COMMONWEALTH OF PENNSYLVANIA

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (in PA only)

FAX (717) 783-7152
consumer@paoca.org

January 15, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

Re: Petition of PECO Energy Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan
Docket No. M-2012-2333992

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Main Brief in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Sincerely,

Aron J. Beatty
Assistant Consumer Advocate
PA Attorney I.D. # 86625

Enclosures
cc: Hon. Dennis J. Buckley, ALJ
Certificate of Service
163002

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company	:	
For Approval of its Act 129 Phase II	:	Docket No. M-2012-2333992
Energy Efficiency and Conservation Plan	:	

MAIN BRIEF
OF THE
OFFICE OF CONSUMER ADVOCATE

Jennedy S. Johnson
Assistant Consumer Advocate
PA Attorney I.D. # 203098
E-Mail: jjohnson@paoca.org

Aron J. Beatty
Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: January 15, 2013

TABLE OF CONTENTS

I. INTRODUCTION

On November 14, 2008, Act 129 of 2008 (Act 129) became effective. Act 129 contained a requirement for the Pennsylvania Public Utility Commission (Commission) to implement an Energy Efficiency and Conservation Program for Electric Distribution Companies (EDCs) with more than 100,000 customers. See 66 Pa.C.S. § 2806.1 *et seq*. The seven largest EDCs—PECO Energy Company (PECO), PPL Electric Utilities, Inc. (PPL), the FirstEnergy Companies (Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, West Penn Power Company), and Duquesne Light Company filed their Phase I EE&C Plans in the summer of 2009. These Phase I Plans expire on May 31, 2013.

On August 3, 2012, the Commission entered its Phase II Implementation Order, tentatively adopting EDC-specific targets for reducing energy consumption for the next EE&C Program term (June 1, 2013-May 31, 2016). Energy Efficiency and Conservation Program, Docket Nos. M-2012-2289411 and M-2008-2069887 (Order entered August 3, 2012) (Phase II Implementation Order). As part of that Order, each EDC was given an EDC-specific Phase II consumption reduction target. PECO's Phase II target was set at 2.9% of its expected sales for the June 1, 2009 through May 31, 2010 period.[1] Phase II Implementation Order at 4. The Commission also directed that: (1) 10% of overall consumption reductions come from the Government/ Institutional/ Non-Profit sector; (2) a plan's portfolio of measures include a proportionate number of low-income measures, and (3) EDCs obtain a minimum of 4.5% of their

[1] As was its right under the Phase II Implementation Order, PECO filed a Petition for Evidentiary Hearing regarding the Company's Phase II consumption reduction targets. See Docket No. 2012-2320334. Direct and rebuttal testimony, evidentiary hearings, and briefing occurred and the record was certified to the Commission on November 2, 2012. The Commission entered an Order on December 5, 2012 denying the Company's Petition and upholding the standards and requirements set forth in the August 3, 2012 Phase II Implementation Order.

total consumption reductions from the low-income sector. Id. at 45-57. As in Phase I, the total resource cost (TRC) test will continue to be used to evaluate each EDC's Plan. Id. at 78-83.

Act 129 caps annual spending on the Plan at 2% of the EDC's total revenues for calendar year 2006. 66 Pa.C.S. § 2806.1(g); see gen'ly Phase II Implementation Order at 100-119. The Act provides for full and current cost recovery of the Plan costs through an automatic adjustment rider, but prohibits the recovery of lost revenues by the EDC. 66 Pa.C.S. § 2806.1(b)(1)(H). The costs incurred are to be allocated to the classes that directly benefit from the measures implemented, unless a system wide benefit can be shown.

II. PROCEDURAL HISTORY

The Phase II Implementation Order details the Plan approval process for this proceeding. According to the Order, the EDCs were to file their proposed Plans by November 1, 2012, and the Commission was to publish the Plans in the *Pennsylvania Bulletin* within 20 days of filing.[2] An answer along with comments and recommendations was to be filed within 20 days of publication. The Plans would be referred to the Office of Administrative Law Judge (ALJ) and be scheduled for hearings to be completed no later than the 65th day after the Plan is filed. The Commission will approve or reject all or part of the plan at Public Meeting within 120 days of the EDC's filing. Phase II Implementation Order at 61-62.

PECO's Plan was filed on November 1st and the Commission Order is due in this matter by February 28, 2013. On November 30th, ALJ Dennis J. Buckley held a prehearing conference attended by the following parties: PECO, the OCA, the Office of Small Business Advocate (OSBA), City of Philadelphia, Citizens for Pennsylvania's Future (PennFuture), the

---

[2] Due to Hurricane Sandy, the Commission issued a Secretarial Letter extending the Plan submission filing date to November 15, 2012 and the Commission Order date to March 15, 2012. PECO filed its Plan on November 1st and all other EDCs filed on November 15th. The Plans were published in the *Pennsylvania Bulletin* on December 1, 2012. 42 Pa.B. 7371.

Philadelphia Area Industrial Energy Users Group (PAIEUG), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Wal-Mart Stores East, L.P. and Sam's East, Inc. (collectively, Wal-Mart). At that conference, the Parties agreed to file a Joint Petition for a modification of the schedule provided in the Phase II Implementation Order while still maintaining the original ALJ certification and Commission Order dates. The Joint Petition was filed on December 5, 2012. On December 14, 2012, the Commission approved the Joint Petition and set the procedural schedule for the proceeding.

In accordance with the procedural schedule, the OCA submitted its Comments and the Direct Testimony of its witness Christina R. Mudd[3] on December 20, 2012. Direct testimony was also submitted by CAUSE-PA and the City of Philadelphia, and Comments were submitted by Comverge[4], the City of Philadelphia and PAIEUG. Rebuttal testimony was filed on January 4, 2013 by Frank J. Jiruska. Evidentiary hearings were held on January 9, 2013 at which time the OCA entered the testimony of Ms. Mudd into the record as OCA Statement No. 1 (including Attachment A). The OCA submits this Main Brief in accordance with the schedule established by the Commission.

The OCA generally supports the Company's Plan and commends PECO on the extensive collaborative process (discussed below) that it employed in arriving at its Plan. There

---

3 Ms. Mudd is a Senior Analyst with Exeter Associates, Inc. Ms. Mudd holds a Bachelor of Science degree from James Madison University and a Master of Arts degree in International Affairs from Johns Hopkins University. Ms. Mudd's areas of concentration for her Master's degree were economics and energy policy. Since 1998, Ms. Mudd has worked in positions either for private consulting firms or the State of Maryland in which her work has involved the areas of distributed energy, renewable energy, energy efficiency and environmental policy. With Exeter, Ms. Mudd focuses her work on electricity regulation, energy efficiency, renewable energy, and climate change. Under a contract with the National Association of Regulatory Utility Commissioners (NARUC), Ms. Mudd has served as the Executive Director for the National Council on Electricity Policy.

4 Comverge, Inc. filed a Petition to Intervene on December 19, 2012. The unopposed Petition was granted in ALJ Buckley's Fourth Prehearing Order on December 27, 2012. Comverge filed the testimony of Raymond G. Berkebile on January 9, 2012. Comverge's late-filed testimony was unopposed by the parties and admitted into the evidentiary record by ALJ Buckley on January 14, 2013.

are, however, aspects of the Plan which the OCA submits should be further examined and parts of the plan which need further clarification, modification or explanation. The OCA's position is detailed below.

III. DESCRIPTION OF PECO'S PLAN

On November 1, 2012, in compliance with the requirements of Act 129 and the Commission's Phase II Implementation Order, PECO filed its Petition and EE&C Plan with the Pennsylvania Public Utility Commission. The Phase II Plan is designed to reduce total energy consumption between June 1, 2013 and May 31, 2016 by 2.9% of PECO's sales for the June 1, 2009 through May 31, 2010 period. Petition at 4. To achieve this goal, the Company proposes a Plan consisting of thirteen energy efficiency programs, six of which are components of its Phase I Plan and seven of which are new programs. Petition at 8-10. Specifically, the Company has proposed the following seven programs specifically for its residential class: (1) PECO Smart Appliance Recycling Program, (2) PECO Smart Home Rebates, (3) PECO Smart House Call, (4) PECO Smart Builder Rebates, (5) PECO Low-Income Energy Efficiency Program (LEEP), (6) PECO Smart Energy Saver Program, and (7) PECO Smart Usage Profile. Id. An eighth program, the PECO Multi-Family Housing Solutions Program, is marketed to both residential and commercial classes with a shared budget.

PECO's portfolio of programs is designed to provide customer benefits while also meeting the energy saving goals set forth in the Act within the designated expenditure cap of two percent (2%) of 2006 annual revenues (approximately $85.5 million) for each year of the three year plan. PECO St. 1 at 5. The Plan has budgeted expenditures totaling $256.4 million which are broken down by class as follows: Residential- $131.1 million; Small Commercial and

Industrial (SC&I)- $53.4 million; Large Commercial and Industrial (LC&I)- $70.1 million; and Municipal Lighting (ML)- $1.8 million. See PECO St. 3 at 6-7, Exh. RAS-2.

PECO will recover its costs through an Energy Efficiency and Conservation Program Charge (EEPC) that will be imposed under Section 1307 and will be both reconcilable and non-bypassable. PECO St. 3 at 4-6. A separate recovery charge will be established for each customer class, corresponding to the costs of the programs that target that class, and will include the costs of the EE&C Plan, the Statewide Evaluator (SWE) costs, and the Gross Receipts Tax (GRT). PECO St. 3, Exh. RAS-3. Initially, the EEPC rates for each class are projected to be as follows:

Class	Projected Rate*
Residential	$0.00351/kWh
Commercial	$0.00245/kWh
Industrial	$0.78938/KW
Municipal Lighting	$0.00355/kWh

*Rate Information taken from PECO St. No. 3, Exh. RAS-3

Phase I costs will be tracked and reconciled separately from Phase II costs and revenues. PECO St. 3 at 4-5. Recovery charges will be levelized during the cost recovery period with the costs incurred and recovered reconciled on an annual basis and a true-up of actual Plan costs at the end of the recovery period. Id. at 5.

The OCA would note that in developing its Plan, PECO has held numerous meetings with stakeholders (all of which the OCA attended) regarding the winding down of Phase I and its proposals for Phase II. The OCA wishes to again commend PECO on its stakeholder process. The OCA has found the PECO stakeholder process to be well attended by a diverse group of stakeholders and collaborative in nature. In the OCA's view, the stakeholder process conducted by PECO has been robust, encourages a two-way dialogue and allows for a better informed process for both stakeholders and the Company. PECO's staff, in particular, showed a dedication to achieving a Plan that reflected its collaboration with the stakeholders. As was the case in Phase I, there will be much work to be done once a Phase II Plan is approved, and PECO's active stakeholder process will be a valuable tool to assist in the continued improvement of the Company's Phase II Plan.

IV. LEGAL STANDARDS

A number of standards are considered by the Commission in determining whether the EDC's EE&C Plan should be approved. 66 Pa.C.S. § 2806.1(a). Most of these standards deal with the evaluation and modification of the Plan and were previously implemented as part of Phase I. See 66 Pa.C.S. §§ 2806.1(a)(2) (monitoring and verifying data collection), 2806.1(a)(4) (evaluating how Plans will meet or achieve consumption reduction goals), 2806.1(a)(6) (amending and modifying Plans), 2806.1(a)(7). Other, more general standards, must also be achieved as part of each EDC's Plan. For example, Act 129 states that each Plan must include a variety of energy efficiency and conservation measures and that such measures must be provided equitably to all classes of customers. 66 Pa.C.S. § 2806.1(a)(5). Further, cost recovery must be structured in such a manner to ensure that approved measures are financed by the same customer class that will receive the direct benefits of those measures. Id. at § 2806.1(a)(11).

Act 129 also specifically requires each EDC to demonstrate, *inter alia*, that its Plan is both cost effective using the TRC test and provides a diverse cross section of alternatives for customers of all rate classes. See 66 Pa.C.S. § 2806.1(b)(1)(i)(I). In the Act, a TRC test is defined as:

> [A] standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures.

66 Pa.C.S. § 2806.1(m). The TRC will continue to be used to evaluate each EDC's Phase II Plan. Phase II Implementation Order at 78-83. The revised TRC test for the Phase II Plans was adopted by the Commission at its August 30, 2013 Public Meeting. 2012 PA Total Resource Cost (TRC) Test, Docket No. M-2012-2300653 (Order entered August 30, 2012).

Finally, as was discussed above, in its Phase II Implementation Order, the Commission directed that each Company's Plan be developed to include a series of specific carve-outs. The carve-outs are as follows: (1) 10% of overall consumption reductions must come from the Government/ Institutional/ Non-Profit sector; (2) a Plan's portfolio of measures must include a proportionate number of low-income measures, and (3) EDCs must obtain a minimum of 4.5% of their consumption reductions from the low-income sector. Id. at 45-57.

The OCA submits that, in addition to reviewing the Company's proposed Plan for its potential to achieve the 2.9% consumption reduction target, PECO's Plan must also be reviewed to ensure that it is designed to meet all of aforementioned goals and targets in a cost-effective manner.

V. SUMMARY OF ARGUMENT

The OCA generally supports the Company's Plan and commends PECO on the extensive collaborative process that it employed in arriving at its Plan. The OCA and its expert, Christina Mudd, have reviewed the filing and submit that many aspects of the Plan equal or exceed the requirements the Phase II Implementation Order. There are, however, aspects of the Plan which the OCA submits should be further examined—specifically the Smart Builder Rebates Program, the Smart House Call Program and the Multi-Family Housing Solutions Program. The following is a summary of the OCA's conclusions and recommendations:

Overall Plan Assessment and Compliance with the Requirements of Act 129 and the Phase II Implementation Order:

- The EE&C Plan is reasonably designed to meet or exceed the requirements for energy efficiency set forth in the Commission's Phase II Implementation Order in the time period specified for compliance and within the budget limitations specified in Act 129.

- The Plan is designed to provide a variety of programs to all customer classes and provides the measures equitably to all customer classes as specified in Section 2806.1(a)(1)(5).

- The EE&C Plan as a whole has a benefit/cost ratio of 1.4 based on the Total Resource Cost Test as set forth by the Commission making the Plan a cost-effective means of achieving the requirements of the Act and the Phase II Implementation Order.

- The Plan proposed by PECO should be generally approved, subject to certain modifications detailed below.

Program Design:

- The programs in the EE&C Plan, and the initial program design, are generally reasonable, but the Smart Home Rebates, Smart House Call and Multi-Family Solutions Programs should be subject to further review in the on-going stakeholder process.

- PECO's Smart Home Rebates Program should be delayed, as its incentive levels may not be sufficient to generate significant interest. Also, the Energy Star 3.0® standards upon which the program is based are lower than the building code standards pending in Legislation.

- The data collection and analysis portion of Smart House Call program should be expanded and better defined to maximize resources expended and to magnify the effect of the savings associated with the program.

- The residential component of PECO's Multi-Family Solutions Program should be refocused to target occupants of individually-metered multi-family properties who rent. The budget for the residential component should be reduced to reflect this refocusing as well as the overlap with other residential programs.

- PECO should work with stakeholders to address ways in which the Direct Load Control (DLC) program included in Phase I can be incorporated into its Phase II Plan.

These issues will be further discussed below.

VI. ARGUMENT

A. General Plan Assessment

PECO's Plan is largely complaint with a number of the standards found in Act 129 and the Commission's Phase II Implementation Order. For example, the Plan is designed to achieve the required consumption reduction goals. As OCA witness Mudd explained:

> PECO's electricity consumption forecast for the baseline period is 38,809,100 MWh, as provided in Table 3 on page 8 of the PECO EE&C Plan. A 2.9 percent reduction would amount to 1,125,851 MWh. The PECO EE&C Plan proposes programs that would achieve a savings of 1,184,422 MWh and includes energy reductions from Phase I that are in excess of the Company's Phase I target and are thus carried over into Phase II. This level of savings exceeds the Commission's target for the Company, achieving 105 percent of the target.

OCA St. 1 at 5-6.

Ms. Mudd also found that the Company's division of programs and costs among classes, as well as PECO's use of its statutorily-set budget, are reasonable. She stated:

> I find PECO's Plan to be a balanced portfolio offering programs with a variety of measures and energy saving strategies that will benefit residential customers. The participation levels outlined in the Phase II EE&C Plan are reasonable given the results of the Phase I program implementation and the findings of the Statewide Evaluator's (SWE) Market Potential Study. Furthermore, the energy savings assumptions provided for the individual measures are in line with those established in the most recent version of the Technical Reference Manual (TRM).

OCA St. 1 at 6-7 (footnote omitted). Further, based on her review of the proposed programs and considering the success of PECO's Phase I Programs (whereby PECO achieved its savings targets at far less cost than what was initially budgeted by the Company), Ms. Mudd stated that she anticipates that the Phase II programs will achieve the required energy reduction well within the budget cap. Id. at 7. She explained:

> PECO's EE&C Plan presents a budget of $256.4 million over three years. Of that budget 15 percent is characterized as common costs with 44 percent allocated to residential programs and 42 percent allocated to C&I programs. The energy reductions projected by PECO in its Plan total 1,093,417 MWh over three years

> with 41 percent of the reductions attributed to the residential customer class and 50 percent coming from C&I customers. The distribution of program efforts and corresponding allocation of costs strike a balance that fairly distributes both costs and benefits to the residential and C&I customers.

Id.

Therefore, the OCA submits that the Company's proposed EE&C Plan takes a balanced approach to achieving the energy efficiency targets established by Act 129 and the Phase II Implementation Order by sharing program costs across residential and C&I customers in reasonable proportion to the energy reduction benefits. As Company witness Jiruska testified, the large commercial and industrial class accounts for slightly over 40 percent of total kwh sales, while the small commercial and industrial class would account for slightly over 20 percent of total kwh sales. Tr. at 96-97. Residential customers account for the remainder of sales in PECO's service territory. Tr. at 97. As such, PECO's proposed budget distribution, with 44 percent being allocated to residential programs, bears a reasonable relationship to each class' share of system sales.

The Plan also consists of a comprehensive set of residential energy efficiency programs that meet the requirements established within the allotted budget. Accordingly, with the modifications described in Section B below, the OCA submits that the Company's Plan generally complies with Act 129 and the Phase II Implementation Order.

B. Program Design Issues

The OCA commends PECO on submitting a Plan that is designed to be largely compliant with the mandates of Act 129 and the Commission's Phase II Implementation Order. The OCA recognizes that the Company has included programs, such as the Smart Usage Profile Program, that are both innovative and compatible with the type of data provided through PECO's Smart Meter Programs. OCA St. 1 at 8. The OCA submits, however, that certain aspects of

PECO's Phase II Plan should be modified in accordance with the OCA's proposals, set forth below.

1. PECO Smart Builder Rebates Program

PECO Smart Builder Rebates Program is intended to accelerate the adoption of energy efficiency in the design and construction of new single-family homes. Pet. at 8. To achieve this goal, PECO proposes to educate architects, builders and buyers about the benefits of ENERGY STAR® Homes certification and to offer an incentive of $400 for achieving the certification. Plan at 47, 50. PECO would also pay a "performance bonus" for the first year of $0.10 per kWH of savings as verified for each home. Id. This program has a TRC of only 0.2, the lowest of any of the Company's proposed Phase II programs and comprises 2% of the Residential Budget. Plan at 52-53.

The OCA is concerned about the effectiveness of this program, as well as its very low TRC. In particular, the OCA is concerned with the implementation of the proposed program at a time when the building code standards used in Pennsylvania will be updated. The Company's "incentives" are designed such that mere compliance with construction building code requirements would result in incentive payments.

OCA witness Mudd explained the interaction between the anticipated updates in the building code and the Company's proposed new building program, as follows:

> The International Energy Conservation Code (IECC) is the building code used in Pennsylvania and most other states for establishing the minimum efficiency requirements of residential new home construction. Pennsylvania is currently enforcing the 2009 IECC. ENERGY STAR version 3.0 is designed to be 15 percent more efficient than the 2009 IECC. The IECC published a new code in 2012 including changes to improve the thermal envelope, HVAC systems and electrical systems of residential buildings. The Pennsylvania Uniform Construction Code (UCC) Review and Advisory Council (RAC) has begun the process to

> review the 2012 ICC Codes, including the 2012 IECC, for potential adoption. Pennsylvania would typically adopt the IECC code changes automatically, however legislation introduced in 2011 (Act of April 25, 2011, P.L. 1, No. 1 (H.B. 377), amending 35 P.S. §§ 7210.101 et seq.) changed this process and as a result the 2012 IECC has not yet been adopted. My primary concern is the inconsistency of ENERGY STAR version 3.0 and the IECC 2012. Given current standards, it is possible that the proposed program, based on ENERGY STAR version 3.0 could create an incentive for homes that fall short of the minimum building code requirements for energy efficiency established in the 2012 IECC. Code officials and utilities in Maryland, where the 2012 IECC code has been adopted, are already facing this problem.

OCA St. 1 at 11-12.

In Rebuttal Testimony, PECO witness Jiruska testified that, if a new building code is adopted during or before Phase II, the Company will adjust the program "as appropriate" to reflect the new energy consumption baselines. PECO St. 1-R at 7. The OCA submits, however, that moving forward with a program is not appropriate when it is known that substantial modifications will likely be needed in the near term.

In addition, the Company's proposed incentive level is too low to modify building plans to meet improved energy efficiency standards. By setting the incentive levels at approximately $600 to $800 per new home, the Company will mostly capture the 20 to 25 percent of new homes built in Pennsylvania that would meet these standards without incentives. OCA St. 1 at 11. OCA witness Mudd explained that neighboring jurisdictions provide more substantial incentives than those proposed by PECO, where she testified as follows:

> Baltimore Gas and Electric offers a rebate of between $1,000 and $1,600 per home depending on the Home Energy Rating (HERS) of each ENERGY STAR certified home. The New York's NYSERDA offers between $1,250 and $2,750 per home depending on location and level of efficiency. NYSERDA also offers incentives of $3,000 per prequalified model homes. New Jersey's ENERGY STAR Homes incentive program offers between $2,500 and $3,750 per home depending on the HERS rating. AEP Ohio

> offers an ENERGY STAR Homes Program with incentives of between $850 and $3,500 based on the HERS rating of each home.

OCA St. 1 at 10. OCA witness Mudd further explained why the Company's proposed low-incentive level can cause problems, as follows:

> The incentive levels provided through the PECO program are lower than those of most other programs with which I am familiar. Furthermore, PECO does not offer a range in incentives based on the HERS rating of each home. ENERGY STAR certified homes can be built with a wide range of efficiency ratings and changes to the incentive structure might help promote higher levels of savings than are likely to occur from a single incentive rate. The fundamental concern surrounding an incentive payment that is set at too low a level without corresponding HERs rating requirements is that it fails to transform the housing market and creates "free-riders" by rewarding primarily those builders that were already constructing ENERGY STAR homes

OCA St. 1 at 10-11. As OCA witness Mudd testified, if the incentive level is not sufficient, payments will only be made to "free riders" that are not altering their behavior based on the PECO incentives.

In Rebuttal testimony, PECO did not respond to the disparity between its proposed incentives and those of neighboring jurisdictions. The Company testified that it believed the Smart Builder Program was part of a "well-rounded portfolio" and stated that builders have expressed interest in a residential construction program. PECO St. 1-R at 7-8. While the OCA agrees that a new home program is an important component to a comprehensive energy efficiency portfolio, simply having a construction program to round-out the portfolio is not sufficient justification for moving forward with the program at this time given these design issues.

The OCA supports the implementation of a well designed new residential construction program. As OCA witness Mudd testified:

> The new home market is an important component to a comprehensive energy efficiency program for residential customers. However, I believe that the implementation of the PECO Smart Builder Program as described in the Phase II EE&C Plan would produce a program that is less meaningful in terms of its energy savings and market transformation impacts than is otherwise desirable. This is especially true given the low 0.2 TRC. I recommend that PECO postpone the implementation of the program until issues surrounding the adoption of the 2012 IECC are resolved. Furthermore, I recommend that PECO collaborate with stakeholders to re-design the program in a manner that better addresses and incentivizes the new home construction market.

OCA St. 1 at 12.

The OCA submits that the Company's proposed program should be delayed at this time. The Company should be directed to collaborate with the stakeholders on a more appropriate design and reinstitute the program at a later point in Phase II.

2. PECO Smart House Call Program

According to the Company, PECO's Smart House Call Program is aimed to help customers gain a better understanding of their home energy use and achieve savings while also improving the comfort of their home. Pet. at 8. While the program has several components, the program is based around two types of energy audits that will be provided at discounted rates. Plan at 37. The first is a Comprehensive Energy Audit utilizing diagnostic testing (such as blower door and combustion safety) used to identify and quantify energy efficiency opportunities. Plan at 38. This Audit is restricted to PECO residential electric heating customers and will be available at a customer cost of up to $250 (with low-cost measures such as CFLs or pipe insulation being installed at no additional charge). The second is an Energy Assessment consisting of a general walk through that is designed to identify common opportunities for energy efficiency improvements, especially through low-cost measures. Id. This Assessment will be available to all PECO residential electric customers regardless of their primary heating source at a cost of up to $100 (with low cost measures being installed at no additional cost). Id. This program makes up 14% of the Residential budget and has a TRC of 0.67. Plan at 45-46.

The OCA supports implementation of the Smart House Call program. In addition, the OCA submits that the data gathered from implementing the program could provide additional energy efficiency savings. As OCA witness Mudd explained, the Smart House Call program will allow service providers an opportunity to obtain information about the way energy is being used in specific areas and with regard to local housing conditions. Ms. Mudd testified how this information could be used, as follows:

> Data on energy consumption by end use, energy consumption characteristics of households, and building materials and applications used in houses of different ages and styles can be used to generate statistics on the relative energy intensity of the residential sector. Data made available through the Smart House Call program can be compiled, analyzed and used to develop housing profiles to more effectively target EE&C program resources. For example, Howard County Maryland conducted 1200 energy audits last year. The data collected from the audits provides a wealth of information for the County's residents and staff. The Howard County Office of Environmental Sustainability is using the aggregate data that it collects from the audits to create an online searchable database. Once the project is complete, residents will be able to go online and use the database to identify their home's efficiency relative to certain housing benchmarks and will also find best management practices for an energy efficient home. Similarly, gathering the aggregate data acquired through the energy assessment and audit process will enable PECO and its CSPs to better understand the inefficiencies of residential homes built at different times, using different designs and equipment. This information is of significant benefit and should be compiled and shared to better direct resources and maximize program budgets.

OCA St. 1 at 14.

In Rebuttal, PECO witness Jiruska testified that PECO generally agreed that such data collection would be appropriate. PECO St. 1-R at 8. Mr. Jiruska further testified that it would work with its CSP to determine what data it should collect and that PECO will use that information to support future energy efficiency opportunities. PECO St. 1-R at 8.

The OCA supports the Company's plan to collect data from the Smart House Call program. As OCA witness Mudd recommended, "PECO should add a data collection and analysis component to the program that would evaluate the housing stock in its service area and then use this information to target lower efficiency homes and neighborhoods." OCA St. 1 at 15. The OCA submits that the Company's plan should reflect these goals.

3. Multi-Family Housing Solutions Program

PECO's Multi-Family Housing Solutions Program is available to both residential and Commercial and Industrial (C&I) customers. Pet. at 9. The Program targets multi-family property owners as well as individual accounts in multi-family properties and focuses on replacing existing equipment and providing direct installation of low-cost measures such as CFLs, advanced power strips and low-flow showerheads and faucet aerators. Id. at 9-10. Although classified in PECO's EE&C Plan as a C&I program, the residential component actually comprises more than half ($5.022 million) of the program's $9.8 million budget. Plan at 113. This program makes up 4% of the Residential budget with a TRC of 1.1 for the residential portion of the program. Id. at 114.

Master-metered multi-family homes are considered to be part of the C&I class. Therefore, only those customers with individual meters can be properly accounted for under the Company's Residential budget. There are two types of individually metered residential customers—those who own their residences or apartments and those who are renters. Regardless of how units are metered, the vast majority of multifamily households (88 percent according the U.S. Department of Housing and Urban Development) are renters. OCA St. 1 at 16.

Where units are individually metered, the incentive to install energy efficiency measures can be split between the landlord and the tenant. While a tenant may want to reduce consumption and increase savings in the short term, that tenant may not plan on living in the unit long enough to recover the upfront costs necessary to install a measure. Similarly, while a landlord may want to make the unit more energy efficient to increase the desirability of the unit to the renting public, that landlord may not provide the upfront costs needed when they will not directly receive the benefit of reduced usage through bill reductions. See OCA St. 1 at 16.

OCA witness Mudd testified that the Company's Multi-Housing Program does not directly address the split incentive problem. OCA witness Mudd testified:

> The program focuses on building-owner interest and participation. In a rental property where tenants are individually metered and responsible for their own utility bills, the building owners are not likely to invest the time and money necessary to improve energy efficiency where they receive no direct benefit.

OCA St. 1 at 17.

In her Direct Testimony, OCA witness Mudd describes one example of a program that might effectively target multi-family rental properties called a "Neighborhood Blitz" direct installation program. According to Ms. Mudd, these types of programs have been successful in several states and allow program providers to target concentrated areas of multi-family housing efficiently. During a neighborhood blitz the targeted housing area receives low-cost direct installation measures for energy efficiency. See OCA St. 1 at 17.

Renters have fewer options under the Company's other residential energy efficiency programs. OCA St. 1 at 19. For that reason, the OCA recommends that the Company focus the residential portion of the Multi-Family Housing Solutions Program on rental properties. The Multi-Family Housing Solutions Program should be designed to provide renters with direct install measures with little or no upfront costs.

In addition to the split incentive issue, OCA witness Mudd identified concerns over the budget of the Multi-Family Housing Solutions Program. In particular, OCA witness Mudd reviewed the program and found that, despite a clear emphasis on master-metered properties that fall in the Commercial class. OCA witness Mudd testified that the Company's budget for the multi-metered component of the program was too high, as follows:

> I question the allocation of costs to the residential (51 percent) and C&I (49 percent) customer classes. PECO assumes that approximately 60 percent of the multi-family units are individually metered and 40 percent are master metered based on the split between residential and C&I customers in the PECO service territory. (Company Response to Interrogatory OCA-1-12) PECO does not have any data indicating that this is an appropriate assumption, and the way in which the program is described in the Phase II EE&C Plan leads me to believe that the majority of the program resources will be used to benefit the owners of master-metered multi-family buildings, which falls into the category of the C&I program. I find this to be the case based on the Implementation Strategy described for the Smart Multi-Family Solutions. The Implementation Strategy provided by PECO indicates that the CSP will be responsible for coordinating with building owners, working with trade allies and facility auditors, and making use of delivery channels that overlap with the broader C&I initiatives. (PECO Phase II EE&C Plan, page 100). Similarly the description of Roles and Activities provided on pages 101 and 102 of the EE&C Plan emphasize activities more closely related to multi-family housing building owner needs.

OCA St. 1 at 18.

In addition, the budget for multi-family housing for individually metered units does not account properly for those properties that are owner-occupied. Those owners in multi-family buildings with individual meters already have an incentive to install energy efficient measures and participate in PECO's full range of programs including the Smart Home Rebates

Program, the Smart Call Program, and the Low Income Energy Efficiency Program. OCA St. 1 at 19. PECO can market these programs to these unit owners, avoiding duplication and overlap across programs. OCA St. 1 at 19. To remedy this budget imbalance, OCA witness Mudd recommended as follows:

> I recommend that PECO adjust the Multi-Family Housing Solutions Program budget to reflect a smaller budget for the residential customer class. I believe this is appropriate given both the overlap in programs mentioned above and the emphasis placed on the C&I related program activities within the Phase II EE&C Plan description.

OCA St. 1 at 20.

The OCA submits that the residential portion of the program budget should be reduced to reflect the existing overlap found with other programs and a refocusing of the residential component on residential renters by delivering measures designed for direct installation, such as the neighborhood blitz program discussed above.

4. Low Income Program Requirements

Section 2806.1(b)(1)(i)(G) of Act 129 establishes a requirement for specific energy efficiency measures for low income households. Section 2806.1(b)(1)(i)(G) reads, in pertinent part:

> (G) The plan shall include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines. The number of measures shall be proportionate to those households' share of the total energy usage in the service territory.

66 Pa.C.S § 2806.1(b)(1)(i)(G). In its Phase II Implementation Order, the Commission required that EDCs' Phase II Plans, *inter alia*, contain a proportionate number of low income measures and that EDCs obtain a minimum of 4.5% of their consumption reductions from the low income sector. Phase II Implementation Order at 45-57. In response to this requirement, PECO

proposed a Low-Income Energy Efficiency Program (LEEP). Pet. at 8-9. Through LEEP, the Company will educate income-eligible customers on how to make their homes more energy efficient, and thereby reduce their energy bills. Id. According to PECO, LEEP builds upon the LIURP objective of making bills more affordable. Plan at 54-55. The program has four components: 1) in-home audits and education with direct installation of measures (at no cost to customers); 2) increased number of CFLs installed for LIURP; 3) distribution of CFLs at low-income community events; and 4) replacement of old, inefficient working refrigerators with new ENERGY STAR® units. Id. at 54-55. The LEEP program makes up 21% of the Residential Budget and has a TRC of 1.51. Id. at 59-60.

OCA witness Mudd raised concerns that the Company was counting customers between 150% and 200% of the Federal poverty income guidelines (FPIG) toward meeting its low-income energy reduction requirement. OCA St. 1 at 7-8. In Rebuttal testimony, PECO witness Jiruska testified that, while LEEP would assist customers up to 200% of FPIG, PECO would only count savings from those customers at or below 150% of FPIG toward meeting their low-income obligation. PECO St. 1-R at 3. PECO confirmed this position through a stipulation entered into with CAUSE-PA. PECO/CAUSE Exh. 1 at 3. Under that stipulation, PECO further agreed that it would separately track LEEP expenditures for customers at or below 150% of the FPIG. Id. Finally, PECO agreed to refer all customers at or below 150% of the FPIG who participate in any Phase II program to the Low Income Usage Reduction Program and/or LEEP program to determine eligibility for those programs. Id.

The stipulation provides clarity to the low-income carve-out requirements and provides for clear accounting of the programs costs. In addition, it helps ensure that low-income customers will be referred to programs that may provide them with benefits. The OCA supports the PECO/CAUSE stipulation.

5. Direct Load Control Program

On December 19, 2012, PECO filed the Supplemental Direct Testimony of its witness Frank J. Jiruska addressing the benefits and cost-effectiveness of the Company's mass market Direct Load Control (DLC) program. The OCA has consistently supported the continuation of the Company's cost-effective residential DLC program. This is in large part due to the fact that once the EDC installs the DLC switch on the customer's premises and a communication system to control that switch, those infrastructure costs are sunk whether the switch is used or not. The demand savings, on the other hand, can be achieved only when the switch is activated as part of a program. To put it another way, demand response programs, once implemented, should be sustained so that the continuing savings made possible by the initial investment in the programs can be realized.

The OCA agrees with PECO that its DLC program demonstrates significant benefits to its customers as it has a Total Resource Cost (TRC) of 2.38. See, PECO St. 1-S at 3. The OCA supports the Company's efforts to continue the DLC program during Phase II in a manner that does not require the Company to reduce its established energy efficiency targets. OCA St. 1 at 20-21. The OCA recommends that the Company work with its stakeholders to determine how the DLC program can be implemented within the framework and budget of PECO's Phase II Plan.

VII. CONCLUSION

The OCA submits that PECO's Plan is generally designed to meet the requirements of the Act and does so in a cost-effective and balanced manner. Additionally, the Plan as a whole passes the TRC test. While the OCA generally supports the Plan, it recommends the delay of the Smart Builder Rebates Program and modification of the Smart House Call and Multi-Family Solutions Programs. Accordingly, the OCA submits that, with the additions and modifications contained herein, PECO's Act 129 EE&C Phase II Plan should be approved.

Respectfully Submitted,

Aron J. Beatty

Jennedy S. Johnson
Assistant Consumer Advocate
PA Attorney I.D. # 203098
E-Mail: jjohnson@paoca.org

Aron J. Beatty
Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Date: January 15, 2012
164146.doc

CERTIFICATE OF SERVICE

Petition of PECO Energy Company	:	
For Approval of its Act 129 Phase II	:	Docket No. M-2012-2333992
Energy Efficiency and Conservation Plan	:	

I hereby certify that I have this day served a true copy of the foregoing, the Office of Consumer Advocate's Main Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 15th day of January 2013.

SERVICE BY E-MAIL and INTEROFFICE MAIL

Johnnie Simms, Esq.
Bureau of Investigation & Enforcement
Pa. Public Utility Commission
Commonwealth Keystone Building
400 North Street, P.O. Box 3265
Harrisburg, PA 17105-3265

SERVICE BY E-MAIL and FIRST CLASS MAIL

Anthony E. Gay, Esq.
Jack R. Garfinkle, Esq.
Exelon Business Services Co.
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699

Thomas P. Gadsden, Esq.
Catherine G. Vasudevan, Esq.
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921

Daniel G. Asmus, Esq.
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

Heather Langland, Esq.
PennFuture
200 First Street, Suite 200
Pittsburgh, PA 15222

Harry S. Geller, Esq.
Patrick Cicero, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414

Adeolu A. Bakare, Esq.
Charis Mincavage, Esq.
McNees Wallace & Nurick LLC
P.O. Box 1166
100 Pine Street
Harrisburg, PA 17108-1166

Scott J. Schwarz, Esq.
J. Barry Davis, Esq.
City of Philadelphia Law Dept.
1515 Arch Street, 16th Fl.
Philadelphia, PA 19102

Barry Naum, Esq.
Derrick Williamson, Esq.
Spilman, Thomas & Battle, PLLC
1100 Bent Creek Blvd., Ste. 101
Mechanicsburg, PA 17050

Jeffrey J. Norton, Esq.
Carl R. Shultz, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
P.O. Box 1248
Harrisburg, PA 17101

Jennedy S. Johnson
Assistant Consumer Advocate
PA Attorney I.D. # 203098
E-Mail: jjohnson@paoca.org
Aron J. Beatty
Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: abeatty@paoca.org
Counsel for
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152 162979