



May 12, 2020

Via Electronic Filing

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 for filing in the above-referenced proceeding, please find the Petition to Intervene of the Energy Efficiency Advocates. Should you have any questions, please contact me at [dmcDougall@earthjustice.org](mailto:dmcDougall@earthjustice.org). As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document. Thank you.

Sincerely,

/s/ Devin McDougall

Staff Attorney

Earthjustice

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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 :

**PETITION TO INTERVENE OF THE  
ENERGY EFFICIENCY ADVOCATES**

**I. Introduction and Background**

Pursuant to 52 Pa. Code §§ 5.72-5.75, Sierra Club, Natural Resources Defense Council (“NRDC”), Citizens for Pennsylvania’s Future (“PennFuture”), Clean Air Council, and the Building Performance Association (hereinafter “Energy Efficiency Advocates”) respectfully submit this Petition to Intervene in the above-captioned proceeding (the “Proceeding”) of the Pennsylvania Public Utility Commission (the “Commission”). Pursuant to the requirements contained in 52 Pa. Code § 5.61(e), each of the Energy Efficiency Advocates asserts that it has standing to intervene in this proceeding. Eligibility to intervene in Commission proceedings is governed by Section 5.72, which provides in relevant part that “[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.” 52 Pa. Code. § 5.72(a).

Section 5.72 further provides that the right or interest may be one “which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.” 52 Pa. Code. § 5.72(a)(2). While Section 5.72 speaks of the rights of a “person” to intervene, the Commonwealth Court has consistently stated that “an association may have standing as a

representative of its members... as long as the organization has at least one member who has or will suffer a direct, immediate, and substantial injury to interest as a result of the challenged action, [the organization] has standing.”<sup>1</sup>

## **II. Petition to Intervene**

1. Each of the Energy Efficiency Advocates meet the standards for intervention set forth in 52 Pa. Code § 5.72(a):

a. Sierra Club is a nonprofit environmental organization whose mission is to explore, enjoy, and protect the environment and to practice and promote the responsible use of the Earth’s resources and ecosystems. The Sierra Club currently has over 31,000 members in Pennsylvania, most of whom receive electricity service from one of the electric distribution companies (“EDCs”) required to offer efficiency services under Act 129. These members have a strong interest in both the success of energy efficiency programs and in protecting themselves, their communities, and their ambient environment from the effects of fossil fuel generation.

b. NRDC is a nonprofit environmental organization with more than 1.4 million members and online activists, including nearly 90,000 in Pennsylvania, most of whom receive electricity service from one of the EDCs required to offer efficiency services under Act 129. Since its founding in 1970, their lawyers, scientists, and other environmental specialists have worked to protect the world’s natural resources, its public health, and the environment. NRDC’s top institutional priority is building the clean

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<sup>1</sup> *Energy Cons. Council of Pa. v. Pa. PUC*, 995 A.2d 465, 476 (Pa. Commw. Ct. 2010) (alteration in original) (citing *Tripps Park v. Pa. PUC*, 415 A.2d 967 (Pa. Commw. Ct. 1980); *Parents United for Better Schools v. School District of Phila.*, 646 A.2d 689 (Pa. Commw. Ct. 1994).

energy future—a priority that can be advanced by ramping up investments in energy efficiency via strengthened programs such as those administered under Act 129.

c. PennFuture is a membership-based nonprofit advocacy organization focused on energy and environmental issues that impact Pennsylvanians. PennFuture currently has over 700 members in Pennsylvania, most of whom receive electricity service from one of the EDCs required to offer efficiency services under Act 129. PennFuture works to create a just future where nature, communities, and the economy thrive. PennFuture enforces environmental laws and advocates for the transformation of public policy, public opinion, and the marketplace to restore and protect the environment, safeguard public health, and reduce the consequences of climate change within Pennsylvania and beyond.

d. The Clean Air Council (the “Council”) is a member-supported environmental organization serving the Mid-Atlantic Region. The Council currently has approximately 30,000 members in Pennsylvania, most of whom receive electricity service from one of the EDCs required to offer efficiency services under Act 129. The Council is dedicated to protecting and defending everyone’s right to breathe clean air. The Council works through a broad array of related sustainability and public health initiatives, using public education, community action, government oversight, and enforcement of environmental laws.

e. The Building Performance Association (“BPA”) is a 501(c)(6) nonprofit trade association focused on the home and building performance industry - delivering improved energy efficiency, health, safety, and environmental outcomes. BPA supports home performance contractors, state and regional organizations, weatherization agencies

and training centers, manufacturers and local nonprofits focused on residential and commercial energy efficiency. BPA's 9,751 members and affiliates provide the "nuts and bolts" of efficiency upgrades to homes and buildings across Pennsylvania and the United States. We are proud of the high-quality services that BPA's 593 Pennsylvania-based member and affiliates deliver and the skilled jobs that they create in communities across the Commonwealth. We see firsthand every day that our Pennsylvania customers value the energy efficiency programs that add new insulation in homes, upgrade lighting in schools, and install new equipment in manufacturing facilities and help residents and businesses save money on their utility bills. BPA also helps to train and certify Pennsylvania's skilled home performance workforce. For example, on September 30th to October 1<sup>st</sup>, 2019, BPA hosted 427 home performance contractors, industry representatives and stakeholders at the Pennsylvania Home Performance Conference & Trade Show in State College, Pennsylvania. BPA's main headquarters office is located in Moon Township, Pennsylvania.

2. The Energy Efficiency Advocates' interests in this proceeding are unique from, and not adequately represented by, other parties to the proceeding because the Energy Efficiency Advocates are all well-established local and national nonprofit organizations that have extensive experience in energy efficiency issues and a strong commitment to advancing energy efficiency policy development. The Energy Efficiency Advocates' intervention in the Proceeding is in the public interest because it will enable the groups to contribute their unique perspectives and insights to the Proceeding.

3. The names and addresses of the Energy Efficiency Advocates' attorneys are:

Devin McDougall, Esq.  
(NY ID 5183991, *pro hac vice* motion pending)

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4. Counsel for the Energy Efficiency Advocate consent to the service of documents by electronic mail as provided in 52 Pa. Code § 1.54(b)(3).

### **III. Conclusion**

WHEREFORE, the Energy Efficiency Advocates respectfully request that the Commission grant this Petition to Intervene.

Dated: May 12, 2020

/s/ Devin McDougall

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/s/ Logan Welde

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## **VERIFICATION**

I hereby verify that the facts contained in the foregoing pleading are true and accurate to the best of my knowledge and that I am duly authorized to make this verification, and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to penalties of 10 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: May 12, 2020

*/s/ Devin McDougall*

Staff Attorney

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing electronically-filed document upon the parties, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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Dated: May 12, 2020

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