

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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May 7, 2020

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

Re: Petition of the Industrial Energy Consumers of  
Pennsylvania to Suspend Implementation  
of the Act 129 Phase IV Requirements and for  
Other Relief  
Docket No. P-2020-3019562

Dear Secretary Chiavetta:

Enclosed please find the Answer of the Office of Consumer Advocate to the Petition of the Industrial Energy Consumers of Pennsylvania in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Darryl A. Lawrence  
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Paul Diskin, Director, Bureau of Technical Utility Services (**email only**)  
Darren Gill, Deputy Director, Bureau of Technical Utility Services (**email only**)  
Certificate of Service

\*287863

CERTIFICATE OF SERVICE

Re: Petition of the Industrial Energy :  
Consumers of Pennsylvania to Suspend : Docket No. P-2020-3019562  
Implementation of the Act 129 Phase IV :  
Requirements and for Other Relief :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Answer to the Petition of Industrial Energy Consumers of Pennsylvania, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 7<sup>th</sup> day of May 2020.

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Dated: May 7, 2020  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of the Industrial Energy	:	
Consumers of Pennsylvania to Suspend	:	Docket No. P-2020-3019562
Implementation of the Act 129 Phase IV	:	
Requirements and for Other Relief	:	

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ANSWER OF THE  
OFFICE OF CONSUMER ADVOCATE  
TO THE PETITION OF THE  
INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA

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The Office of Consumer Advocate (OCA) is in receipt of the Petition of the Industrial Energy Consumers of Pennsylvania to Suspend Implementation of Act 129 Phase IV Requirements and for Other Relief (Petition). The OCA agrees with the Industrial Energy Consumers of Pennsylvania (IECPA) that proceeding forward with Phase IV implementation at this time based on the *Pennsylvania Act 129 Phase IV Energy Efficiency and Peak Demand Reduction Market Potential Study* (EEPDR) and the *Pennsylvania Act 129 Phase IV Demand Response Potential Study* (DDR) (collectively, SWE Market Potential Studies) does not seem reasonable under the significantly changed circumstances occasioned by the COVID-19 pandemic. In its Comments to the Tentative Implementation Order at Docket No. M-202-3015228 on April 27, 2020, the OCA recommended that Phase IV implementation efforts be paused at this time and that efforts be refocused on delivering those programs in Phase III that can be safely delivered while maintaining the ability to move forward quickly with additional program delivery when it is safe to do so. The OCA also recommended that we begin work within the stakeholder groups to

identify innovative program delivery mechanisms and determine how best to continue achieving savings within Phase III. The OCA hereby incorporates those Comments by reference.

As IECPA correctly notes in its Petition, much has changed since the issuance of the Tentative Implementation Order and the SWE Market Potential Studies. Petition at 2-3. The COVID-19 pandemic, the Governor's closure of non-life sustaining businesses, and new health and safety measures have impacted all aspects of economic life for Pennsylvania's homes, businesses, and industries. The OCA agrees with IECPA that any measures to develop additional electricity consumption savings and peak demand reduction targets, particularly when those targets are based on data that is no longer valid or relevant, could create unintended economic hardships on utilities and consumers. Petition at 3-4. As such, the OCA agrees that we should not move forward with establishing targets and designing programs for Phase IV based on the information we have available and the circumstances before us.

As the OCA set forth in its Comments to the Tentative Implementation Order, moving forward with attempting to establish targets and design programs under the changed economic, health, and safety circumstances would not be a prudent and reasonable use of resources at this time. It is very likely that any decisions on program design made in the short term based on data and programs that preceded the COVID-19 pandemic will need to be revisited and modified significantly. Clearly, the assumptions underlying the EEPDR Potential Study and the DDR Potential Study are no longer valid, as IECPA correctly identified. Additionally, COVID-19 may change the income available to homes and businesses to participate in energy efficiency or demand response programs. Finally, new health and safety requirements may impact program design and cost, particularly as it concerns the deployment of programs that are on-site at a residence or

business. These reasons fully support IECPA's request to extend Phase III and delay the implementation of Phase IV.

The OCA is concerned with two aspects of IECPA's request. IECPA requests that the Commission reduce the collection of associated Phase III surcharges by 50%. Petition at 9-11. While rate relief at this time may be beneficial to customers, continuing with cost-effective energy efficiency and demand response that can be safely and cost-effectively delivered could be more beneficial to customers in both the short term and the long term. Energy efficiency and demand response measures may help customers reduce their overall energy usage, and thereby their energy bills as they struggle to find ways to contain costs in these difficult economic times. In addition, being able to maintain funding may allow programs to ramp up more quickly when circumstances permit. The OCA would further note that the 50% reduction does not have a sound foundation and may not account for projects that are in progress and will be able to be completed or rebates that may have been committed but not yet paid out. The OCA would recommend that the issue of reducing charges be taken up at a later date when we have a better understanding of what programs can be delivered safely and at what cost.

Second, IECPA requests that the Commission waive all penalties applicable to an EDC's failure to meet the Phase III targets. Petition at 11-13. The OCA submits that it may be premature to make a determination as to the consumption reduction targets at this time.<sup>1</sup> Many EDCs are well on the way to achieving the Phase III consumption reduction compliance targets. There is

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<sup>1</sup> The OCA would note that on May 1, 2020, the Energy Association of Pennsylvania (EAP) filed a Petition to Amend the Commission's June 19, 2015 Implementation Order at Docket No. M-2014-242864. Through the Petition, EAP requests that the Commission modify the Phase III Demand Response reduction target to measure compliance based on the second, third and fourth program years of Phase III (June 1, 2017 through May 31, 2020) rather than including the upcoming year which will be impacted by COVID-19. EAP recommends that EDCs be permitted to implement voluntary demand reduction programs during the fifth year. The OCA will file a timely Answer to EAP's Petition and notes that the structure of the demand response programs and the reliance on commercial and industrial load for performance present a different circumstance than the consumption reduction targets.

still a year remaining in Phase III and although program delivery has slowed, the consumption reduction targets may be able to be achieved with innovative program delivery mechanisms. The OCA recommends we continue efforts to deliver those programs that can be safely deployed and take up the issue of penalty waivers once the results of these efforts are known.

As such, the OCA is in general agreement with IECPA's request to delay the implementation of Phase IV. The OCA would recommend that the issue of the level of surcharges and the question of penalties be reserved for a later determination once additional information is available.

Respectfully Submitted,

/s/ Darryl A. Lawrence

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