

June 3, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120


Dear Secretary Chiavetta:

**Re: Implementation of Act 129 of 2008-Total Resource Cost (TRC) Test-
2011 Revisions (Docket No. 2009-2108601)**

Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power") and West Penn Power Company ("West Penn") (collectively, "Companies") hereby submit an original and fifteen (15) copies of their Comments to the TRC Test-2011 Revisions as requested in the Commission's May 5, 2011 Tentative Order.

Please feel free to call me if you have any questions or require additional information.

Respectfully submitted,



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Implementation of Act 129 of 2008-Total
Resource Cost (TRC) Test-2011 Revisions

Docket No. M-2009-2108601

COMMENTS OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY,
PENNSYLVANIA POWER COMPANY AND WEST PENN POWER COMPANY TO
THE TENTATIVE ORDER REGARDING THE 2011 REVISIONS TO THE TOTAL
RESOURCE COST (TRC) TEST

I. INTRODUCTION

Act 129 of 2008 requires an electric distribution company (“EDC”) to demonstrate that its plan is cost-effective using the Total Resource Cost (“TRC”) Test.¹ The TRC Test is “a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures.”² Initially, in its January 16, 2009 Act 129 EE&C Implementation Order (“Implementation Order”), the Pennsylvania Public Utility Commission (“Commission”) directed that EDCs evaluate the cost effectiveness of energy efficiency or demand reduction programs using a TRC Test based on the California model.³ After soliciting comments, the Commission entered a final order relative to the TRC

¹ 66 Pa.C.S. §2806.1(b)(1)(i)(I).

² 66 Pa. C.S. §2806.1(m)

³ See Efficiency and Conservation Program Implementation Order (“Implementation Order”) entered on January 16, 2009, at Docket No. M-2008-2069887, p. 15.

Test on June 23, 2009 (“2009 TRC Test Order”).⁴

The Commission adopted the 2009 TRC Test Order was adopted approximately six months after the passage of Act 129. In the 2009 TRC Test Order, the Commission recognized that the operation of the TRC Test would be ongoing in nature and that several issues would require additional consideration and discussion. The 2009 TRC Test Order provided that the Commission could amend the TRC Test based upon experience and/or input from stakeholders. Moreover, in the 2009 TRC Test Order, the Commission acknowledged that the EDCs may not be able to reasonably incorporate certain TRC Test items into their energy efficiency and conservation (“EE&C”) plans by July 1, 2009 and allowed EDCs to amend their EE&C plans by August 1, 2009. Consequently, even though there was some opportunity for input on the 2009 TRC Test Order, there was limited time, given the statutory deadlines, to fully consider it.

In furtherance of the Commission’s desire to amend the 2009 TRC Test based upon experience and/or input from stakeholders, on May 5, 2011, the Commission adopted a Tentative Order in the above-captioned proceeding proposing revisions and recommending further refinements to the existing TRC Test.⁵ The Commission subsequently entered the Tentative Order on May 6, 2011. In the Tentative Order, the Commission invited interested parties to submit comments on the 2011 Revisions to the TRC Test by May 20, 2011 and Reply Comments on May 31, 2011. On May 13, 2011, the Energy Association of Pennsylvania (“EAP”) filed a petition seeking an extension of time for all interested parties to file comments. On May 17, 2011, the Commission issued a Secretarial Letter granting that extension. Accordingly, the

⁴ See Implementation of Act 129 of 2008-Total Resource Cost Test Order, entered on June 23, 2009, at Docket No. M-2009-2108601.

⁵ See Implementation of Act 129 of 2008-Total Resource Cost Test-2011 Revisions, entered on May 6, 2011, at Docket No. M-2009-2108601.

deadlines for comments and reply comments were extended to Friday, June 3, 2011, and to Wednesday, June 15, 2011, respectively.

Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power Company (“West Penn”) (collectively “the Companies”) remain committed to Pennsylvania’s successful achievement of the goals of Act 129 and the furtherance of a credible TRC Test to support these goals. The Companies applaud the Commission for its efforts to offer guidance on the critical, complex issues related to the TRC Test. The Companies also appreciate the opportunity to comment on that guidance. Specifically, the Companies respectfully submit the following comments on the five specific areas mentioned in the Tentative Order: 1) Demand Response; 2) Net-To-Gross; 3) Fuel Switching; 4) TRC Calculations; and 5) TRC Reporting. The Tentative Order also makes the important distinction between how these issues are addressed to support the approved EE&C plans to meet the statutory targets through May 31, 2013, and “to a lesser extent, on the use of the TRC test beginning June 1, 2013”.⁶ Therefore, for convenience and clarity in distinguishing recommendations for those two periods, the Companies will reference the “current phase” of Act 129 implementation for TRC Test recommendations during the period through May 31, 2013 and the “next phase” for subsequent Act 129 implementation phases. Lastly, although the Commission did not make recommendations related to these two issues, the Companies also would like to take the opportunity to comment on: 1) determination of avoided distribution costs; and 2) removal of references to top 100 hours in discussion of capacity values to be implemented in the *next phase*.

⁶ Tentative Order at p. 1.

I. COMMENTS TO DEMAND RESPONSE TRC TEST

The Companies are generally supportive of the Commission's revisions to the TRC Test for demand response with the exception of: 1) treatment of PJM payments to EDCs or PJM Curtailment Service Providers ("PJM-CSPs"); and 2) clarification of issues related to the measure life for demand response measures.

A. Treatment of Demand Response Payments from PJM to PJM-CSPs and EDCs

In Section A(2) of the Tentative Order, the Commission addressed whether PJM Payments should be included in the TRC Test as costs or as benefits.⁷ The Commission considered the resolution of this issue in two different situations: 1) when PJM payments are made to a PJM-CSP; and 2) when PJM payments are made directly to EDCs. In resolving this issue, the Commission determined that PJM payments to PJM-CSPs for demand response market participation in all PJM programs should be excluded from TRC Test calculations. In contrast, the Commission proposed that PJM payments to EDCs for demand response market participation in economic programs should be allowed as benefits for the purpose of the TRC Test to the extent that these payments represent benefits (costs avoided) that exceed those costs avoided which are calculated as set forth in the 2009 TRC Test Order. In approving the Tentative Order, Commissioner Cawley, in a statement, specifically sought comments on whether PJM payments offset costs to PJM-CSPs to implement demand response programs.⁸

The Companies disagree with treating PJM payments to EDCs and PJM-CSPs

⁷ Tentative Order at p.8.

⁸ May 5, 2011 Statement of Commissioner James H. Cawley ("In this Order, it is represented that, due to the lack of transparency, the payment from PJM and a portion of the costs to CSPs to implement programs are *considered* to offset each other. ... I therefore encourage comments on the Tentative Order, especially from EGSs and PJM curtailment service providers, on these assumptions and treatment of PJM payments within the TRC calculation, as it relates to EDCs and CSPs.")

differently. Rather, the Companies believe that these payments, regardless of whether the payments are made to EDCs or PJM-CSPs, should be excluded from the TRC Test calculations. In response to Commissioner Cawley's question, the Companies believe that PJM payments to EDCs and PJM-CSPs for participation in the PJM programs includes compensation for the costs (or inconvenience) associated with customer load response or customer load reductions in the PJM programs. In reality, the EDCs and PJM-CSPs would pass on some of this compensation to the customers for their participation. Indeed, the PJM payments have to exceed the costs of implementation or the PJM programs would not be viable. Moreover, because the distribution of PJM payments to a PJM-CSP's customer is a confidential contractual matter, assessing market practices relative to the distribution of the PJM payments between PJM-CSPs and customers to assess costs is extremely difficult and case-specific based on each PJM-CSP's business model and the characteristics of each customer. Therefore, the Companies recommend that both PJM payments to PJM-CSPs and PJM payments to EDCs be uniformly considered a surrogate for customer cost. Same activity outside of Act 129

Lastly, in Section A(2) of the Tentative Order, the Commission determined that PJM payments for capacity should be excluded from TRC calculations as either benefits or costs relative to the TRC Test. For the *current phase*, the Companies support excluding consideration of PJM payments for capacity or energy resources. However, the Companies oppose excluding PJM payments for capacity for the *next phase*. For PJM capacity resources, the value of capacity is generally reflected in PJM payments to the PJM-CSP⁹ which generally settle through PJM settlement processes to the load serving entity, regardless of whether that entity is an EDC, default service provider or third party supplier. To the extent capacity payments are monetized

⁹ The PJM Curtailment Service Provider (CSP) may be the EDC or an independent CSP.

through PJM payments to the PJM-CSP, they are costs to the energy suppliers that customers ultimately pay. Therefore, these capacity payments should not be excluded particularly for existing capacity resources that have cleared the market in PJM RPM Auctions.

B. Treatment of Demand Response Payments from EDCs to CSPs and Participants

In Section A(3) of the Tentative Order, the Commission addressed whether demand response program payments from an EDC directly to participants or CSPs are cancelled out by an offsetting *benefit* to the participant or CSP, and are, therefore, excluded from the TRC calculation. The Companies do not have any comments on the Commission's proposed resolution. However, demand response program payments by the EDCs to CSPs or participants offset the *cost* (not the *benefit*) to the participant or CSP for its participation in programs similar to the PJM payments to EDCs or PJM-CSPs discussed earlier. To the extent that this consideration changes the Commission's proposed resolutions, the Companies request that the Commission address those changes in a subsequent order.

C. Measure Life for Demand Response Programs

In Section A(5) of the Tentative Order, the Commission provided direction for determining the measure life for demand response programs, such as direct load control. The Tentative Order recommends that measure life should be the number of years a demand response program is projected to operate, with supporting definitions and qualifications.

The Companies recommend that the Commission distinguish programs that are enabled by technology (e.g. Direct Load Control (DLC) or Smart Grid Modernization Initiative (SGMI)) and those that are non-technology enabled (e.g. contracted incentive based callable load reductions). The Companies believe that the measure life for technology-enabled programs should be based on the life of the equipment for the technology employed, whereas, the measure life for non-

technology enabled programs should be based on the contract term associated with customer participation in the program and not the number of years the program is projected to operate. Annual commitments for demand response programs should be considered a one-year measure life, and not assumed for the life of the program, because: 1) these resources need to be contracted each year; 2) it is mere speculation as to whether a contract will be renewed in any given year. Regarding the technology-enabled programs, the Companies further recommend that stipulated measure lives be added to the TRM for the various technologies employed as they become known.

II. COMMENTS TO NET-TO-GROSS

The Companies are generally supportive of the Commission's recommendations regarding Net-to-Gross ("NTG"), with the exception of the recommended NTG studies to be funded out of the EDCs' Act 129 2% program budgets.

In Section B of the Tentative Order, the Commission proposed to direct the EDCs to develop and conduct NTG studies and that the EDCs fund NTG studies out of the EDCs' Act 129 2% plan budgets. While some EDCs may have funding reserves adequate to meet the current energy and peak load reduction targets under Act 129 and to fund NTG or additional studies, those with the lowest rates (such as West Penn) will need virtually every available dollar to support delivery of savings to meet the compliance targets. In its approved EE&C Plan, West Penn's has committed its entire Act 129 2% plan budget and has no remaining funding available for studies. While the Companies have planned evaluation funding adequate to support gross impact evaluations consistent with the TRM and prior orders, the Companies, in particular Penn Power and West Penn Power, simply do not have funding reserves in the current EE&C Plans to support studies that will be used to develop projects for the next phase of Act 129 programs. The

Companies further emphasize that their EE&C Plans were created to meet the requirements of Act 129 and the Commission's Implementation Order, namely the energy and demand savings targets under the 2% budgetary cap, and that the EE&C Plan budgets do not include funding to *perform additional studies or activities that were not required as a component of the EE&C Plans* at that time. Indeed, in prior orders and Act 129, the scope and funding for NTG studies is either not referenced or was left as an open question.¹⁰ As a result, the Companies did not include additional studies or the costs to perform additional studies as part of their EE&C Plans. Because the Commission did not previously require NTG studies to be included within the approved EE&C Plans (or the 2% budget cap) for the current phase of Act 129 programs and will be used to develop the next phase of Act 129 programs, the Companies strongly encourage the Commission to fund costs associated with NTG studies outside the 2% cap, similar to the funding associated with the Statewide Evaluator.¹¹

The Companies also have several clarifications that the Commission should make to the Tentative Order before it becomes final. First, on page 18 of the Tentative Order, the Commission states: "We do not propose, for the period June 1, 2009, through May 31, 2013, that the NTG research be used to adjust the gross verified energy savings that are used for compliance purposes to determine whether an EDC has met its mandated Act 129 reduction targets." The Companies suggest the Commission direct the use of this approach for subsequent phases of Act 129 implementation. Adjustments to the gross verified savings, such as the result of NTG studies, are inexact and change over time and therefore should not be included for

¹⁰ The 2009 TRC Test Order at p. 27 states: "after reviewing the comments, we shall go forward without a NTG ratio (and adjustment) for the first year. We shall, however, convene a stakeholder process to examine the issues associated with developing a NTG adjustment rather than direct the EDCs to study the matter. The issues will include, but not be limited to: ... How should the studies be funded..."

determination of compliance to energy reduction goals. While actual cost-effectiveness of programs may be determined from net savings, which the EDCs can use to select programs in the development of new plans to target future goals, the inexact nature, variability over time and timing issues (determined after the fact) with these determinations supports that compliance with the next phases of Act 129 implementation should continue to be based on gross savings.

Next, the Companies also suggest expanding the discussion regarding the NTG studies to provide additional insight into the operation of the programs. Approaches to determine net savings are cited beginning on page 16 of the Tentative Order. The Companies recommend that “participants” in the first methodology description be expanded to include trade allies supporting delivery of programs and measures. Trade allies have direct involvement in providing programs and measures and are uniquely qualified to inform the adoption of and net savings of the programs and measures. In addition, the Companies request that an additional methodology to inform net savings be included that involves the comparison of market adoption in other states or regions. NTG studies are imprecise and variable over time, with external influences, and the Companies believe that consideration of market adoption in other states or regions will provide additional insight to inform the determination.

III. COMMENTS TO FUEL SWITCHING

In Section C of the Tentative Order, the Commission proposed to adopt the fuel switching provisions as set out in the Fuel Switching Working Group’s (“FSWG”) Staff Report. The Companies have two comments. The Companies recommend that, where new extensions or installations are required to serve natural gas or other fuels such as oil or propane, the cost of any infrastructure upgrades or installations, regardless of who bears the cost, should be included as

¹¹ Further, the after-the-fact assessment of these costs after Plans have been designed could be viewed as a retroactive application of a regulation and a potential violation of an EDC’s right to due process.

incremental costs for energy efficient measures associated with alternative fuels. Since the cost of infrastructure upgrades or installations such as connecting a customer to the local natural gas distribution system can be a costly endeavor, it is important that the TRC Test for fuel switching recognize such costs. Next, the Companies recommend that the Commission expand the TRC Test to provide instruction on the fuel cost that should be used in the TRC Test and expand the TRM to provide deemed impacts and measure lives where appropriate, similar to the impacts and measure lives provided for electric measures. Similar to the specific instruction on what avoided costs should be used for electricity and the impacts and measure lives of electric measures, the Companies request that the Commission expand the TRC Test and TRM to provide instruction on the cost of the alternative fuels that should be used and the impacts and measure lives if fuel switching measures are implemented.

IV. COMMENTS TO TRC CALCULATIONS

The Companies are generally supportive of the Commission's recommendations relating to TRC calculations with the exception of some clarifications to the current phase TRC calculations and the use of fully loaded retail transmission and distribution rates as an avoided cost.

A. Database For Deemed Customer Costs or Incremental Measure Costs As Applicable

In Section D(1) of the Tentative Order, the Commission proposed that the EDCs continue to use filed incremental cost data through May 31, 2013. For measure variants not included in the EDCs' EE&C plans, the EDCs should use the California Public Utilities Commission's Database for Energy Efficient Resources (DEER)¹² as the primary source of cost data. The Companies support the proposed resolution, with the suggestion to clarify the last sentence

¹² California DEER 2008, most recently updated October 2009. See <http://www.deeresources.com>.

regarding the use of the database. The Companies believe that they should use the database for either new measures added to the current phase of their EE&C Plans, or for measures offered under any next phases. In addition, the database will support assessing the cost-effectiveness of future programs that will ultimately guide the Companies in developing the next phase of their EE&C Plans. Thus, the Companies suggest that the Commission amend its recommendation as follows:

We further propose that an incremental cost database be developed *to support the assessment of* future EE goals and selection of future programs.¹³

B. Basis of TRC Benefits – Reported Savings or Verified Savings; And Basis of TRC Costs – Actual Costs or Committed Costs:

In Section D(2) of the Tentative Order, the Commission recommended that the calculation of TRC benefits should be based upon “verified” kWh and kW savings and that costs should be based on “actual” costs. The Companies support the proposed resolution, with the suggestion that the Commission amend its recommendation to provide further clarification by defining actual costs as actual EDC program costs, as follows:

The Commission recommends that the calculation of TRC benefits should be based upon “verified” kWh and kW savings and that costs should be based on “actual” costs, *as defined as actual EDC program costs.*

C. Definition of Incentives In TRC for Energy Efficiency Measures

In Section D(3) of the Tentative Order, the Commission proposed that “incentive” be defined as a payment made to a program participant. The Companies support the proposed resolution for energy efficiency measures generally, but recommend that the Commission expand the scope of the definition to clarify that the cost of direct installation programs (e.g. low-income programs, direct load control programs involving thermostats) that do not involve a payment to the participant, but rather provide products and services on a low- or no – cost basis, are viewed

as an incentive. Similarly, the scope of the definition should include the cost of incentives for such programs as appliance turn-in, or direct load control programs where the customer receives an incentive but does not otherwise pay a direct cost for participating in a program.

D. Avoided Costs In The Benefit/Cost Ratios In The Approved EE&C Plans And Avoided Costs Commencing June 1, 2013:

In Section D(6) of the Tentative Order, the Commission proposed that, through May 31, 2013, an EDC should use the most current forecast of avoided costs when filing a new program (or an EE&C plan) for Commission approval. For previously-approved program measures that the EDCs are not changing, regardless of the methodology or data used by an EDC to calculate its original TRC Test, the Commission will not require the EDCs to update avoided costs figures included in original TRC calculations for the period June 1, 2009 to May 31, 2013. However, the Commission will require the EDCs to update and utilize appropriately updated, and most current, avoided cost forecasts available at that point in time for any new programs proposed by the EDCs between now and May 31, 2013.

The Companies believe that the use of multiple avoided cost figures within the current phase of Act 129 implementation is extremely problematic, especially for EDCs who seek to continue to improve their plans and programs. First, having multiple avoided costs figures adds additional complexity to the EE&C plans by requiring additional modeling, reporting and tracking functionality to be able to assign different avoided cost figures to different programs and measures. In essence, this methodology creates an EE&C plan with a variety of avoided cost figures for different programs and measures. Next, this recommendation creates additional disparity between the EDCs in that EDCs may have the same programs evaluated using avoided cost figures that are based on different points in time, further making comparisons between the

¹³ Tentative Order at p. 22.

EDC plans and programs difficult. Last, the recommendation may also create a situation where the adoption of a program by an EDC is either benefited or penalized solely by virtue of when the EDC proposes the program.

In light of the above, the Companies recommend that the Commission accept the original (i.e., as filed and approved) avoided cost figures for all programs and measures throughout the current phase of Act 129 implementation regardless of when the programs or measures were proposed. This recommendation ensures consistency in calculations and allows for better comparisons of the various programs both within the portfolio and also among the various EDCs.

As an alternative, the Companies suggest that, if the Commission requires the EDCs to update the avoided cost figures for new programs during the *current phase* of Act 129 implementation, the Commission limit this updating requirement to new programs that significantly contribute to or change the source of energy savings of the EE&C plan. Further, the Companies recommend that should the Commission require the EDCs to update avoided cost figures, the update should be limited to only one update a four-year plan phase to avoid adding unnecessary administration and costs with having multiple versions of avoid cost figures. One update during the four year phase should adequately address any concerns with the original avoid cost figures. Moreover, the addition of new programs should not necessarily require new avoided cost figures, unless the new programs significantly contribute to or change the source of energy savings from the EE&C plan. The Companies believe that this approach balances consistent evaluation of the plans and programs with recognizing updated avoided cost figures when there are new programs that significantly impact the source of energy savings for the plan.

V. COMMENTS TO TRC REPORTING

In Section E of the Tentative Order, the Commission recommended that the EDCs engage in certain baseline studies. The Companies recognize the importance and benefit of baseline

studies. However, the Companies are concerned that the timing contained in the Tentative Order to complete the baseline studies by December 1, 2011 is ambitious in light of the EDCs' efforts to meet the energy and demand savings goals of the current phase of Act 129 implementation. In addition, the Companies request additional details on the scope of the baseline study proposed by the Commission in the Tentative Order.

Although there has been some discussion regarding baseline studies during Technical Working Group meetings, the SWE has not defined the scope of the baseline studies to date. It is difficult to determine whether a December 2011 completion date is possible until such time as the Commission and/or SWE clarifies whether the baseline study is required for all customer sectors (*e.g.*, residential, low-income, small C&I, large C&I, and government/institutions/non-profit) and all measures. The Commission should also provide guidelines with respect to: 1) the level of accuracy anticipated from the baseline studies; and, 2) whether results can be determined from available data (such as data from other states) or must be obtained from customer site visits or company-specific surveys, which are both costly and time consuming. Therefore, the Companies believe that the timing to develop, coordinate and perform the baseline studies is essential to the success of this effort and that additional time is needed. The companies propose a one-year time-frame, after the Commission clarifies what types of baseline studies it requires.

In addition, as previously discussed in the Companies comments to Section B(1) of the Tentative Order, and for similar reasons, the cost of the baseline studies should not be included in each EDC's 2% budget cap.

VI. ADDITIONAL COMMENTS

Although the Commission did not specifically address these issues in its Tentative Order, the Companies offer comments relating to: 1) guidance for determination of avoided distribution

costs; and 2) removal of references to top 100 hours in discussion of capacity values to be implemented in the *next phase*.

A. Determination of Avoided Distribution Costs

The Tentative Order does not re-visit the issue of determining avoided distribution costs. While the Companies are implementing the current programs pursuant to the guidance from the 2009 TRC Test Order, the Companies urge that, for the next phase of Act 129 implementation, treatment of “avoided distribution costs” should be re-visited because the current method of evaluating distribution costs is not completely accurate. Specifically, the Companies previously raised issues with the calculation of avoided distribution costs including: 1) the fact that fully loaded retail distribution rates include items such as taxes, utility rates of return, distribution meters, and real-estate; and 2) the calculation does not reflect a basis for avoidable distribution costs that might result from incremental reductions in system energy use. As such, the Companies believe that the current treatment of the avoided costs should be revisited, in particular, the convention for including retail distribution rates as avoidable costs, as well as escalating any distribution rates with capacity and/or energy cost projections. The Companies commit to working with the Commission, EDCs, Staff and stakeholders in this proceeding to support an alternative methodology.

B. References to Performance During the Top 100 Hours

Throughout the Tentative Order, the Commission makes references to performance during the top 100 hours. While the Companies are implementing demand response programs to meet the top 100 hour requirement established for the current phase of Act 129, the Companies suggest that any reference to performance during the top 100 hours be clarified as specific to the current phase of Act 129 as to avoid any implications regarding the next phases of Act 129 implementation. The Companies believe that the experience of the EDCs, customers, PJM -

CSPs and other stakeholders in the current phase of Act 129, including the interaction with the PJM markets, will be extremely beneficial to make decisions regarding the next phase of Act 129 implementation.

VII. CONCLUSION

The Companies commend the Commission's efforts to provide clear direction relative to the TRC Test and to support the expedient implementation of Act 129. Additionally, the Companies appreciate the opportunity to provide comments on the Commission's proposed revisions to the TRC Test.

Respectfully submitted,

Dated: June 3, 2010


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