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.⁶ 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

³ 66 Pa.C.S. § 2802(13).

⁴ 66 Pa.C.S. § 2804(2).

⁵ *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.

⁶ 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.⁷ 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.⁸ 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.”⁹

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

⁷ *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*”).

⁸ *RMI End State Order* at 82.

⁹ *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.¹⁰ 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.

¹⁰ *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 Plan of PPL Electric Utilities Corporation ("PPL") reveals a few areas where these issues are highlighted.¹¹

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. PPL's Phase III EE&C Plan

PPL proposes the following residential sector programs:

1. Appliance Recycling Program which offers free pick-up and recycling of refrigerators, freezers, room air conditioners, and dehumidifiers. Customer receives rebate for each recycled appliance.¹²
2. Efficient Lighting Program which encourages residential customers to purchase and install LED bulbs and enable customer to purchase bulbs at a discounted rate at local retail stores.¹³
3. Energy Efficient Home Program which provides comprehensive energy efficiency options (including rebates, education and installation services) to new and existing homes.¹⁴
4. Student Energy Efficient Education Program which provides energy efficiency kits and education to students and teachers.¹⁵

¹¹ 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.

¹² PPL Electric Utilities Corporation Energy Efficiency and Conservation Plan Act 129 Phase III dated November 30, 2015 (Exhibit 1 attached to Petition) at 36 ("PPL Phase III Petition").

¹³ PPL Phase III Petition at 41

¹⁴ PPL Phase III Petition at 46.

¹⁵ PPL Phase III Petition at 53.

5. Home Energy Education Program which educates customers about behaviors and measures they can adopt to reduce energy consumption through home energy reports sent to targeted high users.¹⁶

In addition to the programs outlined in the EE&C Plan, PPL proposes to reserve approximately \$3 million in funding for residential pilots and new technologies noting that this could include items such as whole-home energy management systems, integration of smart thermostats with HVAC devices, limited time offers on efficient HVAC measure, or more cost-effective distribution models for equipment incentives.¹⁷ Finally, PPL notes that one of its objectives in designing its EE&C Plan was to strike a reasonable balance among costs, ratepayer value, customer choice, quality service and energy and capacity savings.¹⁸

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 services), customers who avail themselves of similar products and services from the competitive market should receive the same benefit. In addition, as PPL continues to consider pilot programs and further refine the marketing of its current programs, it should be required to consider how to leverage the competitive market both in terms of future pilot programs 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

¹⁶ PPL Phase III Petition at 58.

¹⁷ PPL Phase III Petition at 35.

¹⁸ PPL Phase III Petition at 19.

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.

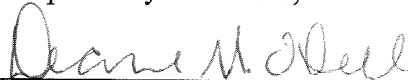
Another potential option would be to include information about comparable competitive market products and services in any mailings or bill inserts from the EDC regarding its EE&C programs. This type of information sharing could be modeled after the direct mail program of

the FirstEnergy companies.¹⁹ 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.

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,



Deanne O'Dell, Esquire
(Pa. Attorney ID No. 81064)
Sarah Stoner, Esquire
(Pa. Attorney ID No. 313793)
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Fl.
Harrisburg, PA 17108-1248
717 237 6000

Date: January 4, 2016

Attorneys for the Retail Energy Supply Association

¹⁹ *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.