September 11, 2009

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

RE: Metropolitan Edison Company Energy Efficiency and Conservation Plan, Docket No. M-2009-2092222;
Pennsylvania Electric Company Energy Efficiency and Conservation Plan, Docket No. M-2009-2112952 ;
Pennsylvania Power Company Energy Efficiency and Conservation Plan, Docket No. M-2009-2112956 (Consolidated).

Dear Secretary McNulty:

Enclosed for filing with the Commission is the Main Brief of Representative Camille "Bud" George of the Pennsylvania House of Representatives in the above-captioned proceeding. Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition for Consolidation of Proceedings	:	Docket Numbers (Consolidated)
and Approval of Energy Efficiency and	:	M-2009-2092222
Conservation Plans of Metropolitan Edison	:	M-2009-2112952
Company, Pennsylvania Electric Company,	:	M-2009-2112956
and Pennsylvania Power Company	:	

MAIN BRIEF

DEMOCRATIC CHAIRMAN CAMILLE "BUD" GEORGE
ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE
PENNSYLVANIA HOUSE OF REPRESENTATIVES

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Date: September 11, 2009

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I. INTRODUCTION

In response to the anticipated increase in electricity prices following the end of generation rate caps, the General Assembly enacted Act 129 of 2008 ("Act 129") requiring electric distribution Companies to promote energy efficiency, demand reduction and energy conservation among their customers through an Energy Efficiency and Conservation Plan ("Plan"). This historic legislation was designed to help customers become more energy-efficient and lower their energy bills. This brief will address a deficiency in the Plans by the FirstEnergy Companies--Metropolitan Edison Company ("Met-Ed"), Pennsylvania Power Company ("Penn Power"), Pennsylvania Electric Company ("Penelec")--and will propose specific remedial measures for those customers who will be most challenged by a rise in electricity prices.

II. PROCEDURAL HISTORY

On January 15, 2008, State Representative Camille "Bud" George, Majority Chairman of the House Environmental Resources and Energy Committee, introduced House Bill 2200, which Governor Edward G. Rendell signed into law as Act 129 of 2008 with an effective date of November 14, 2008. 66 Pa.C.S. §§ 2806.1 *et seq*. The Act expanded the Pennsylvania Public Utility Commission's (Commission) oversight responsibilities, required the electric distribution Companies to procure and provide default supply power following the expiration of generation rate caps, and directed all electric distribution Companies with at least 100,000 customers to file an Energy Efficiency and Conservation Plan with the Commission for approval by July 1, 2009. 66 Pa.C.S. § 2806.1(b)(1)(I). On January 16, 2009, the Commission issued an order implementing the Energy Efficiency and Conservation Program.

On July 1, 2009, the FirstEnergy Companies filed their Plans. Public Input hearings were held in Mars, Hollidaysburg, and Wyomissing.

Representative George filed a Petition to Intervene on July 29, 2009, which was granted pursuant to an August 7, 2009 order of Honorable Administrative Law Judge David A. Salapa. The following parties also successfully intervened: the Commission's Office of Trial Staff ("OTS"); Office of Small Business Advocate ("OSBA"); Office of Consumer Advocate ("OCA"); Pennsylvania Association of Community Organizations for Reform Now ("ACORN"); Pennsylvania Department of Environmental Protection ("DEP"); National Association of Energy Service Companies ("NAESC"); EnerNOC, Inc. ("EnerNOC"); Comperio Energy LLC, d/b/a ClearChoice Energy ("ClearChoice"); Peoples Natural Gas Company d/b/a Dominion Peoples ("Dominion"); National Fuel Gas Distribution Corporation ("NFG"); UGI Utilities, Inc. ("UGI"); and Field Diagnostic Services, Inc./Constellation NewEnergy, Inc. ("FDS/Constellation"). Representative George submits this brief pursuant to the procedural schedule set forth in the Scheduling Order of Administrative Law Judge David A. Salapa.

III. DESCRIPTION OF THE FIRSTENERGY COMPANIES' PLANS (LOW INCOME SECTOR PROGRAM)

This brief focuses solely on the Plans' inadequate considerations of energy conservation and reduction measures for low-income residential customers. For their Low Income Sector Program, the FirstEnergy Companies' Plans allocate an average of only 0.7% of the combined budget of $126,223,817, or $925,617, for the years 2010 - 2013. *See George L. Fitzpatrick's (FirstEnergy) direct testimony*, pp. 6 - 9. For measures, the Plans merely expands the existing Low-Income Usage Reduction Program, providing energy education, energy-efficient products, appliance recycling, and load control programs. *See Penelec's Plan*, pp. 53 - 54.

IV. SUMMARY OF ARGUMENT

This brief focuses exclusively on the FirstEnergy Companies' proposed Low Income Sector Program. Act 129 emphatically states that an Energy Efficiency & Conservation Plan must equitably help consumers lower their bills and provide specific, proportionate relief for low-income consumers based on their energy usage. However, the Plans filed by the FirstEnergy Companies fail to meet these requirements.

In Penelec's service territory, the amount of energy used by low-income customers in 2008 made up 14% of the total residential usage that year. *See George's Cross-Examination Exhibit 1, FirstEnergy Companies' Responses to George's Interrogatories Set I, Nos. 3, 4.* But Penelec allocates less than 1 percent of its residential portfolio budget, or 0.89%, for the Low Income Sector Program. *Penelec's Plan*, p. 8. Met-Ed's Plan allocates only 0.5%, and Penn Power's Plan, only 1.2%. *See Fitzpatrick's direct testimony*, pp. 6 - 9. Although low-income customers may participate in other residential programs, the Plans do not guarantee that, as mandated by the Act, a proportionate amount of the residential portfolio budget corresponding to the energy usage of low-income customers will be reserved for low-income customers for those residential programs. Thus, the FirstEnergy Companies' Plans vastly underfund their Low Income Sector Program and fail to meet the Act's requirement to provide sufficient measures and programs based on the energy usage of low-income customers.

In particular, the Plans fail to provide adequate measures for low-income customers who primarily use electric baseboards for heat. According to Penelec's survey, 26,697 residential customers in its service territory primarily use electric baseboards for heat, and 68% of low-income customers, or 3,207 customers, primarily use electric baseboards for heat. *See George's Cross-Examination Exhibit 1, FirstEnergy Companies' Response to George's Interrogatory Set 1, No. 7.*

Low-income customers face particular dangers during winter when higher electricity prices may force them to compromise their physical safety by turning off the heat. This risk is heightened when low-income customers rely on an inefficient heating system like electric baseboard heaters that have much higher heating costs. According to the United States Department of Energy, a ground-source heat pump system is three times more efficient than the electric baseboard heating system and an air-source heat pump is twice more efficient. *See Table 2, "Estimated Average Fuel Conversion Efficiency of Common Heating Appliances," at* http://www.energysavers.gov/your_home/space_heating_cooling/index.cfm/mytopic=12330. The FirstEnergy Companies could achieve greater demand reductions by focusing on low-income customers with inefficient heating systems with little to no alternatives to reduce their energy consumption.

Therefore, for low-income customers, the FirstEnergy Companies must provide and fund more programs and reserve a pro rata share of the residential portfolio budget that corresponds to the proportion of their energy usage. Specifically, the FirstEnergy Companies must provide measures to help low-income customers with electric baseboard heaters to switch to more energy-efficient heating systems, such as air-source or ground-source heat pump systems.

V. ARGUMENT

A. Act 129 Requirements Regarding the Low Income Sector Program

Act 129 is emphatic in its intention to help consumers lower their electricity bills. The Act's legislative declarations and findings state, in part: "It is in the public interest to adopt energy efficiency and conservation measures and to implement energy procurement requirements designed to ensure that electricity obtained reduces the possibility of electric price instability, promotes economic growth and ensures affordable and available electric service to all residents." Act of October 15, 2008, P.L. 129.

Section 2806.1(a)(5) of the Act provides that the programs offered under an Energy Efficiency and Conservation Plan must include "a variety of energy efficiency and conservation measures" and must ensure that it "will provide the measures equitably to all classes of customers." 66 Pa.C.S. §

2806.1(a)(5). Importantly, the Act specifically directs electric distribution Companies to provide relief to low-income customers. Section 2806.1(b)(1)(G) of the Act provides that "[t]he plan shall include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines. The number of measures shall be proportionate to those households' share of the total energy usage in the service territory." 66 Pa.C.S. § 2806.1(b)(1)(G). The FirstEnergy Companies therefore must provide measures specifically tailored for their low-income customers with budget allocations proportionate to those customers' share of the total residential energy usage.

B. FirstEnergy Companies' Low Income Sector Program[1]

The FirstEnergy Companies' Low Income Sector Program is described as follows: "This program is an enhancement to the existing comprehensive Low-Income Usage Reduction Program, known as WARM that will provide additional electric energy savings measures and services." *Penelec's Plan*, p. 53. Eligible measures are as follows: "Replacement lighting, smart power strips, energy education, other residential programs (e.g., appliance recycling, energy efficient products, and load control programs) [sic] will also increase availability of subsidized energy efficiency services." *Id. at* 54.

C. Inadequacy of the Low Income Sector Program

The FirstEnergy Companies' Plans are deficient because they vastly underfund their Low Income Sector Program and provide inadequate programs for low-income customers. The only budget allocation expressly made for the Low Income Sector Program is for "enhancement" to WARM services for years 2010 - 2013, for which Penelec has allocated $472,997; Met-Ed and Penn Power have allocated $307,738 and $144,882, respectively. *Fitzpatrick's direct testimony*, pp. 7 - 9. Penelec's total residential portfolio budget for years 2010 - 2013, including the Low Income Sector Program, is

[1] The Low-Income Sector Program for all three FirstEnergy Companies' Plans is identical. For convenience, the brief will refer to Penelec's Plan.

$53,718,626; Met-Ed's, $60,620,465; Penn Power's, $11,884,726. According to Penelec's Plan, the budget for the Low Income Sector Program represents only 0.89% of its residential portfolio budget. However, a total of 500,176 Penelec residential customers used 4,519,419,000 kWh, with its low-income customers' usage contributing 655,588,184 kWh—14% of the total residential energy usage. *See George's Cross-Examination Exhibit 1, FirstEnergy Companies' Responses to George's Interrogatories Set I, Nos. 3, 4.*

It is clear that this anemic allocation of 0.89% for Penelec's Low Income Sector Program fails to correspond to the 14% share of the energy usage by its low-income customers. Although the Low Income Sector Program refers to "other residential programs," Penelec's Plan does not guarantee that those program dollars would be spent on low-income customers in an amount that would equal 14% of Penelec's residential portfolio budget. Given that Met-Ed, Penn Power and Penelec all filed the same Plan with the same measures and programs, it is reasonable to assume that Met-Ed's and Penn Power's budget allocations for their Low Income Sector Program, 0.5% and 1.2%, respectively, are just as deficient as Penelec's budget allocation. This clearly violates the Act's requirement that "[t]he number of measures shall be proportionate to [low-income] households' share of the total energy usage in the service territory." 66 Pa.C.S. § 2806.1(b)(1)(G).

D. Necessity of Additional Programs and Funds for the Low Income Sector Program

To comply with the usage proportionality requirement in 66 Pa.C.S. § 2806.1(b)(1)(G), the Plans must provide additional measures with dedicated funding. Specifically, the Plans should dedicate a share of their total residential portfolio budget for the Low Income Sector Program, which share would equal the proportionate share of the energy usage by their low-income customers. For Penelec, this would mean allocating $7,520,607, exceeding the current allocation by more than $7 million and equaling 14% of its total residential portfolio budget for years 2010 - 2013. To the extent that "other residential programs" are included in the Low Income Sector Program, the Plans must guarantee that a proportionate share of the budget for such residential programs be reserved expressly for low-income customers based on their share of the total residential energy usage.

Lastly, the Plans must provide "a variety of energy efficiency and conservation measures ... equitably to all classes of customers," including to low-income customers. 66 Pa.C.S. § 2806.1(a)(5). The current Low Income Sector Program lacks this variety: it only expands the existing WARM services with a minimum of funding and vaguely refers to residential programs in which most low-income customers could not participate due to high up-front costs of the programs. Therefore, to achieve equity required by Section 2806.1(a)(5) of the Act, the Plans should provide programs to low-income customers that are provided to other residential customers and help them participate in those programs by providing substantial financial assistance where necessary.

For example, the residential portfolio in each of the FirstEnergy Companies' Plans offers "Energy Efficient HVAC Equipment Program" under which rebates are given for specified energy-efficient HVAC equipment. However, these rebates are woefully inadequate as incentives for low-income customers. For an air-source heat pump that typically costs $3,000 to $7,000, the Plans offer a rebate of $325 per unit; for a ground-source heat pump with a three-ton capacity that may cost $7,000 to over $10,000, a rebate of $217 per ton. *See "Economics of Geothermal Heat Pumps" at* http://www.energysavers.gov/your_home/space_heating_cooling/index.cfm/mytopic=12670. Meanwhile, the average household income for low-income customers is $15,667. *See George's Cross-Examination Exhibit 1, FirstEnergy Companies' Response to George's Interrogatory Set 1, No. 6, Attachment C "PA WARM Program Customer Demographics and Home Characteristics Job Completed in 2008."* The same inequity exists with regard to the Energy Efficiency Products Program and other residential programs that would require substantial up-front costs.

Low-income customers deserve meaningful assistance with respect to the energy-efficient HVAC equipment program and other programs as much as, if not more than, other residential customers. This is especially the case where 68% of low-income customers who use electric heat are saddled with inefficient electric baseboard heaters and are being disproportionately affected by higher energy bills. Because the high costs of energy-efficient equipment effectively bar participation of several residential programs by low-income customers, the Plans fail to "equitably" provide a variety of conservation and efficiency measures to all classes of customers as mandated by the Act.

VI. CONCLUSION

The FirstEnergy Companies' Plans must provide additional measures and programs with dedicated funding for their Low Income Sector Program.

VII. PROPOSED ORDERING PARAGRAPHS

IT IS HEREBY ORDERED THAT:

The Act 129 Energy Efficiency and Conservation Plans of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, filed at Docket Nos. M-2009-2092222, M-2009-2112952, M-2009-2112956, are approved, with the following additions:

1. For the Low Income Sector Program, the FirstEnergy Companies are directed to expressly allocate a share of the residential portfolio budget that corresponds to the proportionate share of the residential energy usage of low-income customers in 2008.
2. The FirstEnergy Companies shall provide the necessary financial assistance and remove any cost barriers for low-income customers so that they can fully participate in all residential programs.
3. For the Low Income Sector Program, the FirstEnergy Companies are directed to add a program that substantially assists low-income customers who primarily use electric baseboards for heat to switch to more energy-efficient heating systems, such as air-source or ground-source heat pumps.

Respectfully submitted,

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and Pennsylvania Power Company	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing Brief dated September 11, 2009, by first class mail or electronic mail upon the persons listed below:

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