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April 17, 2012

VIA OVERNIGHT FEDERAL EXPRESSRosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
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SECRETARY'S BUREAU**

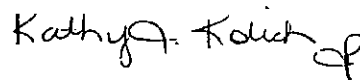
Re: Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company to the March 1, 2012 Secretarial Letter on Act 129 Energy Efficiency and Conversation Program Phase Two - Docket No. M-2012-2289411

Dear Secretary Chiavetta:

Enclosed for filing are an original and three (3) copies of Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company to the March 1, 2012 Secretarial Letter on Act 129 Energy Efficiency and Conversation Program Phase Two.

Please date stamp the copy and return to me in the enclosed, postage-prepaid envelope. Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,



Kathy J. Kolich

Enclosures

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

APR 17 2012

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

Act 129 Energy Efficiency and Conservation
Program Phase Two

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Docket No: M-2012-2289411

**COMMENTS OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY,
PENNSYLVANIA POWER COMPANY AND WEST PENN POWER COMPANY TO
THE MARCH 1, 2012 SECRETARIAL LETTER ON
ACT 129 ENERGY EFFICIENCY AND CONSERVATION PROGRAM PHASE TWO**

I. INTRODUCTION

On October 15, 2008, House Bill 2200, Act 129 of 2008, P.L. 1592, 66 Pa. C.S. §§ 2806.1 and 2806.2 (“Act 129”) was signed into law and requires the Commonwealth’s largest electric distribution companies (“EDCs”) to develop Energy Efficiency & Conservation (“EE&C”) programs for. Act 129 requires the Pennsylvania Public Utility Commission (“Commission”) to evaluate the costs and benefits of the EE&C programs by November 30, 2013 and directs the Commission to set new incremental consumption and peak demand reductions, if the benefits of the programs and plans exceed the costs. In accordance with Act 129’s directives, the Commission began the process of evaluating the cost-effectiveness of the EE&C Programs and determining whether additional incremental consumption and peak demand reduction targets should be adopted and, if so, at what levels.

The Commission has implemented several activities as part of its evaluation of future Act 129 mandates. On March 1, 2012, the Commission issued a Secretarial Letter seeking comments on a number of topics that will be instrumental in designing and implementing any future phase of EE&C Programs through continuation of Act 129. The Commission also held a stakeholder

meeting on March 16, 2012 to provide interested parties an opportunity to identify additional issues and concerns regarding the blueprint for future EE&C Programs and to address any questions regarding the topics and issues presented in the Secretarial Letter. It is in response to these inquiries that Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power Company (“West Penn”) (collectively, the “Companies”) submit these comments. Further, the Commission expects to release shortly a market potential study, performed by GDS Associates, the Statewide Evaluator, that will advise the Commission and interested parties of the estimated energy savings potential remaining in the various Pennsylvania EDCs’ respective service territories. Finally, the Commission expects to soon release a Tentative Order that will put forward, among other things, any future incremental consumption and peak demand reduction targets and guidelines for future EE&C Programs, if deemed necessary based on the above activities.

The Companies appreciate the opportunity to address the specific issues and topics raised in the Secretarial Letter and stakeholder meeting, and commend the Commission for its foresight in beginning the evaluation of EE&C Programs provided under the initial phase of Act 129 (Phase I) and reviewing any potential future EE&C Programs provided under continuation of Act 129 (Phase II) in a time frame that will allow for an efficient and timely transition from the current Act 129 Phase I programs to any potential new Phase II programs.

Consistent with Act 129 requirements and as noted by Chariman Robert F. Powelson in his Statement on March 1, 2012, “[i]t is essential, ... that any future Act 129 programs are effective uses of consumers’ money” and the Commission “must have all of the facts at [its] disposal to ensure the costs and benefits of these programs truly weigh in on the side of the

consumers.” (Chairman Robert F. Powelson March 1, 2012 Statement.) While the Companies are committed to continuing to work with their customers to reduce their energy consumption in the most cost-effective manner, the Companies agree with Chairman Powelson in that the Commission should truly review whether Act 129 programs are not only cost-effective in the long run, but also beneficial to customers in the short term during these difficult economic times, given the inevitable increase in customers’ rates as a result of additional EE&C Phase II programs. Moreover, as more fully discussed below, Act 129 contains certain provisions, such as demand reductions, top 100 hour performance requirements and sector carve-outs, that may hamper the Companies’ ability to comply with any future Act 129 mandates. These and other issues discussed below must also be considered by the Commission when performing its analysis.

II. PLANNING TIMELINE

In the Secretarial Letter, the Commission proposed a timeline for planning of Act 129 Phase II. The Companies generally support the Commission’s proposed timeline, but suggest that the Commission accelerate the proposed due dates for Comments and Reply Comments, as well as the anticipated issuance date of an Implementation Order and any related Commission rulings by at least two weeks, so as to provide EDCs with additional time for the development, filing and implementation of any programs should an Act 129 Phase II be found to be appropriate. This acceleration should not prejudice parties, given that most, if not all, have participated in prior Act 129 activities and are familiar with the issues. The Companies also urge the Commission to address any issues related to the 2013 Technical Reference Manual (“TRM”), the 2013 Total Resource Cost Test (“TRC”) and any Phase II EE&C Templates coincident with the issuance of the Phase II Order, given how integral each of these issues is to the development of Phase II EE&C Plans; a delay in addressing any one of which may hinder the development of Phase II Plans.

III. LENGTH OF SECOND EE&C PROGRAM

In its Secretarial Letter, the Commission requested comments on the optimal length of a possible future EE&C Program, including a three-, four-, or five-year length. If the Commission determines that future EE&C Programs are appropriate, the Companies agree with many of the participants at the Commission-sponsored workshop on March 16th and support a five-year planning process for several reasons. First, a longer period (beyond the current three-year cycle) will allow for more time and attention to the implementation, promotion and administration of approved programs, rather than devoting resources to the preparation and possible litigation of new EE&C Plans that, given the nature of the programs, would generally have relatively minor changes from previous plans. If the five-year cycle is adopted, the Companies urge the Commission to work with interested parties to further streamline the accelerated plan amendment approval process established in Docket No. M-2008-2069887 and to be more timely in the issuance of Orders involving amendments to plans that require Commission approval.¹ Given that much of the basic energy efficiency (commonly referred to as the “low-hanging fruit”) has been achieved, Phase II programs will need to be more sophisticated and may require more adjustments to markets. If any of the EDCs are to have any chance of achieving Phase II targets, *flexibility in the administration of programs is a must.*

Second, a longer term EE&C Program will allow conservation service providers to develop larger, more sophisticated customer programs and projects that may not be practical or possible within a shorter term EE&C cycle. Similarly, a five-year EE&C Program cycle

¹ Met-Ed, Penelec and Penn Power submitted an amended plan in February, 2011, receiving final Commission approval of the proposed changes 11 months later on January 12, 2012. West Penn, on August 9, 2011, also submitted changes to its currently approved EE&C Plan, along with an unopposed stipulation in which approval of the changes with slight modifications was sought. As of the date of this filing, the Commission has yet to rule on West Penn’s request.

provides more certainty, which may encourage customers or EDCs to invest in projects involving more capital intensive projects such as load control or to participate in PJM capacity auctions.

IV. INCLUSION OF A DEMAND RESPONSE CURTAILMENT PROGRAM

In its Secretarial Letter, the Commission requested comments on whether a demand response program should be included in future EE&C Programs and, if included, the structure such a program should take. Currently, Phase I of Act 129 requires a one-year demand response program that the EDCs will implement during the summer prior to the year in which compliance is required – namely 2012 – and requires compliance based on the 100 hours of greatest demand. Because the Statewide Evaluator’s assessment of the current peak demand program will not be completed until after the summer of 2012, the Commission has developed contingencies, which it has identified in its Secretarial Letter, ranging from doing nothing with regard to peak demand reduction requirements until after the Statewide Evaluator completes its study to requiring EDCs to set aside a portion of Phase II budgets for future, as yet unknown, demand reduction targets, to removing demand reduction targets from any Phase II requirements.

The Companies recommend that no peak demand reduction targets be included in any future Phase II requirements because the Companies believe that any such requirements are better addressed through PJM and participation by EDCs under Act 129 which requires subsidization by the EDCs would undermine and interfere with the competitive capacity market evolving in PJM. In FirstEnergy’s Pennsylvania footprint alone participation in capacity markets has grown from 424 MW in 2008/2009 to 1,152 MW in 2011/2012 -- 272% of 2008 levels; and customer sites, from 248 sites to 1,677 sites -- 676% of 2008 levels. The above statistics are significant in that the participation in PJM programs has grown to approximately 10% of the peak load associated with the FirstEnergy’s Pennsylvania Companies. If left to competitive

markets, it is likely that such participation will continue to grow, thus achieving the objectives of peak demand without the additional cost to Pennsylvania electric customers.

Nevertheless, should the Commission find that future demand response programs are necessary, the Commission should make several changes to the design of any such program. First, it should eliminate the top 100 hour requirement. It is extremely burdensome and costly, given that there is no certainty as to when the highest 100 hours of peak demand on the system will occur. In order to try to meet this requirement, EDCs must over comply in order to hedge against selection of the wrong 100 hours – a real concern given the unpredictability of the weather and the economy. This over-compliance increases costs, thus reducing the amount of funds available for energy efficiency programs and other potential peak load reduction programs. Second, an EDC should be able to count participation by any of its customers in PJM's demand response programs, which again reduces compliance costs while still achieving the peak demand reduction objectives, thus freeing additional funds for other programs. Third, if EDCs are required to achieve peak demand reductions beyond those already addressed by PJM, they should only have to demonstrate the ability to reduce peak load, rather than actually having to reduce peak load. In so doing, customers need not be inconvenienced if in any given year sufficient capacity exists either due to a downturn in the economy or an unusually cool summer. Finally, in order to make an informed decision on this entire matter, the Companies recommend that the Commission defer its decision until after the Statewide Evaluator's analysis is completed and it issues its report. Further, only if decisions must be made prior to the issuance of such a report, the Companies recommend that the Commission simply have EDCs set aside a portion of their budgets now, with energy efficiency targets being adjusted downward to reflect the fewer budget dollars available for compliance.

V. ALIGNING EDC TARGETS AND FUNDING USING DOLLARS PER MWh OF EXPECTED REDUCTIONS

In its Secretarial Letter, the Commission seeks comments on whether the Commission should align EDC targets and funding. The Commission identified two ways that EDC reduction targets could be more closely aligned with available funding. First, the Commission could vary each EDC's reduction targets to be consistent with the amount of funding available under each EDC's 2% revenue cap. Second, the Commission could set uniform percentage reduction targets across EDCs and vary EDC funding under the 2% revenue cap.

The Companies commend the Commission for recognizing the potential inequities arising under the current structure and support the Commission's efforts to remedy the situation. EDC-specific acquisition costs may be higher for EDCs with lower rates and more distributed customers than for EDCs with higher rates and higher population densities. Customers with lower rates have less economic motivation to invest in energy efficiency technologies, or to adopt conservation behaviors. To overcome that barrier, EDCs with lower rates may need to provide higher incentives, involving higher acquisition costs than EDCs with higher rates. Recognizing all of the aspects that impact the energy savings and/or costs among the EDCs, the Companies support the Commission's consideration of aligning EDC targets and funding using dollars per MWh of expected reductions to address the imbalances that would result with uniform targets and budgets.

The Companies recommend either a uniform reduction in targets across EDCs with varied funding (less than the 2% cap) or consistent funding and varied targets by EDC. In either option, acquisition costs associated with energy savings must be included as a primary factor in setting the targets. EDC targets must be linked to available funding and acquisition costs (\$ per annually saved MWh). As already discussed, much of the "low-hanging fruit" has already been

picked. Moreover, there may be higher baseline efficiencies and changes in state and federal law that may affect TRM values. Accordingly, it is expected that Phase II acquisition costs will be greater than those in Phase I, with current Phase II estimates by the Companies approaching approximately \$30/MWh; and perhaps greater if the Commission maintains specific sector requirements.

VI. INCLUSION OF A REDUCTION TARGET CARVE-OUT FOR THE GOVERNMENT, EDUCATIONAL AND NON-PROFIT SECTOR

Phase I of Act 129 required each EE&C plan to obtain at least 10% of the required reductions in consumption from units of Federal, State and local government, including municipalities, school districts, institutions of higher education and non-profit entities.² In its Secretarial Letter, the Commission identified three alternatives for structuring a carve-out for the government, educational and non-profit sector, should this carve-out be continued in future EE&C Plans. *In the first option, the carve-out could be structured as a percentage of the overall program savings, similar to Phase I. In the second option, the Commission would require that an EE&C Plan budget carve-out a minimum amount to be spent on measures purchased or installed by this sector. The third option would set the sector carve-out, whether it be budgetary or energy savings, based on the sector's potential in each EDC's service territory.*

The Companies oppose a Phase II sector “carve-out,” at least for non-low income sectors, believing such a requirement to be redundant with the programs and measures offered to commercial and industrial customers, and causing unnecessary cost increases by requiring additional plan design, marketing, administration and implementation for these special sectors. Further, many of the participants in government, educational and non-profit are constrained by budget cuts that preclude them from participating in many programs, absent extremely large

² See 66 Pa.C.S. § 2806.1(b)(1)(i)(B)

incentives, thus making these programs less cost effective than other potential programs for the general sectors. Rather than force less cost effective programs, the Companies urge the Commission to allow them to instead focus efforts on the general customer segments, allowing these special segments to participate if their budgets allow them to do so. However, should the Commission decide to continue with a government, educational and non-profits “carve-out,” the Commission should base any such requirements on market potential within each EDC’s service territory and not simply set a uniform target for all EDCs to achieve. It must also recognize the additional acquisition costs associated with these sectors and adjust overall EE&C targets accordingly.

Lastly, the Commission requested comments on developing EDC on-bill financing programs to assist this sector, or requiring EDCs to partner with lending institutions to provide low-cost financing for these projects. The Companies do not agree that on-bill financing provided by utilities is an appropriate program. Neither utilities nor ratepayers are appropriate sources of funding, and neither should serve as banks or financial institutions. Trying to use them as such in these circumstances is fraught with legal and practical complications.

VII. INCLUSION OF A LOW-INCOME SECTOR CARVE-OUT

Phase I of Act 129 required each EE&C Plan to include specific EE&C measures for households at or below 150% of the Federal Poverty Income Guidelines in proportion to that sector’s share of the total energy usage in the EDC’s service territory.³ In its Secretarial Letter, the Commission requested comments on whether this requirement should continue, and if so, whether the requirement should be expanded to include low-income households at or below 250% of the Federal Poverty Income Guidelines.

³ 66 Pa. C.S. §2806(b)(1)(i)(G).

The Companies support continuation of the existing targets based on measures provided to the customer sector, provided that any targets for low-income be supported by a budget using a cost per saved kWh that reflects the EDC's plan funding and planned program design; and second, that eligibility requirements be expanded to 250% of the Federal Poverty Income Guidelines.

The current methodology has proven to be successful based on participation in the low-income programs and measures supported. However, any target must be supported by a budget to enable achievement of that target, recognizing that Phase II low-income programs will not be able to achieve the level of energy savings per dollar spent that has been achieved over the last two years. Costs to serve these customers is expected to rise. For example, the WARM Plus and LIEEP programs are targeting the highest electric use customers. Going forward, the potential for savings decreases as the program targets customers with lower electric use and, accordingly, the customers' pre-treatment consumption decreases. Additionally, the opportunity for low-cost savings is expected to decrease over time as standards and baselines change, the low hanging fruit has been gathered and adoption of energy efficiency measures matures or TRM values decrease.

The Commission offered two alternatives for consideration: 1) to structure the low-income carve-out as a percentage of the overall EE&C Plan budget; or 2) to designate a percentage of energy savings to be achieved from this sector. The Companies are opposed to structuring a low-income carve-out that would designate a percentage of energy savings to be achieved from this sector because low-income programs provide societal benefits and are typically either not cost-effective or only marginally cost-effective. Further, low-income programs are the most expensive to implement, administer and operate on a \$/kWh saved basis.

To the extent a low-income target based on savings is established, the Companies recommend expanding the eligibility requirements for low-income programs to 250% of Federal Poverty Guidelines to expand the pool of eligible customers and enable additional coordination with other State and federal programs. This would allow Act 129 to serve a group of customers who are not currently eligible for other EDC low-income programs and who do not have the means to participate in more expensive residential programs. Expansion to 250% would provide more opportunities to coordinate with State weatherization and gas utility programs that are comparable to poverty Gguidelines. The statute (66 Pa.C.S.A. § 2806.1.b.1.i.G) mandates coordination, and raising the income level eligibility to 250% would facilitate that coordination.

VII. TRANSITION ISSUES

In its Secretarial Letter, the Commission requested comments on a number of anticipated issues regarding the transition from Phase I to Phase II Act 129 targets if deemed appropriate. Those issues include: 1) whether the Commission should give consideration in the potential Phase II for an EDC that exceeds its Phase I EE&C targets; 2) whether an EDC that has met its Phase I EE target but has not spent all of its Phase I budget should continue its Phase I program implementation until its second EE&C plan begins or until the Phase I funds are exhausted; and 3) the manner in which the Commission operationalizes the Act 129 requirement to adopt additional required incremental reductions in consumption.

The Companies believe that the Commission should give consideration in the potential Phase II for an EDC that exceeds its Phase I EE&C targets. To the extent an EDC exceeds its Phase I targets, any excess should count towards future EE&C targets. However, the Commission should develop Phase II targets without considering any potential over-compliance during Phase I. This process would minimize the costs of achieving those targets. Similarly, if

an EDC achieves Phase I targets under budget, the EDC should not be forced to continue these programs, unless doing so, will minimize the cost of continuing those programs into Phase II.

Second, should the Commission determine that incremental reductions in consumption requiring a Phase II EE&C Plan are warranted, the Companies would recommend calculating each individual EDCs targets using the same baseline (i.e., “the electric distribution company's expected load as forecasted by the commission for June 1, 2009, through May 31, 2010”) In developing those targets, the Companies encourage the Commission to also weigh the rate impacts to consumers associated with funding the EE&C programs. Lastly, the Companies request that the Commission consider other transition issues that may be particular to each individual EDCs. For example, the Companies believe that EDCs should be permitted, at their option, to extend their existing CSP agreements for program management, tracking and reporting, and EM&V.

Likewise, the Companies recommend that the Commission allow EDCs the flexibility to process applications for certain energy efficiency projects under Phase I or Phase II as they deem necessary and appropriate. .

VIII. OTHER ACT 129 PROGRAM DESIGN ISSUES

In its Secretarial Letter, the Commission requested comments on any adjustments to the reconciliation requirements of EE&C Plan Phase II programs. Currently, there are not any defined reconciliation periods, allowing EDCs to determine when they choose to reconcile. The Companies, until a more definitive EE&C plan is developed, recommend maintaining this flexibility with the current reconciliation process into the Phase II EE&C plan period. The uncertainty surrounding the future structure of EE&C programs means that strictly defining the reconciliation process and adding an interest component is not prudent at this point in time.

IX. CONCLUSION

The Companies again thank the Commission for the opportunity to provide comments on the Commission's recommendations related to the future of Act 129 in the Commonwealth and look forward to assisting in the resolution of the many issues surrounding the development of any Phase II requirements.

Respectfully submitted,

Dated: April 17, 2012



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Docket No: M-2012-2289411

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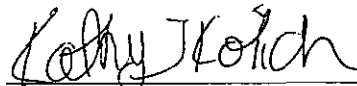
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Dated: April 17, 2012



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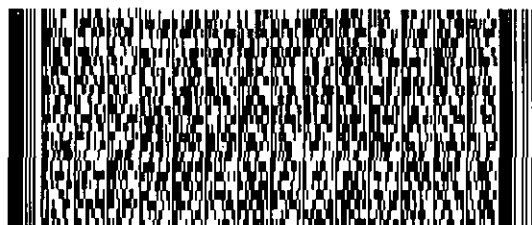
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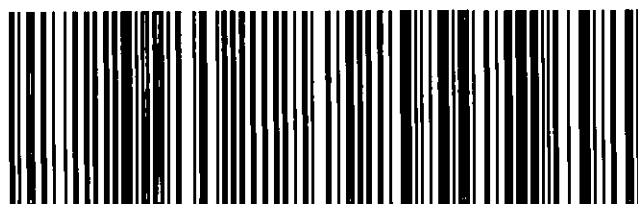
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