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November 22, 2019

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

**Re: Additional Reply Comments of the Energy Association of Pennsylvania to 2021
Total Resource Cost (TRC) Test Tentative Order, Docket M-2019-3006868**

Dear Secretary Chiavetta:

On September 11, 2019, the Pennsylvania Public Utility Commission (“Commission”) entered a Tentative Order at the above-referenced docket proposing guidelines for the Total Resource Cost Test that will be used in planning for and implementing a potential Phase IV Act 129 Energy Efficiency and Conservation (“EE&C”) Program that, if approved, would begin on June 1, 2021. Based on the publication of the Tentative Order in the *Pennsylvania Bulletin* on October 12, 2019, comments were due on November 1 and reply comments were due on November 12. The Energy Association of Pennsylvania (“EAP”), on behalf of its electric distribution company (“EDC”) members¹ subject to the provisions of Act 129 of 2008, 66 Pa. C. S. § 2806.1 (“Act 129”), filed comments and reply comments in this proceeding.

On or about November 6, 2019, (during the reply comment period), two sets of late-filed comments were received by the Commission: one from Advanced Energy Management Alliance

¹ EAP EDC members obligated under to Act 129 to file EE&C plans include Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power Company, PPL Electric Utilities Corporation and West Penn Power Company.

(“AEMA”) and a second from various industrial groups² (“Industrials”) in connection with a Petition to Submit Late-Filed Comments (“Petition”). EAP answered the Petition, seeking, *inter alia*, time to file additional reply comments which was granted in a Secretarial Letter dated November 21, 2019 at the above-referenced docket. The Secretarial Letter provided time to all interested parties to respond to issues raised in either set of late-filed comments. EAP files these additional reply comments on behalf of its members listed above in footnote number one (1).

With respect to the comments of AEMA, the EAP recommends that the Commission reject the hybrid approach suggested by AEMA, i.e., to require the nomination of potential Phase IV Act 129 DR programs for residential programs only to PJM as Peak Shaving Adjustments (“PDAs”). *See*, AEMA Comments at p. 6. EAP contends that EDCs should not be mandated to nominate potential Phase IV Act 129 DR programs to PJM as PSAs for any class of customers for all the reasons set forth in its comments and initial set of reply comments to the 2021 TRC Test Tentative Order.

Those reasons (many of which AEMA cites as its basis for rejecting the Commission’s proposal as it relates to commercial and industrial customers) include: (1) PJM DR customers (including residential customers) are precluded from participating in the PJM PSA program, severely limiting the pool of participants for Act 129 DR programs; (2) the inability of EDCs to nominate DR resources into the PJM PSA program during all years of a potential Phase IV Act 129; (3) the higher cost of implementing residential DR programs; (4) the lack of sufficient data and experience to support the Commission’s assumptions underlying its proposal as set forth in Section G of the Tentative Order; (5) unknown ratepayer benefits of Act 129 DR programs in Phase IV as compared to other Act 129 program options; (6) the limits placed on EDC program design and flexibility in reaching any potential Act 129 DR target that results from the requirement to nominate into PJM as PSAs; and (7) the unnecessary compliance risks for mandatory DR programs. A number of these contentions in opposition to the proposed TRC Test method outlined in Section G of the Tentative Order were also raised by the Office of Consumer Advocate (“OCA”) and the Keystone Energy Efficiency Alliance (“KEEA”) in their comments filed at this docket.

With respect to the comments of the Industrials, EAP asks the Commission to reject the suggestion that cost-effectiveness testing be evaluated at the measure level or customer class level as compared to the portfolio or plan level. Such a suggestion is not supported by the statute and has not been adopted by the Commission in earlier phases of Act 129 Energy Efficiency and Conservation (“EE&C”) plans. EAP further opposes the suggestion by the Industrials that, “for certain purposes...the TRC Test market price results should be updated annually using actual market conditions.” *See*, Industrial Comments at p. 5. This suggestion would result in a constantly shifting compliance target, increasing the uncertainty and complexity of Act 129, in an environment where EDCs are mandated to operate these plans under the threat of large monetary penalties pursuant to a statutory framework wherein the Commission has no discretion to consider the circumstances or reasonableness of EDC efforts to achieve targets in evaluating compliance. This requirement would also lead to inconsistent TRC test results versus those used consistent with Commission directives at the time the EDCs’ EE&C plans were approve.

² The Industrials submitting late-filed comments included the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the PP&L Industrial Customer Alliance, the West Penn Power Industrial Intervenors and the Pennsylvania Energy Consumer Alliance.

For all of these reasons, EAP urges the Commission to: (1) reject the suggestions of the Industrials as outlined above; and (2) reconsider its proposal as set forth in Section G of the Tentative Order and, alternatively, without establishing mandatory demand reduction targets in a potential Phase IV, provide a voluntary option via a DR pilot that would allow the Commission, PJM, EDCs and other Pennsylvania stakeholders to gain experience with the proposed PJM PSA programs.

Sincerely,



Donna M.J. Clark
Vice President & General Counsel

Enclosure

CC: Certificate of Service
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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (b)(3) (relating to service by a participant).

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Certificate of Service Page 2

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Donna M.J. Clark

Dated this 22nd day of November, 2019, at Harrisburg, Pennsylvania