Buchanan Ingersoll & Rooney PC
Attorneys & Government Relations Professionals

John F. Povilaitis

717 237 4825
john.povilaitis@bipc.com

409 North Second Street
Suite 500
Harrisburg, PA 17101-1357
T 717 237 4800
F 717 233 0852
www.buchananingersoll.com

February 6, 2013

VIA E-FILING

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

Re: Petition for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plans of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company; Docket Nos. M-2012-2334392, M-2012-2334387, M-2012-2334395 and M-2012-2334398

Dear Secretary Chiavetta:

On behalf of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (the "Companies"), I have enclosed for electronic filing the Companies' Reply Brief with regard to the above-captioned consolidated proceeding.

Please contact me if you have any questions regarding the forgoing matters. Copies have been served as indicated in the attached certificate of service.

Very truly yours,

John F. Povilaitis

JFP/kra
Enclosure
cc: The Honorable Elizabeth H. Barnes (via email and first class mail)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Metropolitan Edison Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	:	**M-2012-2334387**
Petition of Pennsylvania Electric Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	:	**M-2012-2334392**
Petition of Pennsylvania Power Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	:	**M-2012-2334395**
Petition of West Penn Power Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	:	**M-2012-2334398**

REPLY BRIEF ON BEHALF OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER COMPANY AND WEST PENN POWER COMPANY

John F. Povilaitis
Buchanan, Ingersoll & Rooney, P.C.
409 Second Street, Suite 500
Harrisburg, PA 17101-1357
Direct Dial: (717) 237-4825
Email: John.Povilaitis@bipc.com

Kathy J. Kolich
FirstEnergy Service Company
76 South Main Street
Akron, OH 44309
Direct Dial: (330) 384-4580
Email: kjkolich@firstenergycorp.com

Lauren M. Lepkoski
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
Direct Dial: (610) 921-6203
Email: llepkoski@firstenergycorp.com

Dated: February 6, 2013

Attorneys for Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

I. INTRODUCTION

Pursuant to the procedural schedule set by Administrative Law Judge Elizabeth H. Barnes, Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec") and West Penn Power Company ("West Penn") (collectively the "Companies") submit this Reply Brief in response to the Main Brief ("MB") submitted by UGI Utilities, Inc. – Gas Division, UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. (collectively "UGI").[1]

II. SUMMARY OF ARGUMENT

The Commission must reject UGI's recommendation that the Companies' proposed Phase II Energy Efficiency and Conservation ("EE&C") Plans ("Phase II EE&C Plans" or "Plans") be modified to include new electric to natural gas fuel switching measures. Not only have the Companies met their burden of proof by a preponderance of the evidence that demonstrates that the Plans are lawful, reasonable and in compliance with all Act 129 requirements and Commission directives, but a closer examination of UGI's so called "evidence" reveals its lack of credibility as it is based on assumptions on top of estimates that are unsupported by facts.

UGI has erroneously depicted large portions of its argument as "undisputed" and not contradicted. In addition, it has confused the issue of preponderance of the evidence with burden of proof. When all evidence is considered – Direct and Rebuttal Testimony, the Plans themselves and evidence brought forward on cross-examination – it is clear that the Companies have presented in this record the preponderance of evidence necessary to support their Phase II EE&C Plans, and, therefore, they have met their burden of proof.

[1] Inasmuch as no party, including UGI, raised any issues related to the EE&C Plan of Pennsylvania Power Company ("Penn Power") that were not already addressed through the joint settlement that was the subject of the Joint Petition for Full Settlement of Non-Reserved Issues ("Petition for Settlement") submitted with the Companies' Main Brief on January 28, 2013, this reply brief will focus on the remaining three FirstEnergy Pennsylvania companies' EE&C Plans. (*See e.g.*, UGI Brief, p.1, fn.1; FirstEnergy Term Sheet; Intervenor Statements in Support of the Petition for Settlement, and the Petition for Settlement). However all arguments made herein equally apply to Penn Power's EE&C Plan.

A careful examination of UGI's inputs, assumptions, averages and inferences reveals that the support for its fuel switching recommendations is highly flawed and in the end does not cohere. UGI has essentially marshaled numbers that support its pre-determined business plan objectives, basing them on assumptions that most favor these objectives, without any facts to support such assumptions. When objectively viewed, the alleged benefits of UGI's proposed measures are unrealistic and lack credible support.

Finally, UGI's multi-year effort to convert Act 129 into a vehicle to support its revenue growth continues to ignore reality. That reality is that Act 129 never contained language or a spirit that reflects a legislative goal of collecting electric customer funds in order to finance the movement of those electric customers to natural gas as a means of achieving reductions in electricity consumption. That lack of legislative intent has been evidenced by the Pennsylvania Public Utility Commission's ("Commission's") steadfast and consistent refusal to direct any amendments to EE&C plans in the form of mandated fuel switching measures. That lawful and prudent position should be maintained in Phase II of Act 129 and, accordingly, UGI's recommended changes to the Companies' Plans should be rejected.

III. ARGUMENT

A. UGI's Arguments and Evidence are Not Undisputed and the Companies have Met their Burden of Proof.

UGI argues at length that its recommendations to modify the Companies' Phase II EE&C Plans are undisputed[2] and that the Companies have not met their burden of proof.[3] UGI is wrong. UGI ignores the rebuttal testimony of the Companies' witness, Charles V. Fullem, and apparently believes that because the Companies chose not to rebut every statement made in the testimony of UGI's witness, Paul H. Raab, that his facts, conclusions and recommendations are

[2] UGI MB p. 14.
[3] UGI MB p. 12.

"undisputed". UGI, however, confuses the issue of witness testimony and the more broad and relevant issue of record evidence. Through the Companies' witness, Mr. Edward C. Miller's Direct Testimony,[4] Mr. Fullem's Rebuttal Testimony,[5] the Companies' fully detailed and substantiated Plans[6] and the cross-examination of Mr. Raab[7] (all of which is record evidence), the Companies have presented significant evidence in support of their recommended programs and measures. Indeed, Mr. Miller explained in detail how the plans were developed and that the Plans are generally a continuation of existing programs with enhancements and modifications, balancing experience and estimated market potential with costs in order to create Phase II EE&C Plans that, in the aggregate, achieve the statutory energy savings mandates within the statutory 2% spending caps.[8] UGI, on the other hand, explains none of this, instead selecting three specific natural gas measures that it simply wants to insert into the Companies' Plans.

Only the Companies have presented a complete package of programs that meets the electricity reduction goals within the statutory 2% spending caps, complies with the Commission's TRC requirements, and incorporates well reasoned program participation and market potential rates. This evidence, together with the evidence showing UGI data errors – such as the use of an unrealistically low cost of natural gas, the overstated potential market in the Companies' service territories for electric to gas conversions, proposed rebate levels that do not synch with realistic customer participation rates and program incentive budgets, and misleading information regarding the significance of TRC ratios at the measure level – all combine to make it clear that the Companies have prevailed on the weight of the evidence. Moreover, as more

---

[4] Met-Ed/Penelec/Penn Power/West Penn Statement No. 2.
[5] Tr., pp. 84-87.
[6] Met-Ed Exh. 1, Penelec Exh. 1, and West Penn Exh. 1.
[7] Tr., pp. 52-83.
[8] Met-Ed/Penelec/Penn Power/West Penn Statement No. 2.

fully addressed in the Companies' Main Brief, the Companies have also demonstrated the legal and policy flaws in UGI's recommendations, noting that:

- Act 129 does not rank gas consumption over electricity consumption as a policy preference;[9]

- After full consideration of fuel switching proposals in a working group setting, the Commission declined to mandate electric distribution company ("EDC") measures that require electricity to natural gas fuel switching;[10]

- Mandating UGI's fuel switching recommendations against a backdrop of less than clear Commission policy places the Companies at antitrust risk without a clear state action mandate;[11] and

- A comparison of the EE&C plan of UGI Utilities, Inc. – Gas Division ("UGI Inc.") with the Companies' Plans demonstrates that UGI Inc.'s recommendations are essentially a business-play attempt to increase natural gas sales and profits at the expense of electric customers, all in the guise of a selfless public interest proposal.[12]

When this entire advocacy is considered, it isn't even close. The Companies have easily met their burden of proof. Indeed, as more fully discussed below, it is UGI that lacks *credible* evidence in support of its position.

B. The Argument UGI has Cobbled Together in Support of its Fuel Switching Recommendations is Replete with Flaws.

UGI has marshaled a series of Commission and Commissioner references, as well as dubious calculations, assumptions and inferences that in the aggregate it believes constitutes a compelling case for its claims that its recommendations will allegedly result in more than a billion less kilowatt hours being consumed with additional customer benefits of more than $12 million.[13] However, throughout this proceeding, UGI has played fast and loose with the facts, distorting them however necessary to support their positions. For example, UGI's witness

[9] Cos. MB, p. 19.
[10] Id. at 20.
[11] Id. at 19-20.
[12] Id. at 21-23.
[13] UGI MB, p. 1; UGI Statement No. 1, p. 6.

claims that the Commission intended the adoption of fuel switching, yet never spoke with any Commissioners about this supposed intent.[14] Instead, as more fully discussed below, UGI relies on isolated statements made by the Chairman that are taken out of context. Similarly, this same witness claims that the Pennsylvania legislature contemplated the laws of thermodynamics (and thus the full fuel cycle concept) when passing Act 129. Yet again, he spoke to no legislators and never found any mention of such a concept in the legislative history of Act 129.[15] And at the Federal level, UGI's witness claims that the concept of full fuel cycle analysis is a policy "that the DOE intends to implement." – an intention expressed by the Department of Energy a year and a half ago and which is still not implemented today.[16] UGI also claims that the use of the electric measures may, in fact, increase the consumption of electricity, using formulae and calculations that are unsupported by facts. As UGI's witness conceded, his conclusion is based on assumptions that "may or may not prove to be valid" and, therefore, he can't say with any certainty whether the Companies' programs are increasing the use of electricity.[17] As explained in the Companies' Main Brief (at 23-25), all of the calculations in support of the conclusions drawn by UGI are based on similarly flawed assumptions on top of inflated estimates lacking any factual support. In sum, the only conclusion that can be drawn from UGI's various calculations in support of its various claims is that they are wrong and do not reflect reality.

The same can be said for the rest of UGI's so called "evidence." When isolated individually and examined carefully, it is clear that UGI's arguments are seriously flawed and lack a true foundation in law or fact:

[14] Tr., p. 58.
[15] Id. at 59-60.
[16] Id. at 59; UGI Statement No. 1, p. 33.
[17] Tr., pp. 79-80.

1. <u>Chairman Powelson's comments are taken out of context.</u>

UGI attempts to paint Chairman Powelson and, by inference, the other Commissioners, into a corner in this proceeding by citing a prior statement in which the Chairman allegedly endorsed fuel switching as an objective of Act 129.[18] UGI however ignores the fact that the Chairman listed the switching of fuel sources as a *separate and distinct* option from participation in EE&C programs, saying: "We have worked aggressively to provide consumers with a *portfolio of options* such as choosing an electric generation supplier, switching fuel sources, and participating in the EE&C programs made possible by Act 129."[19] If fuel switching was intended to be included as part of an electric company's EE&C programs, it would not be listed as a separate option.[20]

Examination of Chairman Powelson's statement shows that he did not reference fuel switching solely in connection with Act 129 programs, but only as one element of a general list of generic customer opportunities such as choosing an electric generation supplier or pitting different energy forms against each other on the basis of price. This is in no way evidence of a Commission policy preference for electric to gas fuel switching programs in an electric company's EE&C plan. Rather, the Commission's policy decision in this area was made perfectly clear in the Commission's adoption of the Fuel Switching Working Group Report in which the Commission expressly stated that "fuel switching programs should not be

[18] UGI MB p. 13.

[19] *In re Secretarial Letter Seeking Comments on Planning Issues for Act 129 EE&C Programs After May 31,* 2013, Docket No. M-2012-2289411, Statement of Chairman Robert F. Powelson (Mar. 1, 2012) (italics added).

[20] UGI goes on to quote out of context the Chairman's belief that: [i]t is essential ... that any future Act 129 programs are effective uses of consumers' money." UGI MB, p. 13. UGI's quote would lead one to believe that this statement was an additional thought related to the quote with regard to options that included fuel switching. (Id.) Again, however, this is not the case at all. The Chairman's concern was expressed in a separate paragraph and the fact that this statement was made is not surprising, given that the purpose underlying the docket in which this statement was made was to determine whether the Commission's Act 129 program remains cost effective for a second phase.

mandated"[21], instead leaving program selection to the discretion of the electric companies that are responsible for meeting the energy reduction goals. UGI's use of Chairman Powelson's statement is misleading and constitutes no support for UGI's position.

2. <u>The Companies have collected and reported fuel switching data consistent with the Commission's direction.</u>

UGI blames the Companies for its inability to provide facts in support of its calculations, asserting that the Companies have "failed to collect and report data sufficient to determine whether their Plans permit fuel switching from natural gas to electric that increase electricity consumption."[22] In its Order entered October 28, 2009 on the Met-Ed, Penelec and Penn Power EE&C proposals, the Commission required the Companies to "*track* appropriate data in coordination with the Statewide Evaluator…."[23] Notably, the Commission did not require Met-Ed, Penelec or Penn Power at that time to incorporate this data into their EE&C Annual Reports. Instead this data was to be used by the Fuel Switching Working Group – a group in which UGI's witness participated – "as it studie[d] market potential and the potential impacts of EE&C Plans."[24] Similarly, in its Order entered October 23, 2009, the Commission directed West Penn's EM&V contractors, in coordination with the Statewide Evaluator, to *track* appropriate data relating to West Penn's Residential HVAC Efficiency Program, with the results again to be used

---

[21] UGI Statement No. 1, pp. 33-34.
[22] UGI MB p. 15. Italics removed. UGI uses a similar excuse for not being able to provide accurate TRC comparisons, claiming that it could not develop comparative TRC results between the Companies' measures and those proposed by UGI because the Companies did not provide them with enough information to be able to use the Companies' models. (Tr., p. 69). Again, this is only part of the story. As UGI's witness conceded, the Companies' could not provide their models because they were web based; but nothing precluded UGI from using the same web based program had it desired to do so. (Id. at 82.)
[23] *In re Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company for Consolidation of Proceedings and Approval of Energy Efficiency and Conservation Plans*, Docket Nos. M-2009-2092222, M-2009-2112952 and M-2009-2112956, Order, p. 44 (entered Oct. 28, 2009) (Italics added).
[24] Id.; Tr., p. 56.

by the Fuel Switching Working Group.[25] Finally, in response to UGI's assertion that certain electric to non-electric fuel source reporting requirements were not being adhered to, the Commission's June 2012 TRM Order stated that UGI was wrong. However, the Commission directed EDCs to report the amount of switching in their annual reports beginning with their Program Year 3 (June 1, 2011 – May 30, 2012) preliminary annual reports due July 15, 2012.[26]

Consistent with this mandate, the Companies' Program Year 3 reports filed November 15, 2012 for the period June 1, 2011 to May 31, 2012 reported that each Company "has not rebated any overt non-electric to electric fuel switching measures." In addition, each Company provided the percentage of customers in each service territory who received electric heat pump rebates/water heater rebates that have gas service available in their homes.[27]

Any suggestion by UGI that the Companies failed to collect and report required information relating to natural gas to electric switching by customers is simply not true. The fact that Company data is not available to support UGI's premise that the Companies' EE&C Programs are increasing consumption of electricity is not a failing of the Companies, but simply the reality that definitive data proving UGI's premise does not exist.

---

[25] *Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Energy Efficiency and Conservation Plan, Approval of Recovery of its Costs through a Reconcilable Adjustment Clause and Approval of Matters Relating to the Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093218, Order, p. 52 (entered Oct. 23, 2009).

[26] *In re Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources – Technical Reference Manual 2012 Update*, Docket No. M-00051865, Order, p. 38 (entered Dec. 16, 2011) (hereinafter "2012 TRM Order").

[27] *See* Section 1.3 of each of the Companies' 2012 Annual Reports, Docket Nos. M-2009-209222 (Met-Ed), M-2009-21129522 (Penelec), M-2009-2093218 (West Penn) and M-2009-2112956 (Penn Power). According to those reports, the following information was provided: Met-Ed – 12% of customers who received electric heat pump rebates (151) have gas service available and 6% of customers who received rebates for electric water heaters (32) had gas service available; Penelec – 23% of customers who received rebates for electric heat pumps (100) have gas service available and 13% of customers who received rebates for electric water heaters (22) have gas service available; Penn Power – 28% of customers who received rebates for electric heat pumps (48) have gas service available and 12% of customers who received rebates for electric water heaters (4) have gas service available; West Penn – 9% of customers who received rebates for electric heat pumps (39) have gas service available and 11% of customers who received rebates for electric water heaters (11-estimated) have gas service available.

3. UGI's references to low TRC benefit/cost ratios of Company measures are misleading and irrelevant.

UGI's Main Brief cites TRC benefit/cost ratios for heat pump, water heater and HVAC measures that are below 1.0 and argues that, *ipso facto*, these measures are deficient and should be eliminated or modified.[28] This argument completely ignores the fact that the Commission anticipated such discrepancies in EE&C plans and, accordingly, gauges TRC benefit/cost ratios on a Plan and Program basis, and not on a measure basis as UGI would prefer. In fact, all of the Companies' non-low income Programs pass the TRC cost effectiveness test, including those that incorporate incentives for water heaters and heat pumps.[29] In addition, contrary to UGI's assertions, the Companies' water heater and heat pump measures are fully documented in terms of measure eligibility[30] and, according to UGI's witness, are consistent with other similar programs offered throughout the country.[31]

4. The inclusion of natural gas fired equipment in the TRM does not indicate any preference for natural gas fired equipment.

UGI notes that natural gas water heaters are addressed in the TRM.[32] This, however, does nothing to add credibility to UGI's arguments given that electric water heaters and air source/ground source heat pumps that UGI contests are also included in the TRM. In fact, in its Order entered on December 16, 2011 in the 2012 TRM Update, the Commission expressly stated:

> UGI's assertion that the Commission has approved the inclusion of standards related to electric to gas water heating and electric heating to gas space heating in the TRM for the purpose of encouraging fuel switching *is incorrect*. These items are included in the TRM because they were

[28] UGI MB pp. 16, 18-19, 23.
[29] All Plans, Appendix E, Table 7.
[30] All Plans, Appendix D-4.
[31] UGI Statement No. 1, p. 21; Tr., pp. 64-65.
[32] UGI MB p. 13.

deemed cost-effective by the EDCs and Commission and guidance on their measurement was necessary in the TRM.[33]

Given this, as well as the fact that heat pumps and electric water heaters are also included in the TRM, UGI's observations surrounding the TRM are irrelevant. It is telling, however, that the State Wide Evaluator's market potential study that was so critical to the development of the EDCs' Phase II energy reduction goals did not include electric to natural gas fuel switching measures.[34]

5. <u>UGI's linkage of vastly increased rebate levels, increased kWh savings and the customer participation levels that support those projections defies logic and consistency.</u>

UGI touts the prospect of electricity savings of more than a billion additional kilowatt hours and additional savings of more than $12 million, by recommending the substitution of gas fired equipment for the electric hot water heaters and electric air source heat pumps currently included in the Companies' Programs.[35] To obtain those savings, UGI recommends that the Commission order the use of a $1,400 rebate for residential customers who install gas furnaces with a 95% efficiency rating and an air conditioner with a SEER 15 rating, and a $2,500 rebate where the gas furnace has a 95% efficiency rating and air conditioner with a SEER 16 rating.[36] The rebate proposed and budgeted by the Companies for a new air source electric heat pump is $313 and $150 to upgrade to a more efficient air conditioner.[37]

UGI's recommendation is flawed in several respects. First, as UGI's witness noted, only 12% of Met-Ed's customers receiving heat pump rebates (151 customers) had natural gas

---

[33] *In re Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources – Technical Reference Manual 2012 Update*, Docket No. M-00051865, Order, pp. 36-37 (entered Dec. 16, 2011) (italics added).

[34] Electric Energy Efficiency Potential for Pennsylvania Final Report, Docket No. M-2012-2289411, p. 59 (May 10, 2012).

[35] UGI MB pp. 15-16.

[36] UGI MB p. 10.

[37] All Plans, Appendix D-2. The water heater rebate is $245. UGI's claim that the Companies' Plans invite free ridership because of the size of its rebates is belied by the paltry 2.9% of costs that it uses itself to incent customer switching to solar hot water heaters. Companies' MB p. 22.

available in their homes.[38] In order to achieve the participation levels necessary to create the magnitude of savings touted by UGI, one would have to assume that all of the Companies' customers had access to natural gas. Moreover, the program in question only budgeted rebates of $313 to upgrade to a more efficient heat pump and $150 to upgrade to a more efficient air conditioner; not the $1,400 or $2,500 contemplated by UGI to incent customers to switch to natural gas space heating.

If we adopt this witness' unrealistic assumption that 100% of the customers that would apply for an electric water heater or an electric heat pump rebate would switch to natural gas,[39] we are left with an impossible outcome. The record evidence demonstrates that 6% - 28% of such customers have access to natural gas, [40] and, according to UGI's market survey results, less than 80% of their customers indicated they would consider switching fuel sources.[41] UGI's witness, however, did not know how many of these surveyed customers actually were customers of the Companies, which makes their calculations even more dubious.[42] Nevertheless, even if we assume that all such customers were also customers of the Companies, UGI's assumed market participation levels are between five and ten times that which can be supported by the evidentiary record.

UGI has demonstrated neither that the enormous increases in kilowatt hour savings promised by UGI would be consistent with projected market potential nor that the adoption of these significantly increased incentive levels would comply with the statutory 2% spending caps. In sum, these allegations of savings and conservation are simply another example of UGI's

---

[38] UGI Statement No. 1, p. 36. *See also*, fn 27, *supra*.
[39] UGI Statement No. 1, p. 39; Tr., pp. 76-77.
[40] See fn. 27, *supra*.
[41] UGI Statement No. 1, p. 39. *See also*, the Companies' Main Brief at pp. 23-25 for the flaws in UGI's assumptions with regard calculations in support of their fuel switching arguments.
[42] Tr., p. 80.

attempts to inflate the numbers to support their pre-determined business plan objectives with claims that are unsupported by facts.

6. <u>UGI's TRC benefit/cost ratios are based on the wholesale NYMEX cost of gas rather than the appropriate delivered cost of natural gas.</u>

As noted in the Companies' Main Brief, UGI's TRC calculations use the NYMEX cost of gas as a cost assumption, which is the equivalent of assuming the natural gas appliance was used somewhere in the Gulf of Mexico.[43] Unlike the avoided cost of electricity which includes transmission and distribution costs and reflects the cost of electricity at the meter, the use of the NYMEX price for delivery of natural gas in Pennsylvania skews natural gas costs to unrealistically low levels because the NYMEX price ignores transportation, distribution and other related costs, thus resulting in grossly inflated TRC values for gas measures in Pennsylvania. In essence, a significant portion of these unrecognized costs are actually costs that are paid to UGI and other natural gas pipeline companies for transportation of that natural gas to Pennsylvania. Apparently UGI believes that the increases to their bottom lines through this additional revenue constitute a customer benefit and have included these increased profits in the alleged $12 million additional benefits that they argue will be realized by customers through the adoption of UGI's recommendations.

UGI relied on the use of the NYMEX price based on the Commission's TRC Order.[44] However, just as the TRM in a number of respects is revised periodically, we can reasonably expect this aberration in the TRC to be corrected at some point in the future so as to allow for an "apples-to-apples" comparison of electric and natural gas measures. As it stands today, this cannot be accomplished because the use of the NYMEX price does not accurately reflect the *true* costs or cost-effectiveness of the measures touted by UGI, which is what should be evaluated

[43] Companies MB pp. 23-24.
[44] Tr., p. 70.

when comparing measures against each other. Instead of performing such a calculation, UGI could not resist the temptation to use the NYMEX price without factoring in transportation, distribution, or other related costs, thus leaving its TRC ratios overstated and useless for accurate comparisons with electric measures.[45]

7. UGI has distorted the Companies' responses regarding the extent to which it looked at fuel switching during the planning process.

UGI makes much of a discovery response provided by the Companies with respect to its consideration of fuel switching measures when considering "cost effective *programs* to be included in [their] Plans" (italics added).[46] UGI contends that this response means that the Companies' EE&C Team unprofessionally ignored cost effective, fuel switching *measures* that could achieve the Phase II goals, apparently due to bias or incompetence.[47] On the contrary, the Companies' Plans specifically include combined heat and power projects as a custom measure under the Companies' Commercial/Industrial Equipment Programs.[48] Furthermore, the Companies' response to the discovery states that "[t]he Companies do not agree with using ratepayer funding to solely promote the use of natural gas"[49] in programs. This response does not convey any bias or lack of knowledge regarding certain fuel switching measures. Rather it simply conveys the sound opinion that switching electric customers to natural gas for the sole purpose of promoting a different fuel source than electricity cannot be a principle on which an electric company's energy efficiency program is designed. Such a principle would find no support in Act 129.

[45] See the Companies' MB pp. 24-25 for the litany of averages and not necessarily true assumptions Mr. Raab employed to enable the data to match his opinions. For example, UGI cannot say to what extent their survey included the Companies' customers.
[46] Exhibit UGI-5 (attached to UGI Statement No. 1).
[47] UGI MB, p. 20.
[48] *See* Companies' Plans, Sections 3.3 (C&I Energy Efficient Equipment Program – Small) and 3.4 (C&I Energy Efficient Equipment Program – Large).
[49] Exhibit UGI-5.

C. UGI Cannot Escape the Lack of Support Act 129 Provides for its Fuel Switching Recommendations.

Ever since Act 129 was enacted in 2008, UGI has struggled mightily to overcome the obstacle in the law that has frustrated its business plan to use electric customer funds to incent electric customers to switch from electric hot water and space heating equipment to gas powered equipment. Act 129 simply does not express, literally or in spirit, any intent to collect electric customer funds in order to finance the movement of those electric customers to natural gas as a means of achieving reductions in electricity consumption. This reality frustrated UGI's effort to achieve its fuel switching goal in Phase I and in the Fuel Switching Working Group; and it should now again be rejected in Phase II. There is a sound reason the Commission has steadfastly refused to adopt UGI's recommendations – there is nothing in the law, Commission regulations or sound policy that would require an electric company to incent customers to buy the products of a natural gas company instead. Notwithstanding UGI's attempts to couch its recommendations as those for the good of society, its motives are clear. It continues to pursue a business plan developed in 2008 to enhance its profits through the switching of electric to natural gas consumption. The Commission has correctly recognized and rejected these attempts in the past and, as in the past, it should again recognize and reject them in this Phase II proceeding.

IV. CONCLUSION

The Companies are responsible for achieving the statutory Phase II electricity reductions established by Act 129 and the Commission. The Companies have presented the only set of Programs that fully meets, in the aggregate, both the requirements of Act 129 and those the Commission has set forth in its Orders. The evidence supports this fact and no party disputes it. Instead, UGI offers suggested "improvements" to the Plans. However, the Companies have demonstrated that the basis for inclusion of these recommendations is unreliable. Accordingly, based on the foregoing, the Companies respectfully request that the Commission reject UGI's flawed fuel switching recommendations and, instead, approve the Companies' Phase II EE&C Plans, as edited to reflect the Joint Settlement agreed to by all Parties other than UGI.

Respectfully submitted,

Kathy J. Kolich

Kathy J. Kolich
FirstEnergy Service Company
76 South Main Street
Akron, OH 44309
Direct Dial: (330) 384-4580
Facsimile: (330) 384-3875
Email: kjkolich@firstenergycorp.com

Lauren M. Lepkoski
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
Direct Dial: (610) 921-6203
Facsimile: (610) 939-8655
Email: llepkoski@firstenergycorp.com

John F. Povilaitis
Buchanan, Ingersoll & Rooney, P.C.
409 Second Street, Suite 500
Harrisburg, PA 17101-1357
Direct Dial: (717) 237-4825
Facsimile: (717) 233-0852
Email: John.Povilaitis@bipc.com

Dated: February 6, 2013

Counsel for:
Metropolitan Edison Company,
Pennsylvania Electric Company,
Pennsylvania Power Company and
West Penn Power Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plans of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company Plan and West Penn Power Company	:	**Docket Nos. M-2012-2334392 M-2012-2334387 M-2012-2334395 M-2012-2334398**

CERTIFICATE OF SERVICE

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

Via Email and First Class Mail

Daniel Asmus
Office of Small Business Advocate
Commerce Building
300 North Second Street, Suite 1102
Harrisburg, PA 17101
dasmus@pa.gov

Candis Tunilo
Christy Appleby
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
ctunilo@paoca.org
cappleby@paoca.org

Henry S. Geller
Patrick M. Cicero
Pa Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net

Heather M. Langeland, Staff Attorney
PennFuture
200 First Avenue, Suite 200
Pittsburgh, PA 15222
langeland@pennfuture.com

Susan E. Bruce
Charis Mincavage
Vasiliki Karandrikas
Teresa K. Schmittberger
McNees Wallace & Nurick LLC
100 Pine Street
P. O. Box 1166
Harrisburg, PA 17108-1166
sbruce@mwn.com
cmincavage@mwn.com
tschmittberger@mwn.com

Derrick Price Williamson
Barry A. Naum
Spilman, Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
dwilliamson@spilmanlaw.com
bnaum@spilmanlaw.com

Julia A. Conover
Hawke McKeon & Sniscak LLP
P. O. Box 1778
100 North Tenth Street
Harrisburg, PA 17101
Jaconover@hmslegal.com

Mark C. Morrow
Chief Regulatory Counsel
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406
morrowm@ugicorp.com

Thomas Sniscak
Hawke McKeon & Sniscak LLP
P. O. Box 1778
100 North Tenth Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com

Joseph L. Vullo
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@aol.com

Jeffrey J. Norton
Eckert Seamans Cherin & Mellott LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
jnorton@eckertseamans.com

Robert Knecht
Industrial Economics
2067 Massachusetts Avenue
Cambridge, MA 02140
rdk@indecon.com

Date: February 6, 2013

John F. Povilaitis, Esq.