

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ENERGY EFFICIENCY AND CONSERVATION PROGRAM : **DOCKET NO. P-2012-2320484**
:

**CLEAN AIR COUNCIL AND SIERRA CLUB'S
PETITION TO INTERVENE**

Clean Air Council (“Council”) and the Pennsylvania Chapter of the Sierra Club (“Sierra Club”) (collectively, “Petitioners”), on behalf of their respective members and the public interest, hereby submit this Petition to Intervene before the Pennsylvania Public Utility Commission (“Commission”) in matters pertaining to West Penn Power Company’s (“West Penn Power”) Evidentiary Hearing in the above-captioned proceedings, Docket No. P-2012-2320484. In support of this petition, the Petitioners state the following:

1. Act 129 of 2008 (“Act 129”) directed the Pennsylvania Public Utilities Commission to require electric distribution companies (“EDCs”) in Pennsylvania to develop and file energy efficiency and conservation (“EE&C”) plans by July 1, 2009.¹ Under Act 129’s EE&C programs, EDCs were required to reduce retail energy consumption by a minimum of 1% by May 31, 2011 and a minimum of 3% by May 31, 2013 as well as reduce peak demand, measured by reference to the 100 highest hours of

¹ Act 129 was codified as part of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 2806.1.

demand, by a minimum of 4.5% by May 31, 2013.² Collectively, these requirements goals and requirements constituted “Phase I” of Act 129.

2. In preparation of Phase I of EE&C programs coming to a close on May 31, 2013, the Commission selected a statewide evaluator (“SWE”) team to evaluate the costs and benefits associated with such programs to inform the Commission’s designation of Phase II EE&C program targets.

3. On March 1, 2012, the Commission issued a Secretarial Letter (Docket No. M-2012-2289411) seeking comments on a number of important topics that are instrumental in designing and implementing any potential Phase II of Act 129 EE&C programs.

4. On June 25, 2012, in response to the Secretarial Letter, Clean Air Council and Sierra Club submitted timely comments, outlining its positions, stating the effect that potential Phase II targets would have on the groups’ respective members, and suggesting several changes to the EE&C programs for any potential Phase II.³

5. The SWE found that Phase I programs were cost-effective and that additional market potential exists for cost-effective EE&C measures in Phase II. Given this finding, the Commission was required under Act 129 to set additional goals for a second phase of EE&C programs.⁴

6. On May 11, 2012, the Commission issued a Tentative Implementation Order for Phase II of Act 129 EE&C programs.⁵

7. In response to the Tentative Implementation Order, Clean Air Council and Sierra Club submitted timely comments and subsequent reply comments further outlining their

² *Id.*, §§ 2806.1(c) and (d).

³ See PUC Docket No. M-2012-2289411, e-filing confirmation nos. 1488218, 1488275, 1488278.

⁴ *Id.*, §§2806.1(c)(3) and (d)(2).

⁵ Docket No. M-2012-2289411.

positions, stating the effect that Phase II targets would have on the groups' respective members, and suggesting several changes to the EE&C programs for Phase II.⁶

8. On August 3, 2012, the Commission issued the Final Implementation Order for Phase II of Act 129 EE&C Programs.⁷ The Final Order individualized targets for each EDC based on a number of factors, including acquisition costs, available funding, and unforeseen cost or baseline increases. The Final Order also provided that EDCs could continue demand reduction measures that have been deemed cost effective, such as direct load control ("DLC"), though the Commission declined to set demand reduction ("DR") targets in Phase II.

9. On August 20, 2012, West Penn Power filed a Petition for an Evidentiary Hearing.⁸ The matters for which West Penn Power requests an evidentiary hearing include challenging energy efficiency benchmarks as set forth in the August 3rd Final Implementation Order.

10. Intervention by the Petitioners in this Evidentiary Hearing is properly in accordance with the Pennsylvania Code.

11. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72. This section provides, in relevant part, that "[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought." 52 Pa. Code § 5.72(a).

⁶ See PUC Docket No. M-2012-2289411, e-filing confirmation nos. 1489292 (Sierra Club (July 6, 2012)), 1489472 (Clean Air Council (July 9, 2012)).

⁷ Docket No. M-201202289411.

⁸ Docket No. P-2012-2320334.

12. Section 5.72 further provides that the right or interest may be “an interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding”. 52 Pa. Code § 5.72(a)(2).

13. Alternatively, the interest may be “of such nature that participation of the petitioner may be in the public interest.” 52 Pa. Code § 5.72(a)(3).

14. Clean Air Council is a non-profit advocacy organization dedicated to the public interest, specifically, protecting everyone’s right to breathe clean air.

15. The Council has 4,598 members across Pennsylvania. *See* Declaration of Justin Russell, Exhibit 11. These members are directly affected by West Penn Power’s requirements promulgated by PUC as part of Phase II of Act 129, which have an impact on statewide air quality resulting from electricity generation and corresponding health risks associated with increased exposure to air pollution.

16. Sierra Club is a national non-profit environmental organization. Sierra Club’s mission is to explore, enjoy, and protect the wild places of the Earth; to practice and promote the responsible use of the Earth’s resources and ecosystems; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.

17. The Sierra Club currently has 23,705 members in Pennsylvania, some of whom live in West Penn Power territory and receive electric distribution services from West Penn Power. *See* Declarations of Yolanda Andersen and Thomas Schuster, attached hereto as Exhibits 2 and 3. These members have a strong interest in both the success of energy efficiency programs and in protecting wild places and their ambient environment

from the effects of air, water, and other pollution from electrical generation. Thus, these members are directly affected by requirements placed on West Penn Power by the PUC pursuant to Phase II implementation of Act 129, and the impact of those requirements on utility rates, environmental impacts from electrical generation, and the availability of EE&C programs.

18. The Petitioners, on behalf of their members and the public interest, have an interest in ensuring that energy efficiency and conservation programs are implemented to the fullest extent allowed by law and achieve the highest possible energy savings, in order to protect public health, preserve the environment, reduce energy prices, and maintain grid reliability. Petitioners have members who live in West Penn Power's service territory, are customers of West Penn Power, and receive electric distribution service from West Penn Power.

19. The Petitioners anticipate that issues in this Evidentiary Hearing will affect their interests and the interests of their respective members. West Penn Power's evidentiary hearing will directly and personally affect Petitioners' members, because it reasonably may be expected to impact the safety, reliability, cleanliness, and affordability of West Penn Power's public utility services. For example, changes to targets for energy consumption reduction will affect air quality, public health, energy conservation efforts, energy prices, grid reliability, and the availability and quality of certain energy savings programs and incentives.

20. The Petitioners anticipate having a different position than that of West Penn Power regarding challenges to the energy efficiency benchmarks set forth in the August 3rd Final Implementation Order.

21. The Petitioners reserve the right to raise other and more specific issues as necessary and appropriate during the course of the proceeding and to respond to issues raised by other parties.

22. No other party to this proceeding represents the interests of the public or the interests of Clean Air Council and Sierra Club or their members. Nor would any party be prejudiced by Petitioners' intervention. Intervention at this stage is timely, and would not disrupt progress in the case.

23. Accordingly, Petitioners Clean Air Council and the Sierra Club have direct and significant concerns and interest in the subject matter of this proceeding, and its interests are not represented by any other party of record. Clean Air Council and the Sierra Club petition the Commission for leave to intervene in order to protect the interests of itself and its constituent members.

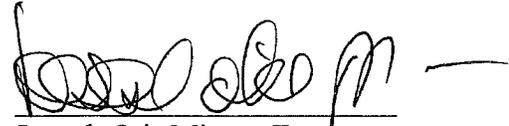
24. The Petitioners are represented in this proceeding by:

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WHEREFORE, Petitioners Clean Air Council and Sierra Club respectfully request that the Administrative Law Judge enter an order granting the Petitioners full status as an intervenor in this proceeding.

Date: 8/30/12



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EXHIBIT 1

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DECLARATION OF JUSTIN RUSSELL

I, Justin Russell, hereby declare and state:

1. I am the Membership Coordinator for the Clean Air Council (Council), a member-supported non-profit corporation organized and existing under the laws of the Commonwealth of Pennsylvania. In that capacity I am familiar with the Council's mission, which is "Protecting Everyone's Right to Breathe Clean Air." Working to reduce Pennsylvania's exposure to harmful air pollution is a core part of the Council's mission. I am familiar with the Council's work to improve air quality in Pennsylvania including its recent activity with the Public Utilities Commission (PUC), for which it submitted comments regarding Act 129's Energy Efficiency and Conservation program, a revision of which is challenged in this proceeding.
2. I have been the Membership Coordinator for the Council for 5 months. My duties as Membership Coordinator include: managing databases that contain information on members and prospective members, supervising membership campaigns and processing membership renewals and working with major donors and foundations that support the Council. My work requires me to be familiar with the Council's purpose, organization and activities, as well as the environmental interests and concerns of Council members.

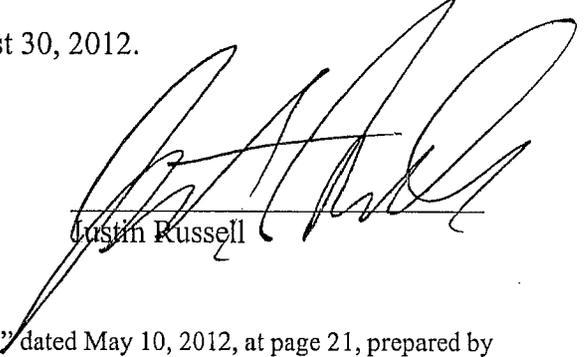
3. In my capacity as the Membership Coordinator for the Council, I have access to current information about all of the Council's members and board members, including their primary residential address.
4. The total number of Clean Air Council Members in Pennsylvania is 4,598.
5. PECO Energy Company's (PECO) service territory includes Philadelphia and Delaware Counties, a majority area of Bucks, Montgomery and Chester Counties, and portions of York County.ⁱ I have cross-checked these geographic areas with the addresses in our current member database and determined that we have membership residing in PECO service territory. I have further confirmed that this subset of our membership includes current PECO customers through direct contact.
6. PPL Utilities Corporation's (PPL) service territory includes Carbon, Schuylkill, Columbia, Montour, Northumberland, Lackawanna, Snyder, and Union Counties, a majority area of Lehigh, Lancaster, Dauphin, Monroe, Wayne, Clinton, and Perry Counties, and portions of Pike, Luzerne, Northampton, Bucks, Montgomery, Berks, Chester, York, Lebanon, Cumberland, Juniata, Wyoming, and Lycoming Counties.ⁱⁱ I have cross-checked these geographic areas with the addresses in our current member database and determined that we have membership residing in PPL service territory.
7. Pennsylvania Electric Company's (Penelec) service territory includes Erie, Warren, Forest, Jefferson, Clearfield, Indiana, Cambria, Blair, Huntingdon, Mifflin, Tioga, Bradford, and Sullivan Counties, a majority area of Crawford, Venango, McKean, Wyoming, Susquehanna, Somerset, and Bedford Counties, and portions of Elk, Clarion, Centre, Juniata, Perry, Cumberland, Franklin, Potter, Wayne and Lycoming Counties.ⁱⁱⁱ I have cross-checked these geographic areas with the addresses

in our current member database and determined that we have membership residing in Penelec service territory.

8. Council members live, work, recreate and breathe in areas of Pennsylvania that are affected by the air emissions from power plants.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Philadelphia, PA on August 30, 2012.

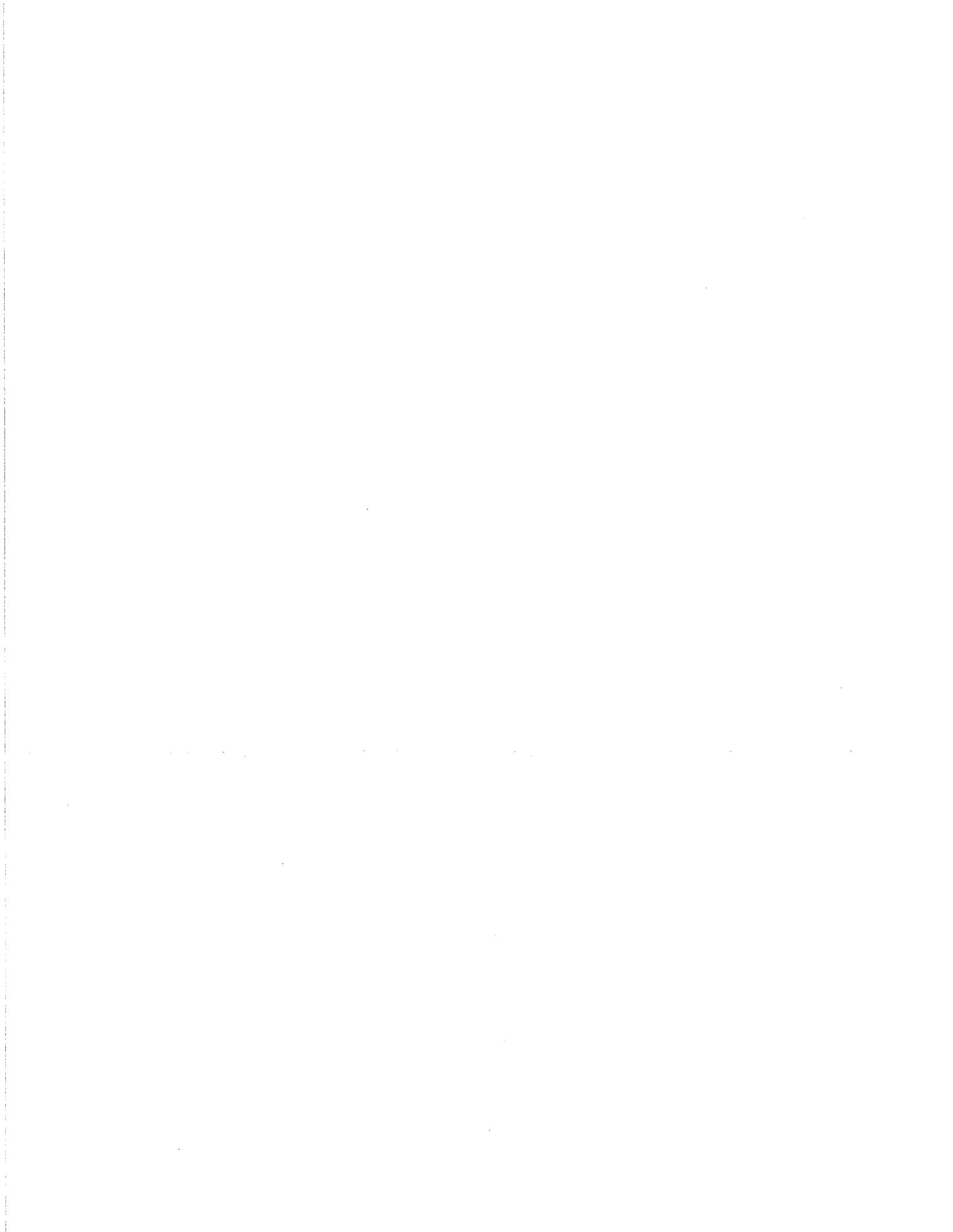

Justin Russell

ⁱ "Electric Energy Efficiency Potential for Pennsylvania," dated May 10, 2012, at page 21, prepared by PUC commissioned Statewide Evaluator.

ⁱⁱ Ibid.

ⁱⁱⁱ Ibid.

EXHIBIT 2



BEFORE THE PENNSYLVANIA PUBLIC UTILITIES COMMISSION
DECLARATION OF YOLANDA ANDERSEN

I, Yolanda Andersen, declare as follows:

1. I am the Director of Member Services at the Sierra Club. I have had this position for more than 22 years.
2. In that role, I manage all aspects of the Sierra Club's customer service functions related to members, including maintaining an accurate list of members and managing the organization's member databases.
3. The Sierra Club is a non-profit membership organization incorporated under the laws of the State of California.
4. Sierra Club's mission is to explore, enjoy, and protect the wild places of the Earth; to practice and promote the responsible use of the Earth's resources and ecosystems; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.
5. When an individual becomes a member of the Sierra Club, his or her current residential address is recorded in our membership database. The database entry reflecting the member's residential address is verified or updated as needed.
6. The Sierra Club currently has 23,705 members in Pennsylvania. These members have a strong interest in both the success of energy efficiency programs and in protecting wild places and their ambient environment from the effects of air, water, and other pollution from electrical generation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in San Francisco, California on August 29, 2012.

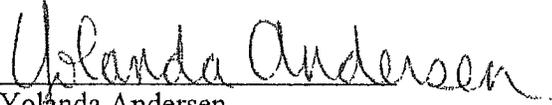

Yolanda Andersen

EXHIBIT 3

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DECLARATION OF THOMAS SCHUSTER

I, Thomas Schuster, declare as follows:

1. I am the Pennsylvania Beyond Coal Campaign Representative at the Sierra Club.

I have had this position for four and a half months.

2. In that role, I coordinate statewide Sierra Club activities related to promotion of clean energy and energy efficiency. As part of the duties of my position, I am charged with knowing and being familiar with the service territories for the different electrical utilities in Pennsylvania, their energy efficiency and conservation plans, and the state requirements those plans must meet. Further, I am responsible for coordinating campaign efforts with Chapter staff, organizers, and members throughout the state, including member activities in those utility service territories.

3. The Sierra Club is a non-profit membership organization incorporated under the laws of the State of California, with an active Chapter and membership in Pennsylvania.

4. The Sierra Club's mission is to explore, enjoy, and protect the wild places of the Earth; to practice and promote the responsible use of the Earth's resources and ecosystems; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.

5. PECO Energy Company's (PECO) service territory includes Philadelphia and Delaware Counties, a majority area of Bucks, Montgomery and Chester Counties, and portions of York County.¹ The Sierra Club has membership residing in PECO service territory. This subset of our membership includes current PECO customers.

6. PPL Utilities Corporation's (PPL) service territory includes Carbon, Schuylkill, Columbia, Montour, Northumberland, Lackawanna, Snyder, and Union Counties, a majority area of Lehigh, Lancaster, Dauphin, Monroe, Wayne, Clinton, and Perry Counties, and portions of Pike, Luzerne, Northampton, Bucks, Montgomery, Berks, Chester, York, Lebanon, Cumberland, Juniata, Wyoming, and Lycoming Counties.ⁱⁱ The Sierra Club has membership residing in PPL service territory. This subset of our membership includes current PPL customers.

7. Metropolitan Edison Company's (Met-Ed) service territory includes a majority area of Adams, York, Lebanon, Berks, and Northampton Counties, and portions of Dauphin, Cumberland, Lancaster, Chester, Montgomery, Lehigh, Bucks, Monroe, Franklin, and Pike Counties.ⁱⁱⁱ The Sierra Club has membership residing in Met-Ed service territory. This subset of our membership includes current Met-Ed customers.

8. Allegheny/West Penn Power Company's (West Penn) service territory includes Greene, Fayette, Washington, Westmoreland, Armstrong, Fulton, and Cameron Counties, a majority area of Centre, Elk, Franklin and Butler Counties, and portions of Adams, Bedford, Somerset, Allegheny, Clarion, Clinton, Lycoming, Potter, and McKean Counties.^{iv} The Sierra Club has membership residing in West Penn service territory. This subset of our membership includes current West Penn customers.

9. Pennsylvania Electric Company's (Penelec) service territory includes Erie, Warren, Forest, Jefferson, Clearfield, Indiana, Cambria, Blair, Huntingdon, Mifflin, Tioga, Bradford, and Sullivan Counties, a majority area of Crawford, Venango, McKean, Wyoming, Susquehanna, Somerset, and Bedford Counties, and portions of Elk, Clarion, Centre, Juniata, Perry, Cumberland, Franklin, Potter, Wayne and Lycoming Counties.^v The Sierra Club has

membership residing in Penelec service territory. I am personally currently both a Sierra Club member and Penelec customer.

10. Pennsylvania Power Company's (Penn Power) service territory includes Mercer and Lawrence Counties, and portions of Crawford, Beaver, Allegheny, and Butler Counties.^{vi} The Sierra Club has membership residing in Penn Power service territory. This subset of our membership includes current Penn Power customers.

I declare under penalty of perjury under the laws of Pennsylvania that the foregoing is true and correct. Executed in Windber, PA on August 30, 2012.


Thomas Schuster

ⁱ "Electric Energy Efficiency Potential for Pennsylvania," dated May 10, 2012, at page 21, prepared by a Statewide Evaluator for the Public Utility Commission. See http://www.puc.state.pa.us/electric/pdf/Act129/Act129-PA_Market_Potential_Study051012.pdf Accessed 8/30/12.

ⁱⁱ *Id.*

ⁱⁱⁱ *Id.*

^{iv} *Id.*

^v *Id.*

^{vi} *Id.*