

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Act 129 Energy Efficiency and Conservation Program Phase Two :

Docket No. M-2012-2289411
M-2008-2069887

Reply Comments of EMC Development Company, Inc

I. Introduction

EMC Development Company, Inc (“EMC”) respectfully submits these reply comments related to the comments received to the Commission’s Tentative Implementation Order (“TIO”) in the above referenced dockets. These reply comments stem from reviewing the 36 comment letters to the TIO, however; EMC’s reply is limited to the topic of bidding energy efficiency resources into the PJM Capacity Market, a topic centered around EMC’s primary business.

As previously filed, EMC is a privately owned, small business which develops and invests in clean energy projects. Over the past two years, we have specifically focused on the energy efficiency sector. During that time we have partnered with 19 energy efficiency contractor companies across Pennsylvania; primarily lighting and mechanical system retrofit contractors to qualify energy efficiency projects as resources in the PJM capacity market. These 19 Pennsylvania companies are small businesses and collectively, employ approximately 500 persons who are involved with the design and installation of energy efficiency projects.

EMC is a member of the PJM Interconnection, LLC and as a member of PJM we have qualified approximately 1,650 energy efficiency (“EE”) projects completed by our Pennsylvania contractor partners as EE resources in the PJM RPM capacity market (“PJM Capacity Auctions”). Bidding capacity in the market is generally only available for large-scale projects; however, working with our local PA partners we aggregate smaller projects to qualify them for participation in Capacity Auctions. We bid those projects into the PJM Capacity Auction and provide a significant portion of the proceeds to the building owner and our EE contractor partners. We provide a cost effective means for Pennsylvania ratepayers who have completed energy efficiency projects to derive value in PJM’s market. We believe that this business model further incents the implementation of additional energy efficiency projects while also creating jobs consistent with the spirit and intent of Act 129.

EMC is opposed to EDCs bidding EE into PJM Capacity Auctions as we’ve previously filed and we’re pleased to see that many of the EDCs in Pennsylvania are opposed to this notion for precisely some of the same reasons. EDCs offering EE into PJM Capacity Auctions is problematic for many reasons including: i.) it likely is not cost effective; ii.) it can be speculative in nature; iii.) it is administratively burdensome for EDC to acquire the rights to the capacity from its owner – simply put, it may not be prudent.

EMC can offer a prudent alternative to EDCs’ bidding EE into PJM Capacity Auctions to ensure Pennsylvania ratepayers are benefiting from the EE measures implemented through Act 129 and is pleased to discuss this option further with the Commission and its Staff should they desire.

II. EDCs bidding Energy Efficiency (“EE”) into the PJM Capacity Market

The TIO proposes that EDCs bid EE project demand savings into the PJM capacity market when prudent.¹ EMC opposed this concept in our comments filed on June 22, 2012 as did several Pennsylvania clean energy contractors engaged in implementing energy efficient measures as such a concept hinders small businesses in Pennsylvania and harms Pennsylvania ratepayers while also removing a direct incentive to ratepayers implementing EE projects.²

EMC is pleased to see that many of the EDCs are opposed to a requirement to bid EE in PJM Capacity Auctions and agree with several of EMC views. PPL does not support the concept of the Commission requiring it to bid EE in PJM Capacity Auctions because of the costs associated with assessing whether bids are prudent and the costs of simply making the bids to participate in the market. Further, PPL cites the risk of penalties for failing to deliver which further jeopardizes the prudence of EDCs offering EE into PJM Capacity Auctions.³ The collective FirstEnergy Companies identify a critical risk that EDCs being required to speculate in a market because of its forward nature. Certainly speculation can create undue risks for Pennsylvania ratepayers and create costly penalties for the EDCs which in turn EDCs may look to recover from ratepayers.⁴ Duquesne Light stated they do not support a mandate requiring EDCs to bid EE in PJM Capacity Auctions, one can only presume for some of the same reasons mentioned by PPL and the FirstEnergy Companies, it is not cost effective, it is risky and can lead to speculative practice in which may not be appropriate for load serving entities to engage.⁵

The fact is, it can be expensive to acquire, qualify, measure and verify, bid and clear EE resources into PJM Capacity Auctions. The forward nature of these auctions does require a bidder to at times take risks on EE resources which may not be completed at the time of the auction and any failure to deliver these resources by the applicable delivery year could lead to substantial costly penalties. EMC and other qualified PJM members, are better positioned to take on these risks and it should be viewed as more appropriate by the Commission since EMC can only look to itself to address the costs of these risks should they materialize instead of looking to recover these costs from ratepayers. Citizen Power, Inc. (“Citizen Power”) provided comments that they believe more needs to be done to make sure EE and demand response (“DR”) resources can qualify for participation in PJM Capacity Auctions.⁶ However, there are strict market rules in place developed over time by PJM stakeholders which dictate how resources qualify and participate in PJM Capacity Auctions. Any softening or manipulation of these market rules could lead to negative consequences such as gaming and double-counting of resources which could jeopardize the market but also more importantly the reliability of regions grid. Any notion of requiring utilities to participate in the Capacity Auctions with Act 129 projects will significantly adversely impact those market rules and represents a retroactive change to the EE&C Program which does not provide a level playing field for the Pennsylvania small business community, thereby adversely impacting our PA contractor partners and Pennsylvania ratepayers. Such an outcome is inconsistent with the spirit and intent of Act 129.

Further, there remains one issue that seemed to be overlooked in most filings but for the Industrial Customers of Pennsylvania: it is costly and administratively burdensome to acquire the rights to bid EE

¹ Tentative Implementation Order at 65

² Comment letters of EMC Development Company, Inc.; National Energy Solutions, Inc.; Tri-State Light & Energy, Inc.

³ Comment letter of PPL Electric Utility Corporation dated June 25, 2012 at 40

⁴ Comment letter of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company dated June 25 at 21

⁵ Comment letter of Duquesne Light Company dated June 25, 2012 at 12

⁶ Comment letter of Citizen Power, Inc. dated June 25, 2012 at 2

into PJM Capacity Auctions. This right/ownership is not automatic and must be conveyed by the facility owner where the energy efficiency measures were implemented. The Industrial Customers of Pennsylvania recommend that Large Commercial & Industrial (C&I) customers should retain the ability to bid savings from their EE into PJM Capacity Auctions.⁷ This recommendation fails to recognize not only should large C&I retain this right but every customer type should retain this right. Whether EE aggregators, EDCs or any other imaginable entity wants to offer a EE resource into PJM Capacity Auction, they should obtain the right to offer the resource from the owner of the capacity – the owner of the facility where the energy efficiency measure was implemented. A blanket right to offer capacity without obtaining the right is impractical, unjust and a violation of market rules. Factoring all of these costs and risks together begs whether it is prudent for any entity to offer EE into PJM Capacity Auction but EMC feels through its experience within this market, it is positioned to do so prudently and to the benefit of Pennsylvania ratepayers.

III. Alternative solution to ensure Pennsylvania ratepayers benefit from EE measures

EMC, as an experienced aggregator of EE resources within PJM, is uniquely positioned to help Pennsylvania ratepayers offer and benefit from participation in PJM Capacity Auctions. EMC would welcome an opportunity to discuss with the Commission and their Staff some of the proprietary business practices which make EMC able to acquire, qualify, measure and verify, bid and clear EE resources into PJM Capacity Auctions. As we and Citizen Power, Inc. have pointed out, EE projects bid into PJM Capacity Auctions not only produce revenue for the resources that clear but they also can lead to a lower marginal clearing price, which benefits all Pennsylvania ratepayers.⁸ Based upon EMC's market experience, we know not everyone can offer EE into PJM Capacity Auction at a price that lowers the marginal clearing price, as evidenced by those EE resources which fail to clear. Based upon the arguments made by the EDCs about the costs and risks associated with being required to bid EE into PJM Auctions, we suspect those potential resources may also be at risk of not clearing and therefore, not providing the same benefit to the marginal clearing price that EMC resources do.

Should the Commission and Staff desire to discuss ways more Pennsylvania ratepayers can benefit from EE participating PJM Capacity Auctions then EMC, a proven aggregator of EE within PJM, would be pleased to engage in those discussions.

IV. Conclusion

Pennsylvania is in a great position to ensure more EE projects are completed through the implementation of Phase II of the EE&C Program. We hope the Commission will consider the merits of EMC's reply comments and determine that EDCs are not required to, nor should be given blanket ownership rights to EE for purposes of offering EE into PJM Capacity Auction. The current business case of allowing facility owners and Pennsylvania ratepayers to retain the capacity rights to their EE projects is thriving as demonstrated by PJM's most recent Capacity Auction documented in EMC's comment letter provided on June 22, 2012. Competitive aggregators like EMC need to be able to function without the fear of such game changing regulatory risks so we can continue to provide the benefits to facility owners and Pennsylvania ratepayers derived through PJM's Capacity Auctions. EMC would be delighted to discuss our ability to provide these benefits to more Pennsylvania ratepayers if the Commission desires. EMC appreciates the Commission's time with respect to these matters and looks forward to continuing to provide benefits to our EE contractor partners, facility owners and Pennsylvania ratepayers.

⁷ Comment letter of Industrial Customer Group dated June 25, 2012 at 11

⁸ Comment letter of Citizen Power, Inc. dated June 25, 2012 at 1