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Via Federal Express

July 9, 2012

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Re: Reply Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company – Docket No. M-2012-2289411

Dear Secretary Chiavetta:

Enclosed for filing are an original and three (3) copies of Reply Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company.

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.

Very truly yours,

Kathy J. Kolich

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Enclosures

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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JUL 9 2012
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

REPLY COMMENTS OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY,
PENNSYLVANIA POWER COMPANY AND WEST PENN POWER COMPANY

On May 10, 2012 the Pennsylvania Public Utility Commission ("Commission") adopted a Tentative Order in the above-captioned proceeding outlining its proposed standards for Phase II EE&C Programs beginning June 1, 2013 and requested that interested stakeholders comment on those standards by June 25, 2012. Pursuant to a request for extension filed on June 28, 2012 by the Energy Association of Pennsylvania, the deadline for filing reply comments was extended to July 9, 2012. Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, "the Companies") submit herein their replies to certain comments made by various parties.[1]

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[1] Failure to address any specific comment made by a party should not be interpreted as the Companies' agreement with said comment.

I. ADDITIONAL EE&C REDUCTION TARGETS

In its Tentative Order, the Commission proposes to adopt a three-year consumption reduction requirement for Phase II. For the Companies, the proposed targets and program acquisition cost ($/MWh) are as follows:

Met-Ed	2.3%	337,753 MWh	$220.87/MWh
Penelec	2.2%	318,813 MWh	$216.19/MWh
Penn Power	2.0%	95,502 MWh	$209.20/MWh
West Penn	1.6%	337,533 MWh	$209.20/MWh

As the Companies explained in their initial comments (at 4-8), the Companies believe that the Statewide Evaluator ("SWE") set the Companies' targets too high. The SWE apparently took each EDC's 2% spending cap and divided it by the projected acquisition costs per MWH of savings. Because the Companies believe the projected estimated acquisition costs are too low, the energy reduction targets are invariably too high. As an example only, when establishing the above targets, the SWE failed to factor in changes in standards, such as those created through the Energy Independence & Security Act of 2007 ("EISA") or the potential carve out requirements being contemplated by the Commission – both of which will cause the above targets to be overstated.

Various other parties ignore these factors, instead arguing that the targets are too low. Most of these statements are either unsubstantiated without any supporting empirical data, or they are based on historical data that does not necessarily reflect future conditions or comparable circumstances. State Representative Camille "Bud" George ("Representative George"), for example, believes the targets should be increased because, in his opinion, "[i]nvesting in energy efficiency is the cheapest way to deliver energy services to customers."[2] However, this statement was made without any supporting calculations, statistics or other analyses being performed. Indeed, many of the least cost programs have already been implemented. As targets grow, so will the costs to achieve those targets as additional and more-costly programs are implemented. The SWE estimated that the 2013 TRM would have resulted in program potential 15 to 30% in energy savings associated with several of the major measures. (6/27/2012 Act 129 TWG meeting.) It is expected that the hours of use (and per-unit energy savings) for CFLs may be reduced by 7%. The energy savings for appliance recycling, will be decreased by over 10%, the hours of use (and therefore the per-unit energy savings) for residential HVAC measures may be reduced by 33%. Nonresidential lighting projects are expected to decrease by an as yet unstated amount. With each of these reductions, EDCs must incur additional costs and implement more programs simply to maintain the levels of savings recognized during Phase I. As the SWE acknowledged in its Market Potential Report, a "considerable increase in program spending would be required to achieve savings similar to Phase 1 goals during the Phase 2 period. Spending across the five-year horizon (2013-2018) would need to increase by over \$650,000,000 to achieve these goals." [3]

Northeast Energy Efficiency Partnerships ("NEEP"), American Council for an Energy-Efficient Economy ("ACEEE"), Keystone Energy Efficiency Alliance ("KEEA"), Citizens for Pennsylvania's Future Energy Center for Enterprise and the Environment ("PennFuture") Sierra Club, the Pennsylvania Chapter of the Sierra Club, Clean Air Council, PennEnvironment, Physicians for Social Responsibility, Philadelphia Chapter, and The Natural Resources Defense Council ("NRDC") (collectively, "the Citizens Groups"), and The Reinvestment Fund ("TRF")

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[2] George Comments, p. 2.
[3] Potential Study, p. 105.

believe that the reduction targets as recommended by the Statewide Evaluation ("SWE"), provided data to support their assertion that the targets are too low and that the SWE overestimated the acquisition costs for EDCs.[4] Each of these parties, however, relies on *historic* data, rather than future projections, and each fails to recognize that the energy efficiency landscape, at least from an evaluation, measurement and verification ("EM&V") perspective has changed. "Non-specialty" CFL programs have historically delivered well over three quarters of the savings associated with programs, and have had acquisition costs between $40 and $100/MWh. While there are continuing opportunities associated with residential lighting, reportable savings associated with them are less and costs are greater. While socket saturation for CFLs is between 15 and 20% for different EDCs, the remaining sockets for which "non-specialty" CFLs reflect lesser operating hours that will result in reduced reportable savings. In addition, changing federal standards have eliminated the 100W baseline effective in 2012; 75W baselines in 2013; and 60W and 40W baselines in 2014.[5] Although lighting savings will still be available in Phase II, reportable savings for historical CFL measures will be significantly less and the cost of emerging technologies will be substantially more expensive leading to higher acquisition costs per annually saved MWh.

Some of these parties also rely on historic data from other states. Citizens Group, for example, states that Vermont's experience indicates that costs only rose 6.3%. KEEA cites average of $165 MWh in states with programs for five or six years.[6] KEEA cites to Ohio, which is $120, but programs are not in mature level.[7] NEEP indicates that other states have a below $200 MWh acquisition cost estimate and cites to New England, which used a 7.5% to 10%

[4] PennFuture Comments at pp. 2-5; NEEP Comments at 2; ACEE Comments at 1; KEEA Comments at 4; TRF Comments at 1-7.
[5] *See* 2012 Technical Reference Manual Table 2-43.
[6] KEEA Comments, p. 2.
[7] Id. at p. 3.

increase.[8] These historic statistics, while perhaps interesting, can also be misleading. Nowhere do these parties describe the circumstances under which these other EDCs must meet their energy reduction targets or the measurement standards used to assess their savings. For example, it is unclear as to which, if any, of these other utilities are subject to *mandatory* penalties. Because energy efficiency is not an exact science and results are based on numerous assumptions and estimates, equity dictates that the targets be conservatively set in Pennsylvania so as not to force an EDC to pay these mandatory penalties, should targets be set too high and the EDC fails to achieve them even after doing all things reasonable to try to meet the targets. Similarly, it is not known if any of these non-Pennsylvania EDCs are subject to mandatory spending caps. Clearly, such a requirement places a ceiling on the amount of energy savings that can be achieved in any given year.

Finally, these parties also either fail to recognize, or simply refuse to acknowledge, that different utilities have different acquisition costs because of their rates. History demonstrates that customers with lower rates have less economic motivation to invest in energy efficiency technology. To overcome this obstacle, EDCs with lower rates must provide higher incentives than those EDCs with higher rates, thus causing higher acquisition costs for those utilities with low rates. No where did any of the parties compare average rates being charged in the cited cost comparisons with out of state utilities.

II. PLANNING TIMELINE AND PLAN LENGTH THE FOR PHASE II

In its Tentative Order, the Commission proposes a timeline that will require EDCs to submit new EE&C plans by November 1, 2012. At present, these plans are to address the three year period from June 1, 2013, through May 31, 2016.[9] The Companies do not oppose these

[8] NEEP Comments, p. 2.
[9] Tentative Order, p. 10.

recommendations, especially given the fact that new plans must be designed, presented and approved in time for implementation by June 1, 2013.

The Office of Consumer Advocate ("OCA") believes that the proposed schedule provides insufficient time for the EDCs and stakeholders to develop, review and present their recommendations, or to properly assess the need for peak demand reduction ("PDR") mandates through Act 129.[10] Therefore, the OCA suggests a three month extension of the schedule.[11] The Companies acknowledge that the Commission's proposed timeline is extremely aggressive, but Act 129 established statutory targets through May, 2013, not August, 2013. Therefore, even if the Companies were inclined to agree to such an extension, which they are not, it is unclear exactly how such an extension could be legally granted by the Commission.[12] Moreover, from a practical standpoint, the Companies believe that the OCA's suggestion creates more problems than it would solve. First, the current EE&C plans were designed for a set period of time – namely through May, 2013. They are not designed to accommodate a three month extension, especially given the 2% spending cap with which EDCs must comply. Second, as part of that design, contracts with various vendors were negotiated, again factoring in the cap on spending. Third, the Companies currently are only authorized to recover EE&C plan costs through May, 2013. And finally, there currently is no mechanism in place that would allow any over achievement of Phase I targets to be carried forward to Phase II. As OCA acknowledges, any modifications to the existing EE&C plans would require Commission approval[13] – at a minimum through the expedited review process, which can take up to 60 or more days to complete. Rather than devote all interested stakeholder resources to a three month extension, which would divert

[10] OCA Comments, p. 3.
[11] Id. at 4.
[12] *See e.g., Pennsylvania Nat'l Guard v. Workmen's Compensation Appeal Board,* 63 Pa. Cmwlth. 1, 3; 437 A.2d 494, 495 (1981), *rev'd on other grounds.*
[13] OCA Comments, p. 4.

these same resources from developing and analyzing a Phase II plan, the Companies urge the Commission to reject OCA's request for a three month extension of Phase I.

OCA also believes that the three month extension would provide the Commission with sufficient time to determine if a Phase II PDR requirement is cost effective and necessary. The SWE is currently evaluating this issue, with its report due to be released in November of this year. Once this report is released, parties must have an opportunity to comment. Guidelines would need to be established and any such requirements would have to be factored into any EE&C plan should the Commission deem such a requirement to be necessary. As the Companies explained in their initial comments (at 8), there already exists a robust market through PJM for demand response. Accordingly, there is no need for a PDR mandate through Phase II of Act 129. Moreover, the PDR process outlined above, would only divert resources away from the main objective – to develop a Phase II EE&C plan. And given the time necessary to get approval of the new plans, they would have to be well on their way to being modeled, designed and finalized by the time the PDR process would be complete, thus negating OCA's perceived benefit of such an extension.

The OCA and SEDA-COG Energy Resource Center ("ERC") both propose a Phase II period of four years.[14] The OCA recommends this plan length to establish robust programs that consumers can depend on for a reasonable period of time and to fully accommodate the continuation of demand response programs in the Phase II plans.[15] The ERC recommends this plan length to accommodate the longer timetable required for the government and education subsectors to implement electricity efficiencies.[16] As already mentioned and discussed in more detail in their initial comments, the Companies oppose any continuance of demand response

[14] OCA Comments, p. 6; ERC Comments, p. 5.
[15] OCA Comments, p. 5.
[16] ERC Comments at p. 5.

reduction programs into Phase II. However, if demand response programs are required, as has already been demonstrated, such a requirement could not be implemented in time to be included in the Phase II EE&C plans.[17] Therefore, a shorter Phase II time period would allow PDR programs to be implemented more quickly in the future, should they still be deemed necessary when that date arrives. Similarly, the Companies oppose government carve outs because they have no control over government budgets and spending.[18] Further, ERC failed to present any evidence that demonstrates that extending the Phase II period an additional year beyond that recommended by the Commission would have any impact on government participation in energy efficiency programs. In light of the above, the Companies urge the Commission to retain the three year time period in Phase II and reject the recommendations of OCA and ERC.

III. PEAK DEMAND REDUCTION

The Commission suggests that it not establish Phase II peak demand reduction targets at this time because the Commission does not have the information required to make such a determination, instead proposing to wait for the SWE's demand response study.[19] The Companies agree. Not only does there already exist a robust peak demand market in PJM, but EDC participation in similar programs that are subsidized could disrupt the competitive nature of this market.[20]

[17] The Companies assume that the Commission will not require them to hold back funds as a contingency should the SWE conclude that there should be an Act 129 PDR requirement in Phase II. Doing so, not only would cast doubt on the appropriate level of energy efficiency savings requirements, but it would make it virtually impossible to design the energy efficiency suite of programs with such a contingency outstanding.
[18] Companies' Initial Comments, p. 6.
[19] Tentative Order at p. 16.
[20] Companies' Initial Comments, p. 8.

Representative George, the OCA, Joint DR Commenters[21], PA Weatherization Task Force ("PA Weatherization"), KEEA, PennFuture, City of Philadelphia and Citizens Groups argue that the Commission should not exclude demand response from Phase II of Act 129.[22] OCA believes that existing programs should continue because the investment in the necessary equipment has already been made.[23] OCA, however, fails to recognize that, while some residential direct load control programs may have that issue, there is nothing that precludes participants in the competitive PDR market from utilizing this equipment and offering similar programs to customers. Further, EDCs' energy efficiency performance relies on funding and they cannot afford to maintain programs that consume part of their budgets created under the 2% spending cap. Therefore, unless Phase II energy efficiency targets are adjusted for funds being allocated to programs that are no longer necessary through Act 129 PDR programs, or the Commission authorizes through other means immediate recovery of costs incurred to maintain such programs, the Companies oppose any extension of existing PDR programs.

Joint DR Commenters assert that: 1) Act 129 does not prohibit the Commission from continuing peak demand reduction programs absent a cost-benefit analysis; 2) EDCs should be required to continue existing curtailment capacity created under Phase I DR programs through the useful life of program investment because DR programs require certain infrastructure that has already been established; 3) customers expect demand response to continue; and 4) the PJM program does not adequately address demand response for small commercial and residential

[21] The Joint DR Commenters are AK Steel, Citizens for Pennsylvania's Future, Clean Air Council, Comverge, Inc., Conservation Voters of PAEnerNOC, Inc., Environmental Defense Fund, Group Against Smog and Pollution, Johnson Controls, Inc, EnergyConnect, Keystone Energy Efficiency Alliance, Natural Resources Defense Council, PennEnvironment, the Sierra Club, Viridity Energy, Inc., Wal-Mart StoOres East, LP and Sam's East, Inc. and Philadelphia Physicians for Social Responsibility.

[22] OCA Comments at p. 8-9; Joint DR Commenters Comments at pp. 4-5; PA Weatherization Comments at p. 1; KEAA at p. 11; PennFuture at p. 9; City of Philadelphia at p. 1-2Citizens Groups at p. 9.

[23] OCA Comments, p. 10.

customers and does not provide the same benefits as Act 129. The Joint DR Commenters also suggest a multi-year demand response reduction goal rather than a one-time goal.[24]

All of these arguments are misplaced. First, as discussed in the Companies' initial comments, the Commission should not order a Phase II demand response reduction target because there is already a robust, competitive market for demand response based on market value. PJM programs provide direct and timely price signals to customers as to the value of peak load reductions, either by monetizing the market value of capacity through capacity payments, or by charging suppliers the PLC value of customers' contributions to the PJM system peak. As articulated in Companies' comments, these price signals have resulted in DR capacity growth to over 270% of 2008 levels, approximately 10% of system peak load, and has expanded the number of participating customers to over 675% of 2008 levels.[25] Absent a finding that the competitive market requires intervention through subsidized programs to deliver cost effective results not capable of being delivered by the competitive marketplace, the programs should not be continued. Second, as discussed above, the OCA's timeline will not accommodate the planning necessary to implement a Phase II demand response program. Third, contrary to the Joint DR Commenters belief, Act 129 **does** require the Commission to assess further demand reduction goals based on whether the program is cost-effective. Act 129 specifically states:

> By November 30, 2013, the Commission **shall** compare the total costs of energy efficiency and conservation plans implemented under this section to the total savings in energy and capacity costs to retail customers in this Commonwealth or other costs determined by the Commission. If the Commission determines that the benefits of the plans exceed the costs, the Commission shall set additional incremental requirements for reduction in peak demand..... [66 Pa. C.S. 2806.1(D)(2)].

[24] Joint DR Comments at p. 4-5, 9-11.

[25] Companies' Initial Comments at 6.

The Commission determined that it needs the SWE report in order to complete the **mandatory** cost-benefit analysis required by Act 129. Its decision to wait until after this report is released to develop further Act 129 goals is sound.

Fourth, any new demand response infrastructure that has been implemented for large commercial customers is still necessary for demand response in the PJM markets. Therefore, if competitive forces are allowed to continue to develop, resources should be utilized to their maximum potential based on these market forces. Fifth, customers' expectations are governed by their contracts with their Conservation Service Providers ("CSPs") (or their EDC), which, at least from the Companies' perspective, made it clear that the program ceases at the end of the summer of 2012. Moreover, based on the recent heat wave, it became clear that many customers are not fond of programs that curtail their air conditioning when it is hot and humid. In light of this, it is unclear exactly how many customers are expecting these programs to continue. More may be hoping they end.

Assuming for the sake of argument there is a PDR requirement in Phase II, the Companies oppose any annual targets, given the difficulty EDCs are having in attaining the goal for 2012 using current standards of performance. The Companies believe that, at a minimum, the 100 requirement should be eliminated. This requirement causes EDCs to call for more curtailment than necessary due to the fact that no one can foretell the exact time and days when the top 100 hours will occur. This unnecessarily inconveniences customers and increases the costs of the program. The OCA suggests that the Commission amend the top 100 hours requirement to instead utilize the hours of highest value.[26] This however, does not solve the problem because OCA's suggestion would still require the Companies to predict the hours of highest value to curtail.

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[26] OCA Comments at p. 13.

IV. CARVE-OUT FOR GOVERNMENT, EDUCATIONAL AND NONPROFIT ENTITIES

The Commission recommended that EDCs continue the government, educational and nonprofit carve-out from Phase I of Act 129, which required that EDCs obtain a minimum of 10% of all consumption and peak demand reduction requirements from units of the federal, state and local governments, including municipalities, school districts, institutions of higher education and nonprofit entities. (Tentative Order at p. 18.) The OCA, KEEA, Regional Housing Legal Services and The Philadelphia Weatherization and Conservation Collaborative ("RHLS"); City of Philadelphia and ERC agree with the continuation of this carve-out. (OCA Comments at p. 17; KEEA Comments at p. 9; RHLS Comments; City of Philadelphia Comments at p. 2. ERC Comments at p. 7.) ERC and KEEA argue that the SWE's baseline study regarding the energy use of the governmental sector was underestimated. (ERC Comments at pp. 2-5; KEEA at p. 9.) They also argue that Act 129 requires the Commission to establish this carve out. (ERC Comments at p. 7; KEEA Comments at p. 9.)

As discussed in their initial comments, the Companies oppose a Phase II sector "carve-out," 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 to specifically target these sectors. The Companies also oppose any penalties associated with this carve-out because have no control over whether government/educational/nonprofit entities can or will participate in their programs and, contrary to the ERC and KEEA comments, Act 129 neither requires continuation of this sector carve-out nor supports penalties associated with failure to achieve them. 66 Pa. C.S. 2806.1(B)(1) outlines the requirements for each EDC to develop its plan, by July 1, 2009, to meet the **requirement** for reduction in consumption under subsections (C) and (D), which included a government carve-out. 66 Pa. C.S. §2806.1(B)(1)(I)(B) The only **requirements** for reduction in consumption in subsection (C) is for goals EDCs must accomplish by May 31, 2011 and May 31, 2013. 66 Pa. C.S. §2806.1(C)(1), (2). Besides, given government, educational and non-profit budget cuts, it is inherently unfair to hold EDCs accountable for compliance with carve out targets over which they have no control.

Based on their previous experience in Phase I, the Companies submit that a carve-out is very difficult to achieve despite ERC and KEEA's argument that there is potential in the governmental sector. While the EDCs do not dispute that there is "technical potential" in the governmental sector, whether that potential can be achieved is a direct function of market barriers and financial resources available for those sectors. The extent to which EDCs can overcome those barriers is a direct function of acquisition costs available for that sector. Unless and until the commission sets aside a dedicated policy of EDC subsidization for the full cost (rather than the incremental cost of energy efficiency) of energy efficiency projects in the governmental / non-profit sectors, rather than taxes funding those projects, EDCs can not commit to overcoming those barriers. The ERC actually details why the EDCs have struggled to get participation from this sector. (Id. at pp. 8-10.) For those reasons, the Commission should eliminate any sector carve-out from Phase II of Act 129.

A. Multi-Family Energy Efficiency Opportunities

In its Tentative Order, the Commission proposes that multifamily housing be given special emphasis and consideration within the government/educational/nonprofit sector. While no specific funding or savings targets are being proposed for multifamily housing, the Commission encourages the EDCs to recognize the available potential for energy savings present in multifamily housing and develop strategies and programs to sufficiently address this opportunity within their Phase II EE&C plans. PHFA, RHLS PA Weatherization and CAUSE-PA propose to expand this recommendation to require the EDCs to meet specific funding targets in the multifamily housing sector (PA Weatherization Comments at p. 2; RHLS Comments at p. 3; PHFA Comments at p. 1; CAUSE-PA Comments at p. 19.)

While the Companies have and will continue to offer a broad range of measures applicable to multi-family housing customers, as discussed above, the Companies oppose any carve-outs imposed on them. The multifamily customer class is nearly impossible to identify and market separately because this class could be on different types of rate schedules. Lastly, the Companies already work with PHFA to support multifamily housing programs.

V. <u>ON BILL FINANCING</u>

In its Tentative Order, the Commission states that it does not have enough information at this time to prescribe the implementation of on-bill financing of EE&C measures. As such, the Commission suggests a working group. KEEA, Citizens Groups, ERC, and National Housing Trust/Pennsylvania Housing Finance Agency ("PHFA") support the Commission interest in convening a working group, (KEEA Comments at p. 10, Citizens Groups Comments at p. 10; ERC Comments at p. 11; PHFA Comments at p. 6.) Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") does not. (CAUSE-PA Comments at p. 16.)

As discussed in their initial comments, 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. Nevertheless, the Companies will participate in any working group that is convened.

VI. <u>LOW-INCOME MEASURES</u>

A. <u>Prescription of a Low-Income Carve-Out</u>

Like the government/educational/nonprofit carve-out, the Commission proposes to continue the prescription that each EDC's EE&C Plan include specific energy efficiency measures for households at or below 150% of the Federal Poverty Income Guidelines, and "proposes that each EDC's Phase II EE&C Plan obtain a minimum of four-and-a-half percent (4.5%) of the consumption reduction requirements proposed above in Section A of this order from this sector," even though the Commission recognizes that Phase II does not require such a carve-out. OCA, PA Weatherization, KEEA, PennFuture; RHLS; CAUSE PA and ERC agree with the Commission's recommendation. (OCA Comments at p. 15; PA Weatherization Comments at p. 1; KEEA Comments at p. 11; PennFuture at p. 10; RHLS Comments at p. 2-3; CAUSE PA Comments at p. 4; ERC at p. 11.) These parties characterize this recommendation as a continuation of an existing carve-out. (*See e.g.* CAUSE-PA Comments at p. 5.)

For all of the reasons related to the government carve-out discussed above, the Companies similarly believe that the Commission should not establish a carve-out for low income customers is necessary and should not be subject to penalties. As an initial matter, similar to the government carve-out, Act 129 does not require a low-income carve-out for Phase II and, contrary to the parties who support the carve-out's belief, Phase I did not require a specific carve-out. Rather, in Phase I, Act 129 simply required EDCs to include "specific energy efficiency measures for households at or below 150% of the Federal Poverty Income Guidelines." 66 Pa. C.S. §2806.1(B)(1)(I)(H). Act 129 does not require a specific energy reduction goal as the Commission is proposing

CAUSE-PA asserts that a carve-out is appropriate because the EDCs have not met the need for energy efficiency for households at or below 150% of the Federal Poverty Income

Guidelines. (CAUSE-PA Comments at p. 7.) The 1.2 million customers that CAUSE-PA identifies as under 150% of poverty level are based on census data. These customers do not identify themselves to the EDCs unless they need assistant. In order to market to these specific customers, the Companies have to rely on participants to the CAP program, Fuel Funds, LIHEAP, gas company LIURP programs and state weatherization assistant programs. Indeed, more than 95% of the Companies' low income particpants have participated in CAP, Fuel Funds and LIHEAP programs. While the Companies do try and market to other lower income customers through general awareness programs, it is still difficult reach this sector of customers. Moreover, Act 129 programs are voluntary. Again, while the Companies can market to these customers, the Companies cannot force customers to participate and should not be required to carve-out savings for these customers especially considering the 2% spending cap and the proposed penalties. Lastly, even without a specific carve-out and goal, the Companies Phase I programs have been successful, serving more than 45,260 customers, not including the number of low income customers who participated in energy efficiency programs for the residential class.

B. 250% Target

The Commission proposes that the EDCs have the flexibility to voluntarily expend the low-income programs to include households up to 250% Federal Poverty Income Guidelines. The OCA and CAUSE-PA do not agree with expanding low income programs to this class. (OCA Comments at p. 16; CAUSE-PA Comments at p. 6.) CAUSE PA argues that Act 129 may not allow this expansion; low income customers will pay for EE&C programs for other participants that dilute its own programs; and that opportunities exist for households above 150%

to participate through multi-family housing programs and coordination of services. (CAUSE-PA Comments at pp. 8-9.)

Should the Commission order low income programs, the Companies agree with increasing the low-income programs to include households up to 250% Federal Poverty Income Guidelines, given enhanced coordination with other programs in the Commonwealth, needs in that sector, and the potential savings contributions from that group to meet any low-income sector targets. First, Act 129 gives the Commission the authority to expand this pool of customers. Second, low income customers pay the same general residential rate for EE&C programs as other residential customers. There is no specific carve-out for the rate. Like all residential customers, low income or otherwise, customers pay for programs whether they use them or not. Therefore, low income customers are already paying for programs used by other customers. Last, while there are other programs available to all residential customers and households above 150%, there is still a need to service this group of customers. Increasing the poverty level requirement allows Act 129 to serve a group of customers who are not currently eligible for other EDC low-income programs and who, nevertheless, may not have the means to participate in other residential programs.

VII. ACCULMULATED SAVINGS IN EXCESS OF REDUCTION REQUIREMENTS

The Commission proposes to allow the EDCs to accrue savings beyond their 3% target during Phase I and to use those savings towards any Phase II consumption reduction targets. (Tentative Order at p. 29.) Representative George opposes this recommendation. Citizens Groups argue that the Commission only allow EDCs to only accumulate 50% of savings because it could result in already modest Phase II Program Potential from going unrealized during Phase II. (Citizens Groups Comments at p. 8)

KEEA argues that EDCs should only be allowed to accumulate savings if Phase II requires annual reduction goals. (KEEA at p. 6-7.)

Many parties expressed a concern over whether programs would go "dark" between Phase I and Phase II. The Companies support the Commission's proposal because it allows existing EE&C programs to continue, thus maintaining the momentum gained since implementation – momentum that may be lost should there be a suspension of the program between phases. Banking will also keep compliance costs to a minimum, and support a smooth transition between Phases pursuant to EDC transition plans. The Companies encourage the Commission to maintain flexibility in the transition to mitigate the risk of programs going dark between Phase I and Phase II. Lastly, as discussed above, the Companies do not believe annual reductions are appropriate and therefore, the Commission should reject OPower and KEEA's argument.

VIII. EDC COST RECOVERY

A. Participation in PJM Auctions

The Commission proposes that, when prudent, the EDCs bid those energy efficiency resources meeting PJM criteria and requirements into the appropriate PJM capacity market auctions, provided they have the right to bid those resources under PJM rules. (Tentative Order at p. 65.) Citizen Power, Inc. proposes that each EDC include in its annual reports detailed information regarding participation in the PJM auctions. (Citizen Power Comments at p. 2.) The Companies oppose this suggestion because that information is confidential. While the Companies fully support regulatory disclosure of PJM financial settlement information for ratemaking purposes, bidding documents and strategies of any individual party in PJM auctions generally involve customer information and documentation that should not be subject to public review.

Respectfully submitted,

Dated: July 9, 2012

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Implementation of Act 129 of 2008-Total Resource Cost (TRC) Test-2012 Phase II of Act 129	:	**Docket No. M-2012-2300653**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by overnight delivery, as follows:

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

Service by electronic mail, as follows:

Laura Fusare Edinger
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