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January 15, 2013

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

VIA ELECTRONIC FILING

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:

Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the Main Brief of the Philadelphia Area Industrial Energy Users Group ("PAIEUG") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document.

Sincerely,

McNEES WALLACE & NURICK LLC

By
Charis Mincavage

Counsel to the Philadelphia Area Industrial Energy Users Group

c: Administrative Law Judge Dennis J. Buckley (via First Class Mail and E-Mail)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant.)

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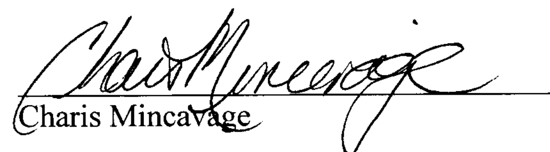

Charis Mincavage

Counsel to the Philadelphia Area Industrial Energy Users Group

Dated this 15th day of January, 2013, in Harrisburg, Pennsylvania.

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 PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP

Air Liquide Industrial U.S. LP
Boeing Company, The
Drexel University
Franklin Mills Associates Limited Partnership
GlaxoSmithKline
Jefferson Health System
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Merck & Co., Inc.
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I. INTRODUCTION

A. Procedural History

On October 15, 2008, Governor Rendell signed into law House Bill 2200, or Act 129 of 2008 ("Act 129" or "Act"). Among other effects, Act 129 expanded the Pennsylvania Public Utility Commission's ("PUC" or "Commission") oversight responsibilities and set forth new requirements for electric distribution companies ("EDCs")[1] with respect to energy conservation, default service procurements, and the expansion of alternative energy sources.

Specifically, with regard to energy efficiency and conservation ("EE&C"), Act 129 required EDCs to adopt a plan, approved by the Commission, to reduce electric consumption by at least 1% by May 1, 2011, and by at least 3% by May 31, 2013, adjusted for weather and extraordinary loads. 66 Pa. C.S. § 2806.1(c). In addition, by May 31, 2013, peak demand was to be reduced by a minimum of 4.5% of the EDC's annual system peak in the 100 hours of highest demand measured against the EDC's peak demand during the period of June 1, 2007, through May 31, 2008. See id. § 2806.1(d). By November 30, 2013, the Commission was required to evaluate the cost-effectiveness of the aforementioned EE&C programs. See id. § 2806.1(c)(3). If the benefits of the programs exceeded the costs, then the Commission would impose additional reductions on the eligible EDCs. See id.

Consistent with the Act's requirements, all Pennsylvania EDCs, including PECO Energy Company ("PECO" or "Company"), filed with the Commission proposed EE&C plans ("Phase I EE&C Plans"). PECO's Phase I EE&C Plan was adopted on October 28, 2009, with

[1] As articulated in the Act, only EDCs with at least 100,000 customers are required to submit energy efficiency and conservation programs. See 66 Pa. C.S. § 2806.1, et seq.

modifications and further revisions occurring in subsequent Orders.[2] PECO's Phase I EE&C Plan remains in effect through May 31, 2013.

On August 2, 2012, the Commission issued an Implementation Order establishing the procedural and substantive requirements for Phase II of all EDCs' EE&C programs. Energy Efficiency and Conservation Program; Docket Nos. M-2012-2289411, et al., Order (Aug. 2, 2012) (hereinafter, "Implementation Order"). Importantly, the Commission held that energy efficiency programs should be continued during Phase II based on the Statewide Evaluator's ("SWE") Market Potential Study, which indicated that energy efficiency programs were cost-effective for consumers during Phase I. Implementation Order, p. 12. Mandatory demand reduction programs, however, were not to be included in Phase II Plans, because the cost-effectiveness of Phase I demand reduction programs could not be evaluated before Phase II implementation. Implementation Order, p. 40. In addition, the Commission stressed the importance of developing balanced Phase II EE&C Plans (i.e., plans that do not disproportionately impact specific customer classes). Implementation Order, p. 87. Finally, the Commission outlined the following procedural process in its Implementation Order:

> The Commission will publish a notice of each proposed plan in the *Pennsylvania Bulletin* within 20 days of its filing. In addition, the Commission will post each proposed plan on its website. An answer along with comments and recommendations are to be filed within 20 days of the publication of the notice in the *Pennsylvania Bulletin*. Each plan will be referred to an Administrative Law Judge (ALJ), who will establish a discovery schedule and hold a public input hearing(s) in the EDC's service territory upon request of any party, as well as an evidentiary hearing(s) on issues related

[2] See, e.g., Petition of PECO Energy Company for Approval of its Act 129 Energy Efficiency and Conservation Plan and Expedited Approval of its Compact Fluorescent Lamp Program; Docket No. M-2009-2093215, Order (Oct. 28, 2009); Petition of PECO Energy Company for Approval of its Act 129 Energy Efficiency and Conservation Plan and Expedited Approval of its Compact Fluorescent Lamp Program; Docket No. M-2009-2093215, Order (Feb. 17, 2010); Petition of PECO Energy Company for Approval of its Act 129 Energy Efficiency and Conservation Plan and Expedited Approval of its Compact Fluorescent Lamp Program; Docket No. M-2009-2093215, Order (Jan. 27, 2011).

> to the EE&C plan. Such hearings are to be completed on or before the 65th day after a plan is filed, after which, the parties will have 10 days to file briefs. The EDC will then have 10 days to submit a revised plan or reply comments or both. The ALJ will then certify the record to the Commission.

Id. at 62.

On November 1, 2012, PECO filed with the PUC a Petition for Approval of the Company's Act 129 Phase II Energy Efficiency and Conservation Plan ("Phase II EE&C Plan"). Petition of PECO Energy Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan; Docket No. M-2012-2333992 (hereinafter, "Petition"). On November 21, 2012, the Philadelphia Area Industrial Energy Users Group ("PAIEUG") filed a Petition to Intervene and Answer to the Company's Petition.[3] A Prehearing Conference was held on November 30, 2012, before Administrative Law Judge ("ALJ") Dennis J. Buckley.

PAIEUG received the Company's Direct Testimony on November 1, 2012. Supplemental Direct Testimony was received on December 19, 2012. Pursuant to the modified procedural schedule, on December 21, 2012, PAIEUG received Direct Testimony from the following parties: the Office of Consumer Advocate ("OCA"); the Coalition for Affordable Utility Services & Energy Efficiency in PA ("CAUSE-PA"); and the City of Philadelphia. On January 4, 2013, PAIEUG received Rebuttal Testimony from the Company.

An evidentiary hearing was held in this proceeding on January 9, 2013, for the purposes of presenting testimony and performing cross-examination. During this hearing, the parties confirmed the process for submitting Briefs. Pursuant to the modified procedural schedule, PAIEUG submits this Main Brief.

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[3] PAIEUG's compilation is listed on the cover page of this Main Brief.

B. Overview of PECO's Phase II EE&C Plan

For purposes of Phase I, PECO was required to reduce electric consumption by at least 3% by May 31, 2013, while peak demand was to be reduced by a minimum of 4.5%. In order to achieve these goals, PECO initially sought approval of a Plan that would cost approximately $331 million; however, as Phase I comes to a close, PECO has indicated that it expects the total costs of this Plan to be approximately $219 million. See PAIEUG Cross-Examination Exhibit No. 2 (hereinafter "PAIEUG Ex. 2").

Unlike Phase I, Phase II does not require PECO to achieve any demand reduction goals, and the Company's electric consumption goal has been reduced slightly to 2.9%. See Implementation Order, p. 24. To that end, PECO proposes to fulfill the requirements of Act 129 through the implementation of 13 energy efficiency programs for the Company's Residential, Small Commercial and Industrial ("C&I"), and Large C&I customer classes, plus additional programs specifically targeting Governmental/Non-Profit/Institutional ("GINP") entities.[4] See Petition, p. 2. Even though PECO's goals for Phase II are modified in comparison to Phase I, PECO's proposed overall cost to customers (while lower than the original Phase I proposal) is higher than the Company's actual costs for Phase I, with Phase II's costs projected at $259 million. See PAIEUG Cross-Examination Exhibit No. 1 (hereinafter, "PAIEUG Ex. 1"). Specifically, PECO's Phase II EE&C Plan requests an additional $40 million over the total costs to implement the Company's Phase I Plan. See id.; see also PAIEUG Ex. 2.

For ease of comparison, Table I, set forth below, provides a summary of PECO's proposed Phase I costs; actual Phase I costs; proposed Phase II costs; and a breakdown of these costs by customer class.

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[4] Large C&I customers are defined by PECO as those customers served through Rate Schedules PD, HT, and EP. PECO Phase II EE&C Plan, Exhibit RAS-2.

Table I: PECO EE&C Plans – Total Cost Allocation by Customer Class

	Residential	Commercial	Industrial	Municipal Lighting	TOTAL
Phase I: PUC-Proposed Costs	$150,521,321 (45.4%)	$76,065,371 (23.0%)	$99,699,739 (30.1%)	$4,950,403 (1.5%)	$331,236,833
Phase I: Actual Costs	$121,854,918 (56.3%)	$36,854,455 (17.0%)	$55,656,851 (25.7%)	$4,747,763 (2.2%)	$219,113,987
Phase II: Projected Costs	$132,508,008 (51.2%)	$53,915,275 (20.8%)	$70,804,627 (27.3%)	$1,818,354 (0.7%)	$259,046,264

See PAIEUG Ex. 1; PAIEUG Ex. 2; PAIEUG Cross-Examination Exhibit No. 3 (hereinafter, "PAIEUG Ex. 3"). As indicated in Table I, PECO is proposing to allocate approximately $71 million to Large C&I customers in its Phase II EE&C Plan, which is a $15.5 million increase over the costs that will be collected from these customers by the end of Phase I.[5]

C. Summary of Argument

PAIEUG is an ad hoc group of energy-intensive customers receiving electric service from PECO under Rates HT and PD. PAIEUG members consume substantial amounts of electricity in their manufacturing and operational processes, and these electric costs are a significant element of their respective costs of operation. Any modification to PECO's electric rates, including any changes to PECO's EE&C charge, can impact PAIEUG members' cost of operations. For these reasons, PAIEUG was an active participant in PECO's Phase I EE&C proceeding, and PAIEUG has taken an active role in PECO's Phase II EE&C proceeding. To that end, PAIEUG submits this Main Brief to address several overarching issues of concern that the Commission should consider when reviewing PECO's Phase II EE&C Plan.

[5] Because PECO's actual Phase I costs will be lower than those originally proposed by the Company, PECO will reconcile the overcollection Phase I at the onset of Phase II. As a result, Large C&I customers will receive a credit on their bills of approximately (2.09077$/kW). Because PECO is proposing to "net" this credit with the Phase II EE&C charge, the resulting EE&C charge on customers' bills during the reconciliation period (i.e., from June 1, 2013 to December 31, 2013) will be lower than the actual Phase II charge.

First, the Commission must ensure that PECO's proposed Phase II EE&C Plan costs are reasonably prudent and appropriately allocated to the individual customer classes directly benefitting from the proposed energy efficiency measures. Fundamentally, individual customer classes should neither receive a disproportionate share of EE&C Plan benefits nor bear a disproportionate burden of the costs in relation to the overall Plan. To achieve this objective, the Commission should review the Company's Phase II EE&C Plan to ensure that PECO's proposed costs are reasonable and prudent, as well as to determine whether these costs reflect an appropriate parity between the overall revenues received by PECO from a customer class and the Phase II EE&C Plan budget allocated to the same customer class. See Section II(A), infra.

Second, the Commission should consider whether PECO's ratio of incentive to non-incentive costs results in the appropriate amount of benefits from energy conservation measures flowing directly back to customers or whether the dollars from these programs are actually providing greater benefit to third-party providers. As set forth, the non-incentive costs in PECO's Phase II EE&C Plan are greater than the incentive costs. Because the purpose of Act 129 is to ensure that customers receive the maximum benefits from these energy and conservation programs, the Commission should consider whether additional modifications are required to PECO's Plan to increase the overall dollars flowing to incentive costs. See Section II(B), infra.

Third, PECO is requesting approval to utilize Phase II funds for delayed customer applications and waitlisted projects from Phase I. While PAIEUG does not oppose PECO's initial request, it is imperative that the transition between Phase I and Phase II remain as seamless as possible, while also ensuring customer equality in terms of obtaining any such funding. To that end, the Commission should require PECO to engage in timely notification and

direct communication with customers to ensure a smooth transition from Phase I to Phase II of the EE&C Plan. Specifically, PECO should begin the notification process as soon as possible to ensure those customers who may be unaware of funding opportunities have the opportunity to take advantage of the Phase II EE&C Plan programs at the outset of Phase II. See Section II(C), infra.

Finally, although the OCA suggests modification to PECO's proposal to allocate the costs of the Smart Multi-Family Solutions Program on a 49%/51% split between Commercial/Industrial and Residential customers, further review indicates such modification is unnecessary. As noted by PECO, the Company is planning to target both Commercial/Industrial and Residential customers, and customers will only be responsible for costs actually incurred. As such, PECO's proposed split should be approved.

II. ARGUMENT

A. PECO's Phase II EE&C Costs Should Be Reasonably Prudent and Appropriately Allocated To Each Customer Class.

1. PECO's Phase II Plan Costs Must Be Reasonable, Prudent, and Directly Related to Development and Implementation of the Plan.

PECO's proposed Phase II EE&C Plan allocates approximately $71 million to Large C&I customers, representing a $15.5 million increase over PECO's expected collection from this class during Phase I. Considering that in Phase II, PECO's electric consumption goal has been slightly reduced and the demand reduction goal has been eliminated, the question remains as to whether PECO has provided sufficient evidence to justify such a substantial increase. Specifically, the Commission must consider whether PECO's proposed cost allocation to Large C&I customers is reasonable, prudent, and directly related to the design and implementation of EE&C programs for these customers. If the allocation is not reasonably prudent in light of the evidence presented, then the PUC must require appropriate modifications by PECO.

Act 129 allows EDCs to recover all prudent and reasonable costs incurred in the provision and management of EE&C Plans, subject to a cap of 2% of each EDC's total annual revenue. 66 Pa. C.S. § 2806.1(g). All costs submitted for recovery under Phase II EE&C Plans, however, are "subject to review by the Commission to determine whether the costs are prudent and reasonable, and are directly related to the development and implementation of the plan." Implementation Order, p. 103. In this instance, the Commission must review PECO's Phase II Plan to determine whether PECO has provided adequate evidence to meet this standard.

As noted previously, for purposes of Phase I, PECO had to reduce its electricity consumption by 3% as well as reduce its peak demand by 4.5%. Petition, p. 3. Although PECO originally proposed to allocate over $99 million to the Large C&I customer class for purposes of Phase I, PECO has been able to achieve these goals at significantly lower costs, with the Company predicting actual Phase I costs for the Large C&I class of $55.6 million. See PAIEUG Ex. 2. Conversely, for purposes of Phase II, PECO must reduce its electricity consumption by 2.9% without any corresponding peak demand reduction. Unfortunately, rather than lowering the costs for Large C&I customers commensurate with the aforementioned reduction in percentage and removal of the demand response element, PECO is proposing to increase the cost allocation to the Large C&I class to $71 million. See PAIEUG Ex. 1. Unfortunately, PECO's reasoning for requiring such an increase fails to be fully substantiated.

For example, PECO's Phase II EE&C Plan does not contain a demand response component as required under Phase I, thereby suggesting that Phase II costs should not be as high. Moreover, although PECO cannot point to the exact amount of dollars that were allocated in Phase I to Large C&I demand response programs (in comparison to energy efficiency programs), a large majority of the demand response programs utilized by PECO in Phase I were

directed towards the Large C&I customer class. See Transcript of January 9, 2013, Evidentiary Hearing (hereinafter "Tr.") at 68.

Moreover, while PECO claims that the increased budget for Phase II stems from higher acquisition costs, PECO is unable to pinpoint the dollar amount by which acquisition costs have increased between the Plans. See id. at 83. Moreover, the acquisition costs originally determined by PECO in Phase I were obviously overestimated in light of the fact that PECO's final Phase I costs are going to be significantly lower than the costs originally approved.[6] See PAIEUG Ex. 2. Accordingly, while the ability to accurately project acquisition costs may not be possible with 100% accuracy, the costs must still be reasonable and prudent. If acquisition costs are inflated, customers must bear the burden of paying higher upfront costs and receiving reconciliation credits at a later date. As such, the Commission must ensure that reasonable projections are provided by EDCs, including PECO, to enable customers, especially Large C&I customers, to accurately budget for these costs over the Phase II period.

Finally, for Phase II, PECO has proposed effectively the same programs as those offered in Phase I with one exception.[7] See Tr. at 99. Because Phase I remains on-going, a final Total Resource Cost ("TRC") test has not yet been performed with respect to each of these programs. To that end, PAIEUG reserves the right to address and comment on the effectiveness and appropriateness of these programs upon receipt of the final TRC. Just as importantly, however, is whether additional dollars should be placed into programs for which the final cost/benefit analysis has not yet occurred. In other words, PECO is currently proposing an increase in budget

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[6] PECO originally proposed a total Phase I budget of $331 million, but the Company is actually going to recover $219 million, which is the reason for the reconciliation credit that will be provided to customers. See PAIEUG Ex. 2.

[7] The only new Large C&I program contained in the Phase II EE&C Program is the Smart Multi-Family Solutions program. See Tr. at 99.

for these programs in Phase II, even though a final review of the value of these programs has not yet been completed for Phase I. As such, if a final determination is made that some or all of these programs do not provide adequate value in light of costs being allocated, then the Commission must retain the ability to require PECO to modify its proposed cost allocation.

In reviewing PECO's Phase II plan, Act 129 requires the PUC to consider whether the costs allocated therein are prudent and reasonable. In this instance, PECO is proposing a greater allocation of costs for the Large C&I class in Phase II, even though Phase II lacks a demand response component, uncertainty exists as to whether the acquisition costs have been accurately projected, and a final TRC analysis for each of the Large C&I programs has not yet occurred. As such, the question of whether PECO has fully met the aforementioned requirements of Act 129 as they apply to the allocation of costs to Large C&I customers remains outstanding.

2. Pursuant To The Requirements of Act 129, PECO's Phase II EE&C Measures, and Resulting Costs, Must Be Provided Equitably To All Customer Classes.

In reviewing PECO's Phase II Plan, Act 129's requirement that measures be provided equitably to all customer classes must be taken into careful consideration. One of the means by which to ensure this bar is met is to compare a customer class' revenue contribution with the proposed allocation of EE&C costs to this class. In this instance, PECO's proposed Phase II EE&C Plan allocates a significantly greater percentage of Plan costs to Large C&I customers in comparison to the Large C&I class' contribution to PECO's overall revenue. Accordingly, in order to ensure Act 129's requirements are met, shifting a portion of EE&C costs away from the Large C&I customer class would be appropriate so that the cost allocation is better aligned with the resulting revenue contribution.

Act 129 requires the Commission to establish "[s]tandards to ensure that each plan includes a variety of energy efficiency and conservation measures and will provide the measures

equitably to all classes of customers." 66 Pa. C.S. § 2806.1(a)(5). In the Implementation Order, the Commission made clear that all Phase II EE&C Plans must specifically tie costs to the benefited class to "ensure that offerings are not skewed toward or away from any particular class." Implementation Order, p. 87. In other words, it is important that classes neither receive a disproportionate share of EE&C Plan benefits nor bear a disproportionate burden of the costs in relation to the overall plan.

In determining whether this objective has been achieved, comparing the parity between the overall revenues received by an EDC from a customer class and the Phase II EE&C Plan budget allocated to the same customer class provides a useful metric. Unfortunately, PECO's Phase II EE&C Plan proposes to allocate significantly more costs to the Large C&I customer class than is justified by this class' contribution towards PECO's annual revenue. In 2011, Large C&I customers generated only 11% of PECO's revenue; however, in its Phase II EE&C Plan, PECO proposes to allocate approximately 27% of its Phase II costs to the Large C&I customer class. See Tr. at 69-70. This proposed cost allocation results in Large C&I customers being responsible for 16% more costs under the Phase II Plan than their percentage of annual revenue. See id. at 70.

In comparison, the Residential class is allocated 51% of the Phase II EE&C Plan costs, while contributing 68% of PECO's 2011 revenue. See id. Residential customers, therefore, are assigned 17% less of costs under the Plan than their share of annual revenue. See id. This substantial disparity between revenue and costs clearly fails to reflect any parity between EE&C costs and revenue contribution, while also saddling Large C&I customers with an inequitable portion of PECO's overall Phase II EE&C Plan costs.

When initially reviewing the components underlying this examination, PAIEUG requested PECO's "annual revenue for 2011." See PAIEUG Ex. 4. In responding, however, PECO chose to provide a revenue figure that included the distribution revenue from all customers and the transmission and generation revenues from default customers. See id. In broaching this topic with PECO, the Company attempted to use its "modified" calculation as a claim that the revenue percentages provided therein do not provide an "apples to apples" comparison of revenue contribution by customer classes. See Tr. at 80. Importantly, however, PECO failed to provide any concrete evidence that a modified revenue calculation would truly change the percentages at issue. See id. at 82. Specifically, when questioned as to how these percentages would change if only distribution revenues were examined, PECO could only claim that the Large C&I percentage would "increase" without providing any type of quantification, much less even a range, of this purported increase.[8] See id. In other words, PECO failed to provide any evidence that would shift the finding that the comparison between the Large C&I customer class' revenue contribution and cost allocation of Phase II EE&C costs does not result in parity.

Based upon information provided by PECO, the allocation of Phase II EE&C costs to the Large C&I customer class is significantly higher than the contribution of this class to PECO's annual revenue. Because of the mandates of Act 129 and the PUC's Implementation Order, modifications should be made to the allocation of Phase II costs to the Large C&I class in order to create a parity that would reflect an allocation of costs more in line with the resulting revenue contribution.

[8] In light of the fact that the EE&C charge is applied to customers' distribution usage, comparing the customer class' contribution to PECO's distribution revenues is a true apples to apples comparison. See PAIEUG Ex. 4; Tr. at 80.

B. PECO'S Non-Incentive Costs Should Be Reviewed To Ensure That The Majority Of Act 129 Benefits Flow To Customers Rather Than To Third-Party Providers.

Although administrative costs are an obvious necessity in terms of implementing Act 129, the Company's proposed Phase II administrative costs (i.e., non-incentive costs) are greater than the "direct costs" of programs benefitting customers (i.e., incentive costs). Because PECO's proposed ratio of incentive to non-incentive costs is skewed in favor of those benefitting from non-incentive costs (i.e., third-party providers), further evaluation of PECO's Plan should occur in an attempt to reduce PECO's non-incentive costs so that implementation of Phase II achieves the maximum benefits for PECO customers.

Act 129 includes various protections collectively designed to deliver customer benefits, including a requirement that each EE&C Plan include an analysis of its administrative costs. 66 Pa. C.S. § 2806.1(b)(1)(H). Although the Commission has adopted the Total Resource Cost ("TRC") Test as the cost-benefit metric for EE&C Plans, the TRC test may not accurately reflect the Act's goal of achieving maximum energy and conservation benefits. As such, the Commission should additionally consider the ratio of customer incentive expenses to administrative (or third-party) expenses in order to ensure that the majority of Act 129 "incentives" flow to customers.

Under the Phase II EE&C Plan, PECO divides its costs per customer class on an "incentive" v. "non-incentive" basis. PECO Phase II EE&C Plan, p. 191. Incentive costs, according to PECO, are costs directly paid to customers that assist PECO in achieving its energy savings target. See Tr. at 75. Non-inventive costs, by contrast, are those EE&C Plan costs that are not directly paid to customers. See id. These costs are used to implement the EE&C programs and include expenses such as Information Technology costs, the hiring of contractors, and related expenditures. Id. In the case of PECO's Phase II EE&C Plan, non-incentive costs

comprise a significant percentage of PECO's program expenditures. Specifically, PECO anticipates providing customer incentives totaling $104.3 million while collecting $256.4 million from customers. PECO Phase II EE&C Plan, p. 191. On a percentage basis, the customer incentives amount to 40.7% of PECO's Phase II expenditures. The remaining $152 million (i.e., 59.3%) of EE&C dollars collected from customers are flowed to PECO's administrative expenses, common costs, and third party contractor expenses. Unfortunately, PECO's Phase II Plan does not provide a detailed breakdown of these non-incentive costs. Id. Given the questions raised by the ratio of incentive to non-incentive costs, the Commission should seek additional detail on the proposed non-incentive expenditures to adequately conduct the cost-benefit analysis envisioned by Act 129 and possibly seek a reduction in PECO's non-incentive costs to allow for greater benefits to flow to PECO customers.

Recognizing that a 20% disparity is significant, PECO has suggested that the differential between incentive and non-incentive costs under the Phase II EE&C Plan reflects Pennsylvania's legislative requirement that "direct install costs" (i.e., measures put into a customer's home or business at the expense of the Plan) be categorized as non-incentive costs. See Tr. at 94. This requirement, PECO argues, is in contrast with other states' energy efficiency legislation, which allows direct install costs to be categorized as incentive costs. Id. PECO argues that, were the Company permitted to include direct install costs in its incentive costs, the ratio would be reflected as 55% incentive costs to 45% non-incentive costs. See id. at 95.

As an initial matter, the categorization of costs in other states is irrelevant for purposes of determining whether Pennsylvania customers are receiving the maximum energy and conservation benefits achievable as required by Act 129. Furthermore, even if the Commission accepts PECO's suggestion that the ratio would change if direct install costs were re-categorized

as incentive costs, almost half of PECO's Phase II Plan costs (i.e., 45%) would still be allocated towards third-party provides (e.g., Conservation Service Providers) rather than flowing directly back to customers. Considering that PECO asserts that its non-incentive costs go largely to costs such as "IT changes," and "the hiring of any of our contractors to run the program," the question still remains as to whether, under this cost/benefit analysis, maximum customer benefit can be achieved. See id. at 75.

PECO's incentive to non-incentive cost ratio fails to achieve the maximum benefits to customers required by Act 129. Accordingly, the Commission must further review PECO's Phase II EE&C Plan and make any modifications as necessary to ensure that the benefits directly flowing to customers (i.e., incentive costs) are as robust as possible in comparison to the benefits flowing to third-party providers (i.e., non-incentive costs).

C. The Commission Must Ensure That PECO Provides a Smooth Transition for Customers From Phase I to Phase II of the Company's EE&C Plan.

As Phase I ends and Phase II begins, it is imperative that the Commission ensure that EDCs provide a smooth transition for customers. In its Phase II EE&C Plan, PECO proposes to make certain Phase II funds available for delayed customer applications and waitlisted projects. Assuming the PUC grants PECO's request, it is imperative that implementation by PECO include detailed notification and communication to customers to ensure that customers are informed of the available funding.

In this instance, the Company is proposing to make Phase II funds available in two circumstances related to Phase I. See Petition, p. 13. Specifically, PECO is requesting permission to provide Phase II incentive payments for: (1) customers completing measure-eligible projects during Phase I, but not applying for an incentive until Phase II; and (2) customers completing measure-eligible projects after being placed on a Phase I waitlist. See id.

While PECO has stated its intention to inform all customers on the Phase I waitlist that they are eligible for Phase II funding once its Phase II EE&C Plan has been approved, PECO has not yet begun the notification process and nor has it identified the channels through which it intends to notify eligible customers. See Tr. at 102. Similarly, PECO has yet to begin the notification process or identify specific notification channels for those customers who completed a measure-eligible action in Phase I, but delayed applying for an incentive until Phase II. See id. at 103.

In order to ensure that customers are aware of the funding opportunities available, it is imperative that PECO alert customers to these funds as soon as possible, as well as provide a streamlined process by which these customers can apply for such funds, while still ensuring fair and reasonable treatment among all customers applying for Phase II funding.

D. PECO'S Proposal to Split the Smart Multi-Family Solutions Program Between Residential and Commercial/Industrial Customers on a 51%/49% Basis Should Be Approved as Filed.

In its Phase II Plan, PECO is proposing to allocate costs of the Smart Multi-Family Solutions Program to both C&I and residential customers on a 49%/51% split, respectively.[9] Although the OCA suggests that this split should be modified to shift a greater portion of the costs to the C&I customers, PECO correctly notes that the current allocation appropriately reflects the Company's intention to target both customer classes. Moreover, because customers will only be responsible for program costs that are actually incurred, PECO's proposed cost split should be approved.

[9] As set forth in Section II.A., supra, PAIEUG has raised concerns with respect to the overall allocation of costs to the Large C&I class for purposes of the Phase II Plan. For purposes of this section, PAIEUG's argument will only focus on the 49%/51% proposed split of these costs.

As part of PECO's Phase II Plan, the Company is proposing to expand the Smart Multi-Family Solutions Program to target both C&I and residential customers. See Tr. at 99. The Smart Multi-Family Solutions Program focuses on direct installation of energy saving replacements in multi-family properties, and the Program will target both master-metered and individually metered multi-family buildings. See Petition, pp. 9-10; see also Rebuttal Testimony of Frank Jiruska, PECO Statement No. 1-R (hereinafter "PECO Statement No. 1-R"), p. 5. The overall program costs are projected to be $9.8 million, with PECO proposing to allocate 51% of these costs to residential customers class and 49% to C&I customers. Customers, whether individual accounts (i.e., residential customers) or multi-family property owners (i.e., C&I customers), are directly billed for the installation of these low cost energy measures. See Petition, pp. 9-10.

In this proceeding, OCA objects to PECO's proposed billing methodology for the Smart Multi-Family Solutions Program, arguing that the residential budget for the program should be reduced in light of a "general emphasis" on master-metered buildings, which are C&I accounts. See Direct Testimony of Christina Mudd, OCA Statement No. 1 (hereinafter, "OCA Statement 1"), p. 20. In response, however, PECO correctly indicates that customers, whether residential or C&I, are responsible only for those program costs actually incurred. See PECO Statement No. 1-R, p. 5. In other words, residential customers will not be subsidizing the costs for measures incurred by multi-family property accounts. See id. Moreover, PECO noted that it has no intention of preferentially target master-metered buildings, but rather, will focus on both master-metered and individually metered buildings. Id. For these reasons, PECO submits that its proposed budget for the Multi-Family Program is appropriate. See id.

PAIEUG supports PECO's proposed budget allocation split for the Smart Multi-Family Solutions Program. As PECO correctly posits, customers will only be responsible for program costs that are actually incurred. Moreover, the Company's budget is an estimate for planning purposes and reflects the activities PECO intends to take for both residential and C&I customers. In addition, PECO specifically created two separate components for this Program so that the Company could target both sets of customers, as is reflected in the equitable division of the costs of this program between the classes. See PECO Statement No. 1-R, p. 5.

Accordingly, PECO's proposal for allocating the costs of the Smart Multi-Family Solutions Program is based upon the Company's intention to implement this program across the customer classes. Conversely, the OCA has not presented any evidence that PECO's intentions would be at cross-purposes with the proposed split of these costs. Accordingly, the OCA's proposal to reduce the cost allocation of the Smart Multi-Family Solutions Program to the residential customer class should be denied.

III. CONCLUSION

WHEREFORE, the Philadelphia Area Industrial Energy Users Group respectfully requests that the Pennsylvania Public Utility Commission:

(1) review PECO's Phase II EE&C Plan to determine whether adequate evidence has been provided that the proposed costs to be allocated to the Large Commercial and Industrial Class are reasonable, prudent, and in parity with this class' contributions to PECO's revenues

(2) evaluate PECO's ratio of incentive to non-incentive costs to ensure the maximum available energy and conservation benefits of the Phase II EE&C Plan flow back to customers rather than third-party providers;

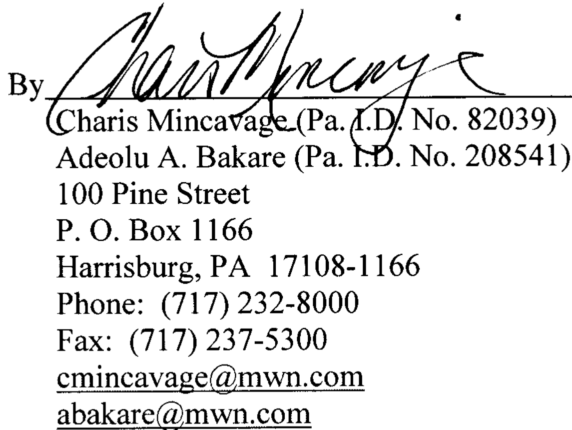
(3) require PECO to implement the necessary processes, including appropriate customer notification, to ensure a smooth transition from Phase I to Phase II;

(4) approve PECO's proposed allocation split of the Smart Multi-Family Solutions Program costs; and

(5) provide any other relief deemed necessary and reasonable.

Respectfully submitted,

McNEES WALLACE & NURICK LLC



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