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April 16, 2012

VIA FED EX

Pennsylvania Public Utility Commission
Attention: Secretary
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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APR 16 2012
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Docket Number M-2012-2289411

Dear Secretary:

Enclosed please find an original and three (3) copies of comments from Regional Housing Legal Services and the Philadelphia Weatherization and Conservation Collaborative with regard to Docket Number M-2012-2289411.

We appreciate the opportunity to provide these comments.

Sincerely,

Rachel Blake
Associate Director
Regional Housing Legal Services
2 S Easton Road
Glenside, PA 19038

**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|---|
| **Act 129 Energy Efficiency and Conservation Program Phase Two** | : : : | **Docket No. M-2012-2289411** |

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COMMENTS OF REGIONAL HOUSING LEGAL SERVICES AND THE PHILADELPHIA WEATHERIZATION AND CONSERVATION COLLABORATIVE

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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Dated: April 17, 2012

## INTRODUCTION

These comments are submitted by Regional Housing Legal Services (RHLS) and the Philadelphia Weatherization and Conservation Collaborative (the "PWCC") as interested stakeholders pursuant to the Pennsylvania Public Utility Commission's (the "Commission") invitation for interested parties to comment upon issues related to the Act 129 Energy Efficiency and Conservation Program Phase Two.[1]

RHLS is a nonprofit law firm with unique expertise in affordable, sustainable housing and its related components — community and economic development, utility matters and preservation of home ownership. RHLS provides innovative project and policy solutions that help create sustainable communities offering decent, safe and affordable housing for lower-income Pennsylvanians.

For nearly 40 years, RHLS has worked closely with nonprofit, community-based organizations that provide shelter for low- and moderate-income households across Pennsylvania. Our work and the work of our partners and clients helps strengthen households and increased the stability of neighborhoods across the Commonwealth.

The PWCC is a collaborative of over 25 organizations, including owners, developers, and operators of subsidized multifamily housing as well as representatives from governmental agencies and several utilities. The PWCC meets on quarterly basis to identify opportunities to increase energy efficiency in subsidized multifamily housing and in low-income communities. RHLS was a founding member of the PWCC and serves as its coordinator.

RHLS and the PWCC thank the Commission for this opportunity to provide these comments.

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[1] See Secretarial Letter Re: Act 129 Energy Efficiency and Conservation Program Phase Two, Docket No. M-2012-2289411, dated March 1, 2012.

## COMMENTS

RHLS and the PWCC strongly encourage the Commission to address the specific needs of subsidized multifamily properties through a carve-out with dedicated funding or another appropriate mechanism that is specifically targeted at subsidized multifamily properties in the second phase of the Act 129 Energy Efficiency and Conservation Program ("Act 129"). The creation of a subsidized multifamily carve-out would serve as an effective supplement to enhance and complement the existing low-income carve-out.

The absence of any currently existing goals for the subsidized multifamily segment from Act 129 should be remedied in Phase Two. A specific requirement to address the energy-efficiency needs in this market segment would allow the Commission and the utilities to: 1) help preserve existing state investments; 2) reach a significant and largely untapped market; 3) capture economies of scale; and 4) remedy the effective exclusion of thousands of low-income Pennsylvanians from the benefits of Act 129.

**Preserving Investment**

Pennsylvania has more than 90,000 affordable multifamily apartments, all of which are subsidized with some combination of federal, state, and local funds. The long-term viability of these properties is threatened by increasing and unstable utility costs. "Many older properties are in need of repair; however, owners do not have the operating revenue to make much-needed improvements. This cash flow crunch is exacerbated by rising energy costs. Many older properties, which were built before current energy standards for new construction were adopted, are energy inefficient. Increasing operating expenses combined with limited revenues make it very difficult for owners to maintain their rental properties." (*Energy Renovations Help Preserve Rental Housing*, Michael Bodaken and Todd Nedwick, Cascade: No. 73 (Winter 2010)).

State and local governments in Pennsylvania have made huge investments in affordable housing. The Pennsylvania Housing Finance Agency ("PHFA") administers the Low-Income Housing Tax Credit (LIHTC) program in Pennsylvania. The LIHTC program is the primary vehicle for financing for new construction of affordable multifamily properties. In the latest annual allocation of LIHTCs, which were announced last week, PHFA "approved $11.8 million in funding and $28.5 million in tax credits for the construction of affordable multifamily housing developments located throughout Pennsylvania."[2] (Press Release: *PHFA announces $11.8 million in funding and $28.5 million in tax credits for multifamily developments in Pennsylvania*, Pennsylvania Housing Finance Agency (April 12, 2012)). "Since its creation by the legislature in 1972, [PHFA] has generated $10.5 billion of funding for more than 147,555 single-family home mortgage loans and 83,000 rental units, while saving the homes of more than 46,000 families from foreclosure." (Press Release: *PHFA announces $11.8 million in funding and $28.5 million in tax credits for multifamily developments in Pennsylvania*, Pennsylvania Housing Finance Agency (April 12, 2012)).

Not only do these properties provide ongoing value to the tenants by provide safe, decent, and affordable housing to people who would not otherwise be appropriately housed, research shows that these properties add additional value to the community. In addition to significant first year economic impacts from new properties, there are ongoing annual recurring impacts. For each 100 apartments in a typical family Low-Income Housing Tax Credit (LIHTC) property, the annual impacts are: $2.4M in local income, $441,000 in taxes and other revenue for local governments, and 30 local jobs (*The Local Economic Impact of Typical Housing Tax Credit Developments*, National Association of Home Builders, and (March 2010)). Because multifamily subsidized housing represents a significant existing state investment, the Commission should

[2] These tax credits are expected to generate approximately $250 million in private investment.

support that investment by directing the utilities under Act 129 to make energy-efficiency improvements in this sector.

By adding an element to Phase Two of Act 129 that focuses on energy-efficiency in affordable multifamily housing, the Commission will be supporting existing state and local investment, by helping to reduce expenses at these properties and helping to ensure their long-term viability.

**An Untapped Market**

The subsidized multifamily housing market is large and is a largely untapped market for energy efficiency work. Nationally, the approximately 5 million units of HUD-assisted housing have an energy savings potential of over 7,800GWH of electricity and 432 million therms of natural gas. (*Addendum Report: U.S. Multifamily Housing Stock Energy Efficiency Potential*, Benningfield Group, Inc., p. 2, and p. 4 (April 9, 2010)). In addition, there are nearly 2 million households that live in properties constructed using LIHTCs, almost half of which were constructed at least 15 years ago. (*Addendum Report: U.S. Multifamily Housing Stock Energy Efficiency Potential*, Benningfield Group, Inc., p. 4 (April 9, 2010)). This segment of the market is estimated to have an energy efficiency potential of 3,000 GWH and 167 million therms. (*Addendum Report: U.S. Multifamily Housing Stock Energy Efficiency Potential*, Benningfield Group, Inc., p. 7 (April 9, 2010)).

Moreover, in Pennsylvania there are more than 90,000 affordable multifamily apartments, all of which are subsidized with some combination of federal, state, and local funds. Most of these properties have not had any significant energy efficiency improvements, so there is significant potential for energy savings in this segment.

**Economies of Scale**

A multifamily building, in which low-income households reside, brings efficiencies from the fact that one building may include dozens of units. Furthermore, addressing the efficiency needs of the entire building, in addition to the individual dwelling units, will provide greater effective energy savings than that which can be achieved by only addressing individual units. When looking specifically at subsidized multifamily properties, there is a further efficiency in that a relatively small number of owners control a very large portion of the total number of units. Pennsylvania's 90,000 subsidized multifamily units are owned by a relatively small number of entities. So, one owner may own several buildings with dozens of units each. For example, working with about 25 of the largest owners of subsidized multifamily units financed through the Low-Income Housing Tax Credit program, "...you could reach approximately 35% of Pennsylvania's LIHTC stock (approximately 14,800 units)." (*Issue Brief 11-1: The Case for Targeting Energy Efficiency Improvements in Subsidized Multifamily Properties and Low-Income Communities*, Regional Housing Legal Services, p. 3, (December 2011)).

**Remedying the Effective Exclusion of Low-Income Households**

Presently, there is an impediment to providing Act 129 energy efficiency services to low income residents in single meter multi-family buildings because the building is classified as a commercial property. By creating a specific carve out for multi-family buildings housing low - income residents, the Commission could resolve this difficulty and enable these thousands of households to receive the full range of benefits intended to be received by Act 129.

Renters tend to have lower incomes than homeowners, and renters in subsidized properties have lower income than renters in non-subsidized properties. The majority of the 90,000 subsidized units in Pennsylvania are affordable to households at or below 60% of AMI.

60% of AMI for a family of four is $38,900 in Pittsburgh and $48,900 in Philadelphia. Currently, 225% of the federal poverty guideline for a family of four is $51,862.50, which should include most affordable multifamily properties in the state. Many of those will house people at or below 200% of the federal poverty guideline of $46,100. As you can see, the AMI figure is below the poverty guideline in Pittsburgh (and other parts of the state). In addition, even where a higher income is allowed, such as in Philadelphia, many owners target households with much lower incomes. For example, several large nonprofit property owners target homeless or formerly homeless individuals who have very low incomes – much lower than the AMI thresholds.

## CONCLUSION

In conclusion, RHLS and the PWCC thank the Commission for the opportunity to submit these comments and encourage the Commission to include subsidized multifamily properties as a specific element of Phase Two of Act 129.

Respectfully submitted,

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Dated: April 17, 2012

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