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January 15, 2013

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Bldg., 2nd Fl.
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 for electronic filing are Comverge, Inc.'s Brief in the above-referenced matter. Copies have been served in accordance with the attached Certificate of Service.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jeffrey J. Norton".

Jeffrey J. Norton

JJN/jls
Enclosure

cc: Hon. Dennis J. Buckley (w/enc)
Certificate of Service (w/enc)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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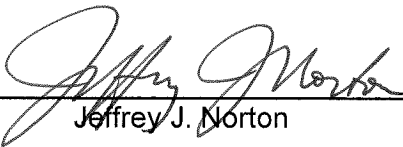
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Date: January 15, 2013

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY :
COMPANY'S FOR APPROVAL OF : Docket No. P-2012-2333992
ITS ACT 129 PHASE II ENERGY :
EFFICIENCY AND CONSERVATION :
PLAN :

MAIN BRIEF OF COMVERGE, INC.

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I. INTRODUCTION AND PROCEDURAL HISTORY

A. Introduction

Comverge, Inc. (“Comverge”) hereby files this Brief pursuant to the Pennsylvania Public Commission’s (“Commission”) Opinion and Order entered on December 14, 2012 and the Fourth Prehearing Order dated December 27, 2012.

Comverge generally supports PECO’s Phase II Energy Efficiency and Conservation Plan (“Phase II Plan”) and specifically promotes the greater use of and financial incentives for Combined Heat and Power (“CHP”) technologies in the Plan.

B. Procedural History

PECO petitioned the Commission for approval of its Phase II Plan on November 1, 2012. PECO’s Phase II Plan aims to reduce energy consumption in accordance with the requirements of Act 129¹ and the Commission’s *Phase II Implementation Order*. PECO’s Plan includes thirteen energy efficiency programs, categorized into residential programs and commercial/industrial programs.² Of the six programs targeted at the commercial/industrial sector, the Smart On-Site Program is designed to build interest in combined heat and power (“CHP”) by providing incentives to customers who install CHP technologies.³

¹ Act 129 of 2008, P.L. 1592, 66 Pa. C.S. § 2806.1 (“Act 129”).

² PECO St. No. 1 (Jiruska) at 10.

³ *Id.* at 16.

On December, 19, 2012, Comverge timely filed a Petition to Intervene in this proceeding and submitted Comments⁴ on December 21, 2012. Comverge's Petition to Intervene was granted by the Fourth Prehearing Order, dated December 27, 2012.

On January 9, 2013, the Honorable Dennis J. Buckley conducted an evidentiary hearing during which certain testimony and exhibits were marked for identification and admitted to the record. Comverge submitted direct testimony of Raymond G. Berkebile on January 11, 2013.⁵

C. Summary of Comverge's Position

Comverge is a leading provider of energy management products and services to various customers. Comverge is registered as a Conservation Service Provider ("CSP") on the Commission's Registry of CSPs,⁶ and has been active in providing complex energy management programs and related services to electric distribution companies ("EDCs") and to residential, small and large commercial, and industrial customers throughout Pennsylvania, including PECO's service territory.⁷

Comverge supports the objectives of Act 129 and generally supports the energy efficiency programs in PECO's Phase II Plan, including the use of financial incentives through Act 129 programs for CHP projects. CHP technologies generate electric and thermal energy from a single fuel source, e.g., natural gas. Customers with steady base load electricity usage

⁴ The Commission authorized the filing of comments and recommendations to PECO's Phase II Plan. *See* 42 Pa.B. 7371 (December 1, 2012). Comverge's Comments are part of the public record of this proceeding.

⁵ Comverge St. No. 1 (Berkebile).

⁶ Comverge is registered as a CSP on the PUC's Registry of CSPs. *See Petition of Comverge, Inc.*, Docket No. A-2009-2113604, Secretarial Letter dated Nov. 3, 2011 (approving application to re-register as a CSP).

⁷ Comverge St. No. 1 (Berkebile) at 1-2; Comverge Comments at 1-2.

coupled with steady thermal demand can realize significant efficiencies and savings by incorporating CHP.⁸ CHP technologies are prudent and cost-effective, capture significant benefits and avoid waste, and should be continued, and expanded, in Phase II. The continuation and expansion of these programs in Phase II will require the allocation of a portion of PECO's available Act 129 resources. Accordingly, Comverge recommends that the Commission adopt PECO's proposals, which seek (a) to continue the Phase I programs as CHP programs in Phase II and (b) to allocate a portion of PECO's available Act 129 resources for those programs.

II. LEGAL STANDARDS

A. Burden Of Proof

Section 332 (a) of the Public Utility Code ("Code") provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding.⁹ It is axiomatic that "[a] litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible."¹⁰ A preponderance of the evidence means evidence which is more convincing, by even the smallest amount, than that presented by the other party.¹¹ Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence.¹² More information is required than a mere trace of evidence or a suspicion of the

⁸ PECO Phase II Plan at 147; Comverge St. No. 1 (Berkebile) at 4; Comverge Comments at 5-6.

⁹ 66 Pa. C.S. § 332(a).

¹⁰ *Samuel J. Lansberry, Inc. v. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

¹¹ *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

¹² *Mill v. PUC*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transportation Corp. v. PUC*, 623 A.2d 6 (Pa. Cmwlth. 1993).

existence of a fact sought to be established.¹³ Accordingly, PECO has the ultimate burden of proof in the proceeding and the initial burden of going forward with evidence showing that its proposals are lawful and reasonable.

III. ARGUMENT

Comverge supports PECO's position to allocate Act 129 funds sufficient to continue CHP programs that provide stable, reliable, cost-effective, and efficient energy with significant benefits, while avoiding waste. The allocation of adequate funds for CHP programs in PECO's service territory enhances the success of the Act 129 program.

A. PECO's Energy Efficiency Programs

PECO's Phase I Plan included CHP projects under the Smart Equipment Incentives program, which provided funds to CHP projects. In PECO's Phase II Plan, CHP projects are highlighted in one of PECO's new programs, the PECO Smart On-Site Program.

B. PECO's Smart On-Site Program with CHP

PECO's Smart On-Site Program sets forth the Company's interest in developing CHP technologies in its service territory.¹⁴ The Company's focus for the Program is customers installing any type of CHP technology that helps offset facility demand.¹⁵ PECO's target

¹³ *Norfolk and Western Ry. v. PUC*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Commonwealth, Dep't. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

¹⁴ See PECO Phase II Plan at 147-154; see also PECO St. No. 1 (Jiruska) at 16; PECO St. No. 2 (Galvin) at 12. The Program cost by rate Class is set forth in Exhibit RAS-2.

¹⁵ PECO Phase II Plan at 147.

customer market includes all existing commercial and industrial accounts, including government, public, and non-profit facilities.¹⁶

PECO's Smart On-Site Program will be rolled out to the public during Plan Year 2013 and will operate through Plan Year 2015. PECO's Phase II Plan sets forth the following objectives for the Program:

1. Increase consumers' awareness and understanding of CHP technologies and opportunities in their facilities.
2. Assist customers interested in acting on opportunities to install various types of CHP systems.
3. Overcome financial barriers to allow customers to integrate CHP technologies into their facilities energy systems.
4. Make a significant contribution to attainment of PECO's energy savings goals.
5. Demonstrate PECO's commitment to and confidence in innovative energy savings technologies.
6. Strengthen customer trust in PECO as their partner in saving energy.¹⁷

PECO's Smart On-Site Program will be designed to ensure participating customers install economic CHP projects that maximize operational savings and minimize operational and maintenance costs.¹⁸ The Program offers incentives to customers who install CHP technologies to reduce facility energy use.¹⁹ The Program incentives are paid on a declining tiered incentive

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

rate by installed capacity with a bonus performance payment.²⁰ The performance payment is paid on a fixed per kWh basis based on actual energy savings after a one-year monitoring period.²¹

PECO's Phase II Plan also sets forth measures that demonstrate the Program's proposed per-unit gross annual deemed savings, costs, and potential incentives.²² The Program will record energy savings and peak load reductions from the incentive applications processed.²³ PECO projects that the Program will produce 135,002 MWh in energy savings over the course of the Plan.²⁴ The budget for the program is approximately \$14.9 million.²⁵

PECO's Smart On-Site Program further points out that several sources of technical and financial assistance are available to commercial and industrial energy users to enable energy efficiency improvements.²⁶ PECO highlights specifically the United States Clean Heat and Power Association as an applicable collaborative resource to entities that utilize CHP and who work to develop sound clean energy policy and market place solutions.²⁷

²⁰ *Id.* at 147, 150.

²¹ *Id.* at 147, 150-51.

²² *Id.* at 152-53.

²³ *Id.*

²⁴ PECO St. No. 1 (Jiruska) at 16.

²⁵ *Id.*

²⁶ PECO Phase II Plan at 149.

²⁷ *Id.*

C. Comverge's Support of PECO's On-Site CHP Program

Comverge specifically promotes the development of behind-the-meter cogeneration with CHP technologies as a supported energy efficiency and conservation measure.²⁸ Comverge's unique offering of a CHP cogeneration operation strategy can assist PECO in meeting its Act 129 goals. Comverge can help PECO and the regulators integrate the three programs of load management, energy efficiency, and distributed generation into a cohesive model for customers.²⁹ Comverge can elucidate a business strategy through energy and load optimization to fill this void. Comverge is working to actively pursue cogeneration as it is truly a distributed generation solution and an energy efficiency solution.³⁰ In addition, Comverge provides the following points and suggestions to support the development of CHP technologies in the PECO service territory:

1. CHP systems have a higher degree of certainty in the hours of operation, energy costs and savings over their lifetime. For example, the CHP hours of operation can be continuous, thereby allowing the estimated costs to be easier to define and manage. Other referenced custom measures can be more impacted by weather, occupancy levels, project load and non-energy benefits. With CHP, any upfront capital investment can be recouped quicker with the savings from the generation of on-site electricity.
2. Although CHP technologies can utilize a variety of fuels, most CHP systems utilize natural gas. With the availability and abundance of low-cost natural gas throughout the Marcellus Shale and Utica Shale regions, the implementation of distributed generation with gas makes financial, economic and environmental sense. It is simply prudent.
3. CHP distributed on-site generation of electricity reduces transmission and distribution losses, reduced grid congestion,

²⁸ Comverge St. No. 1 (Berkebile) at 2; Comverge Comments at 2.

²⁹ Comverge St. No. 1 (Berkebile) at 5-6; Comverge Comments at 7.

³⁰ Comverge St. No. 1 (Berkebile) at 6; Comverge Comments at 7.

improves reliability, reduces base-load (presumably coal-fired) generation requirements, reduces capacity requirements and provides enhanced national security by becoming less dependent on foreign oil. Since CHP is more efficient, less fuel is required to produce a given energy output than with separate heat and power. Higher efficiency translates into: lower operating costs, reduced emissions of all pollutants, increased reliability and power quality, reduced grid congestion and avoided distribution losses.

4. To mitigate the risks of variable energy costs associated with the implementation of CHP, the contractual parties can enter into long-term power purchase agreements to lock in the costs.
5. To fully consider the societal impacts and benefits of reducing the carbon footprint, CHP should be implemented to help minimize externalities including NO_x (nitrous oxide), SO_x (sulfur oxides) and or VOC (volatile organic compounds) emissions.
6. The other non-energy benefits of implementing CHP include comfort, health and safety, aesthetics, financial savings, water savings, sustainable job creation and economic development.³¹

Comverge believes that CHP should have an important role in PECO's Phase II Plan, and supports PECO's Smart On-Site Program and its design for CHP. The targets set for PECO will impact PECO's energy efficiency and conservation program, which in turn will have a material effect on the use of co-generation CHP energy efficiency and conservation programs in the PECO service territory and other energy management programs in the Commonwealth.

Comverge is not the only party promoting the use of CHP in this matter. The City of Philadelphia is very interested in the potential efficiency of CHP for large City-owned facilities because of the lower operating cost and lower emissions with CHP projects.³² For example, the City's Philadelphia International Airport is currently evaluating two proposals for two CHP units

³¹ Comverge St. No. 1 (Berkebile) at 6-8; Comverge Comments at 3-4.

³² Philadelphia St. 1 (Kohl) at 7.

as part of a Guaranteed Energy Savings proposal.³³ The Philadelphia Water Department began substantial steps to creating a CHP facility in 2011.³⁴ The anticipation of Act 129 funds was prominent in the fiscal viability analysis of this project.³⁵ The low cost, lower emissions and availability of natural gas make gas-fired combined heat and power an important option for addressing City energy needs. Gas-fired CHP projects also are consistent with the Commonwealth's goal of utilizing the increasingly available in-state natural gas resources in efficient energy projects.³⁶ The Commonwealth has vast amounts of available low-cost natural gas, so encouraging new gas-powered CHP projects makes economic sense and is good public policy.³⁷

Comverge believes that the Commission should continue such efforts and program elements without delay. The development of CHP technologies is in the public interest since the CHP technologies and opportunities will make a significant contribution to attainment of PECO's energy savings goals under Act 129 by providing innovative ways to be energy efficient and conserve energy.³⁸

³³ *Id.* at 8.

³⁴ *Id.* at 4.

³⁵ *Id.* at 6.

³⁶ *Id.* at 7.

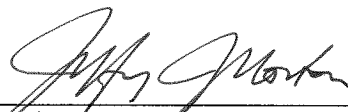
³⁷ Comverge St. 1 (Berkebile) at 7-9; Comverge Comments at 3-4.

³⁸ Comverge St. 1 (Berkebile) at 8-9; Comverge Comments at 3-4, 6-7.

IV. CONCLUSION

Comverge respectfully requests that the Administrative Law Judge issue a Recommended Decision consistent with Comverge's (and PECO's) positions and recommendations in this proceeding to provide greater use of and more financial incentives for Combined Heat and Power (CHP) projects.

Respectfully submitted,



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