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| **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** | |
| Public Meeting held April 23, 2014 | |
| Commissioners Present:  Robert F. Powelson, Chairman  John F. Coleman, Jr., Vice Chairman  James H. Cawley  Pamela A. Witmer  Gladys M. Brown | |
| Petition of PECO Energy Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan | Docket No. M-2012-2333992 |

**TENTATIVE OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition of PECO Energy Company (PECO or Company) for Approval of Amendments to its Act 129 Phase II Energy Efficiency and Conservation (EE&C) Plan (February 2014 Plan) to, *inter alia*, extend its Mass Market Direct Load Control Program (DLC Program) from May 31, 2014, to May 31, 2016, and to adjust several Plan measures (Petition). [[1]](#footnote-1) Comments or Letters in Lieu of Comments were filed by the Office of Consumer Advocate (OCA), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Comverge, Inc. (Comverge), the Keystone Energy Efficiency Alliance (KEEA), and the Philadelphia Area Industrial Energy Users Group (PAIEUG) on March 19, 2014. PECO filed Reply Comments on March 31, 2014.[[2]](#footnote-2) For the reasons stated herein, we will approve the March 2014 Plan on the condition that no opposing Comments are received.

# Background

On October 15, 2008, House Bill 2200 was signed into law as Act 129 with an effective date of November 14, 2008. Among other requirements, Act 129 directed that EE&C Programs be developed by each of the Commonwealth’s largest electric distribution companies (EDCs) and be approved by the Commission. Specifically, Act 129 required each EDC with at least 100,000 customers to adopt a plan to reduce energy demand and consumption within its service territory. Initially, the Act required each affected EDC to adopt a plan to reduce electric consumption by at least one percent of its expected consumption for June 1, 2009, through May 31, 2010, by May 31, 2011. By May 31, 2013, the total annual weather-normalized consumption was to be reduced by a minimum of three percent. Also, by May 31, 2013, peak demand was to be reduced by a minimum of four-and-a-half percent of each EDC’s annual system peak demand 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.[[3]](#footnote-3)

Another requirement of Act 129 directs the Commission to evaluate the costs and benefits of the adopted EE&C Program by November 30, 2013, and every five years thereafter. The Act provides that the Commission must adopt additional incremental reductions in consumption and peak demand if the benefits of the EE&C Program exceed its costs.[[4]](#footnote-4) In accordance with that directive, the Commission issued a Secretarial Letter on March 1, 2012, at Docket No. M-2012-2289411, seeking comments on several issues related to the design and implementation of any future phase of the EE&C Program, and whether additional incremental consumption and peak demand reduction targets would be adopted. In response to the Comments received pursuant to the Secretarial Letter, on May 10, 2012, the Commission issued a Tentative Implementation Order (*Phase II* *Tentative Implementation Order*), at Docket No.   
M-2012-2289411, to begin the process of evaluating the costs and benefits of the initial EE&C Plans and the possible establishment of new reduction targets. In the *Phase II* *Tentative Implementation Order*, the Commission found that the benefits of a Phase II Act 129 Program will exceed the costs. Therefore, the Commission proposed the adoption of additional required incremental reductions in consumption for another program term and sought additional comments on its specific proposals.

Subsequently, in response to the Comments filed pursuant to the *Phase II* *Tentative Implementation Order*, on August 3, 2012, the Commission entered the *Phase II Implementation Order* at Docket No. M-2012-2289411*.* The *Phase II Implementation Order* established the standards each plan must meet, including the additional incremental reductions in consumption that each EDC must acheive, and provided guidance on the procedures to be followed for submittal, review and approval of all aspects of EDC EE&C plans. Within the *Phase II Implementation Order*, the Commission tentatively adopted EDC-specific consumption reduction targets, which varied from a high of 2.9% for PECO to a low of 1.6% for West Penn Power Company. *Phase II Implementation Order* at 24. The *Phase II Implementation Order* provided that these targets would become final for any applicable EDC that did not petition the Commission for an evidentiary hearing by August 20, 2012. *Id.* at 30-32.

The Commission did not include any demand reduction (DR) targets and corresponding DR programs for the EDCs’ Phase II EE&C Plans. In the *Phase II Implementation Order,* the Commission explained that its interpretation of Section 2806.1(d)(2) of Act 129, 66 Pa. C.S. § 2806.1(d)(2), is that, in order for the Commission to prescribe specific peak DR targets for subsequent phases of Act 129, the DR programs must be proven to be cost-effective. *Phase II Implementation Order* at 32. As discussed, *infra*, the Commission has initiated proceedings to determine the cost-effectiveness of peak demand reduction programs.

On September 4, 2012, PECO filed a Motion for Leave to File a Petition for Reconsideration and a Petition for Reconsideration of the *Phase II Implementation Order* (Petition for Reconsideration).[[5]](#footnote-5) In the Petition for Reconsideration, PECO requested, *inter alia,* that the Commission reconsider its decision to require all permissible EDC Phase II funding to be dedicated solely to consumption reduction and to provide no Act 129 funding during Phase II to any DR programs. Petition for Reconsideration at 14. The *Phase II Reconsideration Order, inter alia,* denied PECO’s Petition for Reconsideration.

On August 20, 2012, at Docket No. P-2012-2320334, PECO filed a Petition for an Evidentiary Hearing on the Energy Efficiency Benchmarks Established for the period June 1, 2013, through May 31, 2016 (Benchmark Petition). Among the issues raised in the Benchmark Petition, PECO requested an evidentiary hearing to present evidence that shows that its existing residential DR program, in particular DLC, is cost-effective and should continue into Phase II on an interim basis. Benchmark Petition at 6. Following an evidentiary proceeding, Administrative Law Judge (ALJ) Elizabeth H. Barnes certified the record to the Commission on November 2, 2012, for its consideration and disposition.

By Opinion and Order entered December 6, 2012, at Docket No.   
P-2012-2320334 (*PECO Phase II Benchmark Order*), the Commission*, inter alia*, reaffirmed that PECO’s Phase II consumption reduction target shall remain at 2.9% and that available funds for its Phase II Plan shall remain at two percent of PECO’s 2006 annual revenue. The Commission stated that PECO shall not allocate Phase II funds for DR programs, including its DLC Program, unless it can show that it can fund such programs while meeting the 2.9% energy reduction target and show that the programs are cost-effective. The Commission invited PECO to present evidence that it can fund such DR programs while meeting the 2.9% energy reduction target and that such DR programs are cost-effective as part of the Commission’s then pending investigation into its Phase II EE&C Plan. *PECO Phase II Benchmark Order* at 25.

On November 1, 2012, PECO filed its Petition requesting approval of its Phase II EE&C Plan (November 2012 Plan) at this docket (Phase II Petition). The November 2012 Plan did not include any DR Programs. Following an evidentiary proceeding, on January 28, 2013, ALJ Dennis J. Buckley certified the record to the Commission for its consideration and disposition.

By Opinion and Order entered February 28, 2013 (*PECO Phase II Order*), the Commission granted, in part, and denied, in part, PECO’s Phase II Petition. The *PECO Phase II Order* permitted PECO to implement its Phase II Plan and directed PECO to address the Commission’s specific concerns including, but not limited to:   
(1) the documentation of energy savings derived from government, educational and non-profit customers; (2) the coordination of the Low-Income Energy Efficiency Program with specific ongoing conservation programs; (3) modifications to the Smart Builder Rebates Program; and (4) the revenue and cost reporting, reconciliation, and recovery process set forth in PECO’s tariff. *PECO Phase II Order* at 47-49*.*

On March 15, 2013, PECO filed a Petition to amend its Phase II EE&C Plan to continue its DLC Program from June 1, 2013, to May 31, 2014 (DLC Petition). Following its review of the Answers and Comments filed in response to the DLC Petition, the Commission, *inter alia*, approved PECO’s request to continue a modified version of its DLC Program. Specifically the Commission stated:

[C]onsistent with the directives in the *PECO Phase II Benchmark Order,* we find that PECO has proposed to implement a cost-effective, modified version of its DLC Program, as part of its Phase II Plan, and still implement its Revised Phase II Plan that:

(1) continues to exceed its 2.9% reduction target of 1,125,851 MWh by projecting energy savings of 1,184,422 MWh over the three years of the Phase II program;

(2) continues to project an overall [Total Resource Cost (TRC)] benefit-cost ratio of 1.4, which demonstrates that the overall Revised Phase II Plan is cost-effective; and

(3) continues to implement the Revised Phase II Plan within the $256 million spending cap.

Order entered May 9, 2013, at this Docket at 14.

As discussed, *supra*, in the *Phase II Implementation Order*, the Commission found that, in order for the Commission to prescribe specific peak DR targets for subsequent phases of Act 129, the DR programs must be proven to be cost-effective. To assist the Commission in determining the cost-effectiveness of the peak demand reduction program, the Commission directed the Statewide Evaluator (SWE) to conduct a Demand Response Study to fully assess the costs and benefits of the current peak demand reduction programs.[[6]](#footnote-6) Through a Secretarial Letter, issued May 17, 2013, at Docket No. M-2012-2289411, the Commission released the *Act 129 Demand Response Study – Final Report* (DR Study).

At the suggestion of stakeholders, the Commission directed the SWE to conduct a Preliminary Wholesale Price Suppression and Prospective TRC Analysis of the peak demand reduction program. The SWE’s analysis was completed on November 1, 2013. By Tentative Order entered on November 14, 2013 (*DR Tentative Order*),[[7]](#footnote-7) the Commission released the SWE’s Preliminary Wholesale Price Suppression and Prospective TRC Analysis (Amended DR Study) and invited comments.[[8]](#footnote-8) A notice of the *DR Tentative Order* and the SWE’s Amended DR Study were published in the *Pennsylvania Bulletin* on November 30, 2013, at 43 *Pa. B.* 7050.

In response to the Comments on the *DR Tentative Order* and the SWE’s Amended DR Study, the Commission entered a Final Order on February 20, 2014, at Docket Nos. M-2012-2289411 and M-2008-2069887 (*February 2014 Final Order*) that, *inter alia*, directed the SWE to perform a Demand Response Potential Study. The Commission projected that the Study would not be completed until late 2014, at the earliest. *February 2014 Final Order* at 76.

# History of the Proceeding

On February 28, 2014, PECO filed the instant Petition to amend its Phase II Plan to, *inter* *alia*, extend its DLC Program from May 31, 2014, to May 31, 2016.

By Secretarial Letter issued March 7, 2014, at this Docket Number (March 2014 Secretarial Letter), the Commission established respective twelve-day periods for the submission of Comments and Reply Comments on the Petition. Comments or Letters in Lieu of Comments and Reply Comments were filed, respectively, as noted, *supra*.

In addition to its Reply Comments, PECO submitted the March 2014 Plan and a red-lined version of the Plan, which contained further changes to PECO’s EE&C Plan. PECO explained that, in the February 2014 Plan, certain incentive levels had inadvertently been changed to zero and that several intended changes in the low income customer programs were inadvertently omitted. PECO avers that these errors have been cured in the March 2014 Plan. Reply Comments at 2-3.

# Discussion

## Legal Standards

The Company has the burden of proof in accordance with 66 Pa. C.S.   
§ 332(a). Courts have held 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.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied,* 529 Pa. 654, 602 A.2d 863 (1992). That is, the Company’s evidence must be more convincing, by even the smallest amount, than that presented by the other Parties. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, this Commission’s decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC,* 489 Pa. 109, 413 A.2d 1037 (1980).

We note that any issue that we do not specifically address has been duly considered and will be denied without further discussion. It is well settled that the Commission is not required to consider, expressly or at length, each contention or argument raised by the parties. *Consolidated Rail Corporation v. Pa. PUC*,

625 A.2d 741 (Pa. Cmwlth. 1993); *see also*, *generally*, *University of Pennsylvania v.*

*Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

## B. Proposed Changes to PECO’s EE&C Plan

### Comments on the March 2014 Plan and this Tentative Order

In the *Phase II Implementation Order*, at 62, we stated that parties could respond to a proposed EE&C plan by filing an answer along with comments and recommendations. The EDC could then file a revised plan or reply comments or both.

In this case, several Parties filed Comments. PECO then filed Reply Comments, together with a revised plan. To this extent, the filing was proper. We are concerned, however, that some of the changes proposed in the March 2014 Plan were not proposed in response to the Answers and Comments of the other Parties. Rather, they were inadvertently omitted from the February 2014 filing. In order to ensure the right of all Parties to comment on proposed changes in PECO’s Commission-approved EE&C Plan, we will provide the Parties with an opportunity to comment on the March 2014 Plan. Comments on the March 2014 Plan will be considered timely if filed ten days following the entry of this Tentative Opinion and Order. Reply Comments will be considered timely if filed ten days thereafter. These comment periods should be more than adequate since the March 2014 Plan was served on the Commission and the Parties on March 31, 2014, and the number of new changes contained in the March 2014 Plan are not that extensive.

Because we are inviting Comments and Reply Comments on the March 2014 Plan subsequent to the entry of this Opinion Order, we shall issue a Tentative Opinion and Order. If no Comments or Reply Comments are filed within the time periods specified, *supra*, this Tentative Order will become final without further action of the Commission. If opposing Comments or Reply Comments are timely filed, the Commission will consider them in a subsequent Opinion and Order.

### Extension of the DLC Program

PECO’s DLC Program is comprised of residential and commercial programs that realize demand reductions by shutting down participating customers’ central air conditioning units on short notice during peak demand times. PECO explains that, to date, it has implemented a 50% cycling strategy that limits cycling to 15 minutes every half hour. March 2014 Plan at 70. PECO projects that 75,000 residential customers and 3,100 commercial customers will participate for the duration of the DLC Program. *Id.* at 72 and 175.

As noted, *supra,* the Commission has approved the DLC Program through May 31, 2014. PECO is proposing that this program be extended until May 31, 2016, to allow customers to continue to enjoy significant benefits. PECO explains that the continuation of the DLC Program is based, in part, on the program achieving a TRC benefit-cost ratio (TRC ratio) of 3.2 during Plan Year (PY) 2013. Petition at 7. PECO estimates that the annual cost of the residential program will increase from $9,358,804 during PY 2013 to $9,646,570 during PY 2014 and PY 2015 and the annual cost of the commercial program will increase from $531,221 during PY 2013 to $544,554 during PY 2014 and PY 2015. March 2014 Plan at 72 and 165. PECO submits that the increased costs are driven by the need to enroll new customers to replace customers who discontinue participation. Petition at 7. The March 2014 Plan shows that the 78 MW peak demand savings for the residential program and the 2.6 MW savings for the commercial program and the estimated combined TRC ratio for both the residential and commercial programs will be 2.5. March 2014 Plan at 72 and 176.

The OCA, CAUSE-PA, Comverge and KEEA all submitted comments in support of the extension of the DLC Program. The OCA and KEEA note that the Company has already expended considerable resources and ratepayer funds to establish a valuable DLC infrastructure. The OCA and KEEA aver that the proposed modifications to the Phase II Plan will ensure that the DLC infrastructure continues to provide benefits to those customers that directly participate, as well as system benefits as a whole. OCA Comments at 3, KEEA Comments at 2. The OCA explains that wholesale electricity prices can escalate quickly when usage spikes in the summer and the market can benefit greatly through reductions of power usage during these high-cost periods. OCA Comments at 2. Comverge adds that, in addition to reduced energy and capacity market prices, DR programs improve grid stability and reliability during periods of high demand and reduce costs as a result of delayed investments in generation, transmission and distribution facilities. Comverge Comments at 7-8. KEEA submits that recent filings by PJM indicate that a recent FERC ruling will limit DR by at least 6,000 MW in the future, making PECO’s inclusion of DR in Phase II, leading up to Phase III, particularly valuable for increasing electricity reliability and wholesale price suppression impacts. KEEA Comments at 2.

We will approve PECO’s request to extend the DLC Program to May 31, 2016, absent any Comments opposing the extension of the DLC Program. Consistent with the directives in the *PECO Phase II Benchmark Order,* we find that PECO has proposed to implement a cost-effective DLC Program, as part of its Phase II Plan, and still implement its Revised Phase II Plan that:

(1) exceeds its 2.9% reduction target of 1,125,851 MWh by projecting energy savings of 1,183,102 MWh over the three years of the Phase II program;

(2) projects an overall TRC benefit-cost ratio of 1.5, which demonstrates that the overall March 2014 Plan is cost-effective; and

(3) projects a Phase II Plan budget of $255.3 million which is below the $256 million spending cap.

March 2014 Plan at 9-10.

### Modifications to the Low-Income Energy Efficiency Program (LEEP)

PECO’s LEEP consists of four components for residential customers with a household income at or below 200% of the federal poverty level (FPL):

Component 1 – In home energy audits, consumer education and the direct installation of measures.

Component 2 – Installation of CFL bulbs in Low Income Usage Reduction Program (LIURP) participants’ households.

Component 3 – Distribute CFL bulbs at low-income community events and to income-eligible electric customers in the PECO service territory.

Component 4 – Replace old, inefficient refrigerators with Energy Star® units.

March 2014 Plan at 55-56.

In its Petition, PECO explains that it is proposing changes to the LEEP to increase customer participation in both Refrigerator Recycling and Replacement and CFL use through additional community events. Petition at 6. While PECO is proposing to increase the refrigerator and CFL measures, it is also proposing reductions in the number of LEEP customers that receive energy audits, consumer education and the direct installation of measures. The following table summarizes the changes in projected LEEP participation between the Phase II Plan revised on March 13, 2013 (March 2013 Plan), and the instant March 2014 Plan:

|  |  |  |  |
| --- | --- | --- | --- |
|  | March 2013 Plan | March 2014 Plan | Difference |
| Electric Baseload – Basic Measures | 25,500 | 21,840 | (3,660) |
| Electric Baseload – Major Measures | 5,400 | 4,349 | (1,051) |
| Electric Heat – Basic Measures | 375 | 2,952 | 2,577 |
| Electric Heat – Major Measures | 1,650 | 1,012 | (638) |
| All CFLs | 456,890 | 963,413 | 506,523 |
| Refrigerator Replacements | 6,600 | 8,745 | 2,145 |

March 2013 Plan at 60 and March 2014 Plan at 61. Although PECO is proposing changes in the customer participation rates for the various LEEP measures, PECO projects that the TRC ratio will remain at 1.51 and the three-year budget will remain at $23,843,896. *Id.*

In the *Phase II Implementation Order*, the Commission directed that at least 4.5% of energy savings from each EDC’s Phase II plan be realized from households at or below the 150% FPL. *Phase II Implementation Order* at 53-58. Although PECO’s LEEP is available to customers at or below 200% of the FPL, PECO is only attributing the savings from customers at or below 150% of the FPL toward the 4.5% low-income target. In its Rebuttal Testimony in support of its initial Phase II Plan filed November 1, 2012, PECO provided the following schedule to demonstrate how it expected to achieve the 4.5% reduction target:

|  |  |  |
| --- | --- | --- |
|  | Energy Savings  (MWh) | Percent of Total Phase II Plan Savings |
| LEEP (customers at or below 150% FPL) | 47,884 | 4.25% |
| Other Phase II Programs (customers at or below 150% FPL) | 1,480 | .13% |
| Banked Phase I Savings (customers at or below 150% FPL) | 1,299 | .12% |
| Total | 50,663 | 4.50% |

PECO St. 1-R at 3.

While PECO’s proposed changes to the LEEP will maintain the program’s cost-effectiveness, we have one concern with PECO’s proposed revisions. PECO explains that it will increase CFL distribution through additional community events. Petition at 6. Although these community events may be targeted to low-income customers, there is no certainty that all of these additional CFLs will be received and installed by households with incomes at or below 150% FPL. Although we note that PECO’s most recent Quarterly Report of its EE&C Plan states that gross energy savings achieved for the low-income sector “is 10 percent of the Phase II total portfolio gross energy savings,” we believe that better documentation is warranted. Quarterly Report dated January 15, 2014 at Docket No. M-2012-2333992 at 7.[[9]](#footnote-9) Therefore, we shall direct PECO to include in future Quarterly Reports, a schedule similar to the one presented in PECO St.1-R, *supra*, and a brief explanation of how the energy savings for CFLs, that are not directly installed, *e.g.* distributed at community events, are allocated to customers at or below 150% FPL.

## 4. Omitted Incentive Ranges

In its Comments, PAIEUG notes that, among other modifications, PECO proposed “[a]djustments to incentive levels in light of Phase II Plan experience to date.” PAIEUG Comments at 1 (citing Petition at 7). PAIEUG explains that in the February 2014 Plan submitted as Exhibits B and C, there are numerous Large Commercial and Industrial measures with adjusted rebate ranges of “$0 to $0,” which PAIEUG avers are outside the ranges approved by the Commission. PAIEUG Comments at 1. PAIEUG submits that it contacted PECO to discuss the apparent discrepancy between the Petition and the February 2014 Plan and PECO confirmed that the zero rebates were the result of a technical error. PAIEUG states that PECO affirmed that it would correct the rebate ranges through Reply Comments and that the corrections would not modify the budget or energy savings calculations set forth in the Petition. *Id.*

We note that many of the incentive ranges that were presented as “$0-$0” in the February 2014 Plan have been replaced with actual incentive ranges in the March 2014 Plan.[[10]](#footnote-10) As discussed, *infra*, PAIEUG and the other Parties will have an opportunity to submit comments on the corrected incentive ranges, if necessary.

**5. Errors in Exhibit A**

Exhibit A to the Petition provides a summary of the proposed revisions contained in the February 2014 Plan. We note that the program budget, MWh savings, MW reduction and TRC for LEEP, presented in Section E of Exhibit A, do not correspond to the data presented on pages 7, 10, 60 and 61 of the February 2014 Plan. PECO has not submitted a revision to Exhibit A with the March 2014 Plan. As a summary of the amendments to the Plan, Exhibit A is not critical to our review of the March 2014 Plan, and we shall clarify that Exhibit A shall not be included as part of our disposition of the Petition and the March 2014 Plan.

**6. Other Modifications Reflected in the Revised Plan**

In addition to the changes discussed, *supra*, PECO explains that it has proposed certain modifications to further enhance the performance of its portfolio of measures. These modifications include the following:

* Changes to Smart Equipment and Smart Construction Incentives for [government, nonprofit and institutional] and commercial and industrial customers due to increased participation associated with more aggressive outreach and marketing plans;
* Expansion of the Smart Energy saver program due to an increased interest in participation from schools;
* Adjustments to projected energy savings for several measures to incorporate updated Evaluation, Measurement and Verification calculations consistent with the Commission’s latest [Technical Reference Manual], as well as updated incremental costs and net-to-gross estimates;
* Revised participation estimates by measure to include additional seven months of actual data (from June 1, 2013) and reflect more recent [Conservation Service Provider] participation projections;
* Adjustments to incentive levels in light of Phase II Plan experience to date, within the same rebate range originally approved by the Commission; and
* Consolidation of similar measures by technology type instead of model numbers to reduce customer confusion and increase Plan flexibility to respond to market changes and emerging technology (e.g., combine multiple wattages of CFLs into one measure, “CFL Screw-In Bulbs”).

Petition at 6-7.

Absent any comments to the contrary, we find that the modifications presented in the March 2014 Plan meet the applicable requirements of Act 129, 66 Pa. C.S. § 2806.1, and related Orders of the Commission.

# Conclusion

Absent any future opposing Comments or Reply Comments, we shall grant the Petition, to the extent that it requests approval of the March 2014 Plan, and we shall approve the March 2014 Plan. We shall also: (1) establish additional reporting requirements to substantiate compliance with the energy savings requirements for low-income customers; and (2) establish deadlines for the submission of Comments and Reply Comments on the March 2014 Plan; **THEREFORE,**

**IT IS ORDERED:**

1. That, absent any opposing Comments or Reply Comments, the Petition of PECO Energy Company for Approval of Amendments to its Act 129 Phase II Energy Efficiency and Conservation Plan filed on February 28, 2014, is granted to the extent that it seeks approval of the Revised Energy Efficiency and Conservation Plan filed on March 31, 2014.
2. That if no opposing Comments or Reply Comments are received by the deadlines set forth in Ordering Paragraph No. 4, *infra*, this Tentative Order shall become final without further action by the Commission.
3. That PECO Energy Company shall submit, as part of its Quarterly Energy Efficiency and Conservation Reports, additional information on the energy savings realized by customers with annual incomes at or below 150% of the Federal Poverty Level, as delineated in this Tentative Opinion and Order.
4. That Comments on the Revised Energy Efficiency and Conservation Plan filed on March 31, 2014, will be considered timely if filed within ten days following the entry date of this Tentative Opinion and Order. Reply Comments will be considered timely if filed within ten days thereafter.
5. That any directive, requirement, disposition or the like contained in the body of this Opinion and Order, that is not the subject of an individual Ordering Paragraph, shall have the full force and effect as if fully contained in this part.
6. That a copy of this Opinion and Order be served on all active parties of record.

**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: April 23, 2014

ORDER ENTERED: April 23, 2014

1. In addition to the Petition, PECO submitted a summary of the proposed changes to the Revised Phase II Plan as Exhibit A, a Revised Act 129 Phase II Plan (February 2014 Plan) as Exhibit B, and a red-lined version of the Revised Phase II Plan as Exhibit C. [↑](#footnote-ref-1)
2. In addition to the Reply Comments, PECO submitted a Revised Phase II Plan as Exhibit A (March 2014 Plan) and a red-lined version of the Revised Phase II Plan as Exhibit B, which contain further changes to PECO’s EE&C Plan. [↑](#footnote-ref-2)
3. The Act 129 consumption and peak load reduction targets are set forth at 66 Pa. C.S. §§ 2806.1(c)(1), (c)(2) and (d)(1). [↑](#footnote-ref-3)
4. The Act 129 requirements regarding the evaluation of the costs and benefits of subsequent EE&C programs are set forth at 66 Pa. C.S. §§ 2806.1(c)(3) and (d)(2). [↑](#footnote-ref-4)
5. In addition to PECO’s Petition for Reconsideration, on August 20, 2012, Petitions for Reconsideration and/or Clarification of the *Phase II Implementation Order* were filed by PPL Electric Utilities Corporation and jointly by Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company. All three Petitions were addressed in the Reconsideration Order at Docket Nos. M-2012-2289411 and M-2008-2069887 (Order entered September 27, 2012) (*Phase II Reconsideration Order)*. [↑](#footnote-ref-5)
6. *See Energy Efficiency and Conservation* Secretarial Letter, Docket No.   
   M-2008-2069887 (March 4, 2011). [↑](#footnote-ref-6)
7. *See Energy Efficiency and Conservation Program* *Tentative Order*, Docket Nos. M-2012-2289411 and M-2008-2069887 (Order entered November 14, 2013). [↑](#footnote-ref-7)
8. GDS Associates, *Act 129 Demand Response Study – Final Report* (2013), <http://www.puc.pa.gov/filing_resources/issues_laws_regulations/act_129_information/act_129_statewide_evaluator_swe_.aspx>. [↑](#footnote-ref-8)
9. This Quarterly Report covers the period September 2013 through November 2013. [↑](#footnote-ref-9)
10. *See*, for example, the PECO Smart Construction Incentives in the February 2014 Plan at 136 and the March 2014 Plan at 136. [↑](#footnote-ref-10)