**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Metropolitan Edison Company :

for Approval of its Act 129 Phase II : M-2012-2334387

Energy Efficiency and Conservation Plan :

:

Petition of Pennsylvania Electric Company :

For Approval of its Act 129 Phase II : M-2012-2334392

Energy Efficiency and Conservation Plan :

:

Petition of Pennsylvania Power Company :

For Approval of its Act 129 Phase II : M-2012-2334395

Energy Efficiency and Conservation Plan :

:

Petition of West Penn Power Company :

For Approval of its Act 129 Phase II : M-2012-2334398

Energy Efficiency and Conservation Plan :

**ORDER CERTIFYING RECORD TO THE COMMISSION**

HISTORY OF THE PROCEEDING

On August 3, 2012, the Commission entered an Implementation Order regarding the *Energy Efficiency and Conservation Program* at Docket Nos. M-2012-2289411 and M-2008-2069887. The Commission established energy efficiency (“EE”) (but not peak demand reduction (“PDR”)) benchmarks for the period June 1, 2013 through May 31, 2016 (“Phase II Period”). The Implementation Order adopted an Energy Efficiency Conservation (EE&C) plan approval process which included referring plans filed in November, 2012 to an Administrative Law Judge for an evidentiary hearing within 65 days after the plan is filed, after which, the parties had 10 days to file briefs. The electric distribution company (EDC) then had 10 days to submit a revised plan or reply comments or both. The Administrative Law Judge (ALJ) is directed to then certify the record to the Commission. *Id.* at 61-62.

On November 1, 2012, the Commission issued a Secretarial Letter notifying electric distribution companies (EDCs) that it would accept Phase II EE&C plans filed on or before November 15, 2012 due to Hurricane Sandy and the need for EDC personnel to focus on storm response duties.

Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), and West Penn Power Company (West Penn) (collectively “the Companies”) each timely filed a petition for approval of their Act 129 Phase II Energy Efficiency and Conservation Plans on November 13, 2012. Notice of the petitions was published in the *Pennsylvania Bulletin* on December 1, 2012, with a comment period ending December 21, 2012. 42 *Pa.B.* 7372. Additionally, the petitions were posted on the Commission’s website at <http://www.puc.pa.gov>. Each of the four Companies’ Petitions has a separate docket number because of anticipated separate compliance filings in the future among the four companies. These docket numbers were assigned regarding the respective companies as follows: 1) Met-Ed, M-2012-2334387; 2) Penelec, M-2012-2334392; 3) Penn Power, M-2012-2334395; and 4) West Penn, M-2012-2334398. Also on November 13, 2012, the Companies filed a *Joint Petition for Consolidation of Proceedings and Approval of Energy Efficiency and Conservations Plans Phase II of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company Plan and West Penn Power Company*. The petitions were assigned to Administrative Law Judge Elizabeth H. Barnes.

The Companies asserted that their Phase II Plans are intended to reduce energy consumption in compliance with the requirements of Act 129 of 2008, 66 Pa.C.S. § 2806.1 (Act 129 or the Act) and the Commission's *Implementation Order*. The Companies asked that the Commission issue an Order approving their Phase II EE&C Plans and finding that the Plans satisfy the requirements of 66 Pa.C.S. § 2806.1(b)(1) and the Phase II *Implementation Order*.

On November 29, 2012, a Notice of Prehearing Conference and a Prehearing Conference Order were issued. On December 14, 2012, a Joint Petition for Protective Order was filed. The Prehearing Conference was held on December 19, 2012, in order to discuss procedural issues related to the Commission’s *Implementation Order*, to determine the further course of this proceeding, and to rule on the various Petitions to Intervene submitted up to that date. At the prehearing conference, the parties agreed to consolidate the four dockets for the purposes of one evidentiary hearing in the interest of judicial efficiency.

Petitions to Intervene

The Office of Consumer Advocate (OCA) and Office of Small Business Advocate (OSBA) filed Notices of Intervention. I received several petitions to intervene prior to the prehearing conference including:

UGI Utilities Inc. – Gas Division, UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. (UGI or UGI Distribution Companies)

The Pennsylvania State University

Wal-Mart Stores East, LP and Sam’s East, Inc. (WalMart)

CAPP (Community Action Association of PA)

CAUSE-PA

Met-Ed Industrial Users Group

Penelec Industrial Customer Alliance

Penn Power Users Group

West Penn Industrial Intervenors

Citizens for Pennsylvania’ Future (PennFuture)

At the prehearing conference, there was no objection to any of the above parties intervening in this matter. Accordingly, their petitions were granted by a SchedulingOrder entered on December 28, 2012, and they were granted intervenor status. In accordance with 52 Pa.Code § 5.71, OCA and OSBA were authorized by statute to participate in this proceeding.

Subsequent to the Prehearing Conference held in this case on December 19, 2012 and before the expiration of the twenty day intervention period on December 21, 2012, one additional entity, Comverge, Inc., filed a Petition to Intervene. This petition was granted by the Scheduling Order dated December 28, 2012.

On December 20, 2012, a Hearing Notice was issued setting January 17, 2013, as the date for the evidentiary hearing in this case. On December 28, 2012, a Scheduling Order was issued setting forth a procedural schedule, granting petitions to intervene, consolidating the dockets for hearing, modifying discovery rules, and setting forth other miscellaneous directives. Also on December 28, 2012, a Protective Order was entered.

On January 14, 2013, Comverge, Inc. filed a Petition for Admission *Nunc Pro Tunc* of the Direct Testimony of Raymond G. Berkebile. On January 15, 2013, Met-Ed, Penelec, Penn Power, and West Penn Power filed an Answer objecting to the direct testimony as being late-filed in violation of the Scheduling Order’s deadline of January 8, 2013.

On January 17, 2013, a hearing was held in Harrisburg, Pennsylvania. The hearing was attended by Met-Ed, Penelec, Penn Power, West Penn Power, OCA, OSBA, UGI Distribution Companies, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, West Penn Power Industrial Intervenors, CAUSE-PA, PennFuture, Comverge, Inc., WalMart, and Community Action Association of Pennsylvania (CAPP). A 79 page transcript was filed by the court reporter on January 18, 2013.

At the hearing, Comverge, Inc. stated that in light of a stipulation with the Companies regarding its issues, it moved to withdraw its Petition for Admission *Nunc Pro Tunc* of Testimony. This was granted by Order entered on January 17, 2013.

The Order entered on January 17, 2013, amended the procedural schedule in light of the Companies’ representation that an oral agreement had been made with all parties except for the UGI Distribution Companies. Main briefs and a joint settlement petition with statements in support were directed to be filed on or before January 28, 2013. Reply briefs, revised EE&C plans, and/or reply comments were to be filed on or before February 6, 2012.

Main Briefs were filed on January 28, 2013 by the UGI Distribution Companies and Met-Ed, Penelec, Penn Power and West Penn Power. Also on January 28, 2013, a Joint Petition for Full Settlement of Non-Reserved Issues and Statements in Support was filed. On January 28, 2013, the Industrial Intervenors, MEIUG, PICA, PPUG and WPPII filed a letter indicated they had no opposition to the Joint Petition for Full Settlement. On January 29, 2013, the Pennsylvania State University filed a Statement in Support of Settlement and a signed settlement page. Red-lined and clean versions of revised EE&C Phase II Plans were filed by the Companies on February 6, 2013. Reply briefs of the Companies and the UGI Distribution Companies were filed on February 6, 2013.

THERFORE:

IT IS ORDERED THAT THE FOLLOWING DOCUMENTS COMPRISE THE EVIDENTIARY RECORD IN THIS CASE:

1. Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of their respective Phase II Energy Efficiency and Conservation Plans and supporting testimony in the form of Statement Nos. 1 through 3 in support of the filing, at Docket Nos. M-2012-2334387, M-2012-2334392, M-2012-2334395, and M-2012-2334398, filed on November 13, 2012. Joint Company Exhibit No. 1.

2. Joint Petition for Consolidation of Proceedings and Approval of Energy Efficiency and Conservations Plans Phase II of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company Plan and West Penn Power Company filed on November 13, 2012.

3. Notice of Prehearing Conference issued November 29, 2012.

4. Prehearing Conference Order issued November 29, 2012.

5. Joint Petition to Intervene and Answer of Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Penn Power Users Group, and the West Penn Power Industrial Intervenors filed on December 11, 2012.

6. Wal-Mart Stores East, L.P.’s and Sam’s East, Inc.’s Petition to Intervene filed on December 12, 2012.

7. The Office of Consumer Advocate’s Public Statement and Notice of Intervention filed on December 7, 2012.

8. The Office of Small Business Advocate’s Public Statement and Notice of Intervention filed on December 18, 2012.

9. Comverge, Inc.’s Petition to Intervene filed on December 19, 2012.

10. Citizens for Pennsylvania’s Future Petition to Intervene filed on December 13, 2012.

11. The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania’s Petition to Intervene filed on December 14, 2013.

12. The Community Action Association of PA’s Petition to Intervene filed on December 14, 2012.

13. The Pennsylvania State University’s Petition to Intervene.

14. The UGI Distribution Companies’ Petition to Intervene filed on December 3, 2012.

15. Joint Petition for Protective Order filed on December 14, 2012.

16. The transcript of the Prehearing Conference held on December 19, 2012, consisting of pages 1-20.

17. Hearing Notice issued on December 20, 2012.

18. Scheduling Order entered on December 28, 2012.

19. Protective Order entered on December 28, 2012.

20. Comverge, Inc.’s Petition for Admission *Nunc Pro Tunc* of the Direct Testimony of Raymond G. Berkebile filed on January 14, 2013.

21. Met-Ed’s, Penelec’s, West Penn and Penn Power’s Answer objecting to Comverge, Inc.’s Petition for Admission *Nunc Pro Tunc* of the Direct Testimony and Request for Expedited Resolution filed on January 15, 2013.

22. The transcript of the evidentiary hearing held January 17, 2013, consisting of pages 21 through 100.

23. Order entered January 17, 2013.

24. The submissions of the Community Action Association of Pennsylvania entitled Statement No. 1, (Moore-Wychulis Direct).

25. The submissions of PennFuture entitled Statement No. 1 (Reed Direct).

26. The submissions of the Office of Consumer Advocate entitled Statement No. 1 (Hill Direct), Exhibits 1 and 2.

27. The submissions of CAUSE-PA entitled Statement No. 1 (Tran Direct), Appendix A.

28. The submission of Met-Ed, Penelec, Penn Power and West Penn Power entitled as follows: Statement No. 1 (Dargie Direct), Statement No. 2 (Miller Direct), and Statement No. 3 (Siedt Direct), Exhibits KMS-1 through KMS-9. Met-Ed Exhibit No. 1 (Met-Ed Operating Plan). Penelec Exhibit No. 1 (Penelec Operating Plan). West Penn Power Exhibit No. 1 (West Penn Operating Plan). Penn Power Exhibit No. 1, (Penn Power Operating Plan).

29. The Companies’ corrected exhibits filed on January 28, 2013, Statement No. 2 (Miller Direct) and Penn Power Exhibit No. 1.

30. Stipulation between the Companies and Comverge, Inc. dated January 17, 2013.

31. Stipulation between the Companies and the Industrial Customer Groups dated January 17, 2013.

32. FirstEnergy Term Sheet Exhibit

33. The submissions of UGI Distribution Companies entitled Statement No. 1, (Raab Direct), Exhibits UGI 1 through UGI 6.

34. Main Briefs filed on January 28, 2013, by UGI Distribution Companies and Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company.

35. Joint Petition for Full Settlement of Non-Reserved Issues and Statements In Support filed on January 28, 2013.

36. The Industrial Intervenors’ (MEIUG, PICA, PPUG and WPPII) letter indicating they had no opposition to the Joint Petition for Full Settlement filed on January 28, 2013.

37. The Pennsylvania State University’s Statement in Support of Settlement and Signed Settlement Page filed on January 29, 2013.

38. Reply Brief and the red-lined and clean versions of the Revised Phase II Energy Efficiency and Conservation Plans filed on February 6, 2013 by Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company.

Dated: February 7, 2013 /s/

Elizabeth H. Barnes

Administrative Law Judge

**M-2012-2334387 – PETITION OF METROPOLITAN EDISON COMPANY**

**M-2012-2334392 – PETITION OF PENNSYLVANIA ELECTRIC COMPANY**

**M-2012-2334395 – PETITION OF PENNSYLVANIA POWER COMPANY**

**M-2012-2334398 – PETITION OF WEST PENN POWER COMPANY**

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