

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Petition of Metropolitan Edison Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan</b>	<b>:</b>	<b>:</b>	<b>:</b>	<b>Docket No. M-2012-2334392</b>
	<b>:</b>	<b>:</b>	<b>:</b>	
<b>Petition of Pennsylvania Electric Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan</b>	<b>:</b>	<b>:</b>	<b>:</b>	<b>Docket No. M-2012-2334387</b>
	<b>:</b>	<b>:</b>	<b>:</b>	
<b>Petition of Pennsylvania Power Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan</b>	<b>:</b>	<b>:</b>	<b>:</b>	<b>Docket No. M-2012-2334395</b>
	<b>:</b>	<b>:</b>	<b>:</b>	
<b>Petition of West Penn Power Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan</b>	<b>:</b>	<b>:</b>	<b>:</b>	<b>Docket No. M-2012-2334398</b>

**PROTECTIVE ORDER**

IT IS HEREBY ORDERED THAT:

1. This Protective Order is granted with respect to all materials identified in Paragraphs 2 and 3 below, which are filed with the Commission, produced in discovery or otherwise presented during these proceedings. All persons now, or hereafter, granted access to the information identified in Paragraphs 2 and 3 below shall use and disclose such information only in accordance with this Order.

2. The information subject to this Order includes all correspondence, documents, data, studies, methodologies, and all other materials or information that any party or an affiliate of any party (“the producing party”) furnishes in this proceeding pursuant to filing, discovery or evidentiary procedures, or otherwise may provide as a courtesy to other active parties in this proceeding, which are claimed to be of a security-sensitive, proprietary or other confidential nature and which are designated “CONFIDENTIAL INFORMATION” or “HIGHLY CONFIDENTIAL INFORMATION.” Such materials are referred to in this Order as

“Proprietary Information.”

3. For purposes of this Protective Order there are two categories of Proprietary Information: “CONFIDENTIAL INFORMATION” and “HIGHLY CONFIDENTIAL INFORMATION.” A producing party may designate as “CONFIDENTIAL INFORMATION” materials concerning energy efficiency and conservation related work product, practices or policies that may be security-sensitive, proprietary or otherwise confidential, and any other information that is either specified as confidential by its terms or pertains to business practices, operations or financial matters that are commercially sensitive or that is ordinarily considered and treated as confidential by the producing party. A producing party may designate as “HIGHLY CONFIDENTIAL INFORMATION” those materials that the producing party deems to be of such a commercially sensitive nature, relative to the business interests of itself or other parties to this proceeding, or of such a private or personal nature, that the producing party determined that a heightened level of confidential protection with respect to those materials is appropriate. The parties shall endeavor to limit the information designated as “HIGHLY CONFIDENTIAL INFORMATION.”

4. Confidential Information shall be disclosed solely to the Commission, its Staff, counsel to the parties in this proceeding, parties’ employees, officers and members (as applicable) who are directly responsible for reviewing, preparing or presenting evidence, cross-examination or argument in this proceeding and outside expert consultants retained by the parties’ counsel for this proceeding. Confidential Information shall be specifically marked “CONFIDENTIAL INFORMATION.”

5. Highly Confidential Information shall be provided solely to other parties’ counsel. Such highly sensitive information may be copied only for the limited purpose of review by a

party's expert or consultant in this case. Such specific prohibition from copying such Highly Confidential Information shall be clearly designated on the face of the information. In such cases, the producing party shall permit other parties' counsel to take custody of such Highly Confidential Information, provided that it shall not be copied, except as provided for in this Paragraph, and shall be returned or destroyed as provided for in Paragraph 11, below. The producing party may designate certain Highly Confidential Information that, absent the express agreement of the producing party, may not be viewed by the employees of an inspecting party who are involved in competitive activities or by employees of an outside expert or consultant that provide services to any person or entity involved in such competitive activities. Further, in accordance with the provisions of Sections 5.362 and 5.431(e) of the Commission's Rules of Practice and Procedure (52 Pa. Code §§ 5.362, 5.431(e)) and Sections 2209(f)(3) and 2811(c)(3) of the Public Utility Code (66 Pa. C.S. §§ 2209(f)(3), 2811(c)(3)), any party may, by objection or motion, seek further protection with respect to Highly Confidential Information, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties. Highly Confidential Information shall be specifically marked "HIGHLY CONFIDENTIAL INFORMATION – DO NOT COPY OR DISTRIBUTE EXCEPT IN ACCORDANCE WITH PROTECTIVE ORDER."

6. Proprietary Information shall be made available to the Commission and its Staff for use in this and any related proceeding and for all internal Commission analyses, studies or investigations related to the same. For purposes of filing, to the extent that Proprietary Information is placed in the Commission's report folders, testimony folders or other document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Order. The Proprietary Information shall be considered and treated as

“confidential proprietary information” as defined in The Pennsylvania Right-to-Know Act, 65 P.S. § 67.101, *et seq.* Public inspection of the Proprietary Information shall be permitted only in accordance with this Protective Order.

7. Proprietary Information shall be made available only as permitted by this Order and only for purposes of reviewing, preparing or presenting evidence, cross-examination or argument in this proceeding. No counsel, expert, employee, officer or member (as applicable) will be afforded access to Proprietary Information until a signed acknowledgement of this Protective Order in the form attached to this Order in APPENDIX A, from each such individual, has been returned to the producing party. No other persons may have access to the Proprietary Information, except as specifically authorized by further order of the Commission or the Administrative Law Judge. No person may be entitled to receive, or if afforded access to any Proprietary Information shall possess, use or disclose Proprietary Information for the purpose of business or competition or any purpose other than the preparation for, and conduct of, this proceeding or any administrative or judicial review thereof.

8. The producing party shall designate data or documents as constituting or containing Confidential Information or Highly Confidential Information by affixing an appropriate stamp or typewritten designation on all such data or documents. Where only part of a compilation or multi-page document constitutes or contains Confidential Information or Highly Confidential Information, the producing party shall designate only the specific data or pages of documents which constitute or contain Confidential Information or Highly Confidential Information. Upon request from another party, the producing party shall produce a redacted (public) version of any such partially confidential compilation or multi-page document within a reasonable period of time.


9. Any public reference to Proprietary Information by the Commission or by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand the reference fully and not more. Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, direct testimony, cross-examination, argument, and responses to discovery, and including reference thereto as mentioned in the above Paragraphs, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Order, either through the agreement of the parties or pursuant to a further order of the Administrative Law Judge or the Commission.

10. The parties affected by the terms of this Order shall retain the right to question or challenge the confidential nature of the Proprietary Information; to question or challenge the admissibility of Proprietary Information; to refuse or object to the production of Proprietary Information on any proper ground, including but not limited to irrelevance, immateriality, or undue burden; and to seek additional measures of protection of Proprietary Information beyond those provided in this Order. If a challenge is made to the designation of a document or information as Proprietary Information, the party claiming that the information is proprietary or otherwise confidential retains the burden of demonstrating that the designation is necessary and appropriate.

11. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, whether written or oral, which contain any Proprietary Information, shall be immediately returned to the party furnishing

such Proprietary Information or destroyed, upon request. This provision, however, shall not apply to the Commission or its Staff, the Office of Consumer Advocate, the Office of Small Business Advocate, or any other party receiving the consent of the producing party; except, however, that Highly Confidential Information provided to any party pursuant to Paragraph 5, above, shall be returned to the producing party or destroyed in all cases. In the event that a party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies to the producing party, that party shall certify in writing to the producing party that all copies of the documents and other materials containing Proprietary Information have been destroyed.

Date: December 28, 2012

  
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Elizabeth H. Barnes  
Administrative Law Judge

# APPENDIX A

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Petition of Metropolitan Edison Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan</b>	: : : :	<b>Docket No. M-2012-2334392</b>
<b>Petition of Pennsylvania Electric Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan</b>	: : : :	<b>Docket No. M-2012-2334387</b>
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<b>Petition of West Penn Power Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan</b>	: : : :	<b>Docket No. M-2012-2334398</b>

TO WHOM IT MAY CONCERN;

The undersigned is the expert, counsel, employee, member or officer of \_\_\_\_\_ (the retaining party). The undersigned has read and understands the Protective Order issued in the above-captioned proceeding deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order. The undersigned agrees that any Proprietary Information shall be used or disclosed only for purposes of preparation for, and conduct of the above-captioned proceeding, and any administrative or judicial review thereof, and shall not be disclosed or used for purposes of business or competition.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

Date: \_\_\_\_\_

\_\_\_\_\_  
Employer