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May 12, 2020

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor (Filing Room)  
Harrisburg, Pennsylvania 17105

Re: Energy Efficiency and Conservation Program, Docket No. M-2020-3015228;  
Reply Comments of SEF

Dear Secretary Chiavetta:

Enclosed filing please find the Sustainable Energy Fund of Central Eastern Pennsylvania's Reply Comments on the Tentative Implementation Order in the above-reference proceeding. Pursuant to the COVID-19 Suspension Emergency Order dated March 20, 2020 and ratified March 26, 2020, the Answer is filed and served electronically. Copies have been served per the attached Certificate of Service.

If you have any questions, please direct them to me. Thank you for your attention to this matter.

Respectfully Submitted,

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*Counsel for The Sustainable Energy Fund of  
Central Eastern Pennsylvania*

Enclosure(s)

cc: Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Energy and Efficiency Conservation  
Program

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Docket No. M-2020-3015228

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**REPLY COMMENTS OF THE  
SUSTAINABLE ENERGY FUND  
OF CENTRAL EASTERN PENNSYLVANIA  
ON THE TENTATIVE IMPLEMENTATION ORDER**

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The Sustainable Energy Fund of Central Eastern Pennsylvania (SEF), by and through its undersigned attorneys in this matter, Hawke McKeon & Sniscak, LLP, files the following Reply Comments in the above-captioned proceeding.

**I. INTRODUCTION**

On April 27, 2020, the SEF and other interested parties submitted comments to the Public Utility Commission (“Commission” or PUC) in response to the Tentative Implementation Order of Phase IV’s Energy Efficiency and Conservation (“EE&C”) Program established by Act 129 of 2008. All of the major Electric Distribution Companies (“EDCs”), including PECO Energy (“PECO”), PPL Electric Utilities (“PPL”), Duquesne Light Company (“Duquesne”), and Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively, “FirstEnergy Companies”), filed comments. Initial comments were also filed by the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), Enel North America, Inc., Keystone Energy Efficiency Alliance (“KEEA”), the Pennsylvania Department of Environmental Protection (“DEP”), Advanced

Energy Management Alliance (“AEMA”), Energy Efficiency Providers (“EE Providers”), PA Energy Efficiency for All Coalition (“PA-EEFA”), the Housing Alliance of Pennsylvania, Industrial Energy Consumers of Pennsylvania (“IECPA”), All Together Now Pennsylvania (“ATN-PA”), Pennsylvania Energy Consumer Alliance (“PECA”), Met-Ed Industrial Users Group (“MEIUG”), Penelec Industrial Customer Alliance (“PICA”), Philadelphia Area Industrial Energy Users Group (“PAIEUG”), PP&L Industrial Customer Alliance (“PPLICA”), West Penn Power Industrial Intervenors (“WPPII”) (along with PECA, MEIUG, PICA, PAIEUG PPLICA, collectively, “Industrial Consumers”), Commission on Economic Opportunity (“CEO”), Environmental Stakeholders, Energy Association of Pennsylvania (“EAP”), PA Weatherization Task Force, the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (“CAUSE-PA”), Ecobee, Russell Zerbo, Oracle Utilities, Andrew J. Melman, Clean Air Board of Central Pennsylvania, and Kenneth Zenkevich.

In response to the initial comments of the Tentative Implementation Order, interested parties are afforded the opportunity to file Reply Comments. SEF submits the following Reply Comments.

## **II. COMMENTS**

### **A. Delay of Implementation of Phase IV**

As the novel coronavirus (“COVID-19”) began to spread across the Commonwealth, Governor Tom Wolf issued a statewide Proclamation of Disaster Emergency on March 6, 2020. To help lessen the pandemic’s impact, the Commission provided for, in its March 20, 2020 Emergency Order, delays and suspensions of statutory or regulatory requirements that do not exceed 90 days. Because of the unprecedented time and the unknown long-term impacts on the energy industry, if any, some stakeholders have called for a delay in the implementation of Phase

IV's EE&C program.<sup>1</sup> Other than the financial impacts suffered from ratepayers, consumers, EDCs, and the Pennsylvania Economy, these interested parties are concerned that, in light of the circumstances, the data collected and used by the Statewide Evaluator (SWE) create assumptions for Phase IV targets that are "no longer relevant or applicable". The IECPA<sup>2</sup>, OCA, and PPL are particularly concerned with the difficulty of determining savings programs that are achievable and that will not require some drastic changes because of some future mandated health and safety requirement(s). While SEF agrees that long-term impacts of COVID-19 are unknown and that there is a possibility of some future restrictions causing issues, the SEF still believes that continuing with the implementation of Phase IV's EE&C program is necessary. SEF supports CAUSE-PA's assertion that the EE&C programs can provide important job opportunities to consumers in desperate need of steady income, aid in boosting the Pennsylvania economy, and lessen financial burdens related to unnecessary energy usage.<sup>3</sup> As it did in its initial Comments, the SEF encourages the Commission to keep incentivizing EDCs to implement consumption reduction programs and protect the primary intent of Act 129, continuous incremental consumption reduction. And although this health crisis has dramatically affected Pennsylvanian's everyday life and will continue to affect lives for the foreseeable future, Governor Wolf has started to ease restrictions which will allow businesses to re-open, workers will return to work, and energy requirements and consumption will increase. As of May 8, 2020, Governor Wolf has announced that more than half of the state's counties may begin a phased re-opening.

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<sup>1</sup> IECPA Comments at 2-3; OCA Comments at 1-2; Industrial Consumers Comments at 2; PPL Comments at 5-6.

<sup>2</sup> IECPA filed a separate petition for relief to, among other things, suspend the implementation of Phase IV and extend Phase III for 270 days. SEF is separately filing an answer in opposition to IECPA's petition.

<sup>3</sup> CAUSE-PA Comments at 3-5.

A related issue involves EAP urging the Commission, for Phase IV, to address the impacts of COVID-19 and create a process for relief that provides EDCs the flexibility to amend targets or other requirements during unforeseen circumstances beyond the control of the utility.<sup>4</sup> SEF disagrees that such a process is needed, but if such a process is adopted, SEF urges the Commission to: (1) prohibit any such petitioner from seeking expedited review, and (2) require an evidentiary hearing before the full Commission.

#### B. Consumption Reduction Targets

In its Comments, SEF requested that the energy consumption targets should be increased by 12.5% for each EDC because historically, the actual acquisition costs during Phase II and thus far in Phase III have been significantly lower than projections. As SEF and PA-EEFA supplied in their initial Comments, the Phase IV targets are 26% less on average than the Phase III targets.<sup>5</sup> Because SEF believes the SWE's assumption for average projected acquisitions are high, SEF agrees with CAUSE-PA that annual reduction targets should be at 15% of an EDC's total savings targets.<sup>6</sup>

In response to the Commission's proposal to require EDCs to "achieve at least 15 percent" of their energy savings targets in each program year, PECO proposes that such a requirement be softened to permit an EDC to "approach" 15% annual reductions in each year of Phase IV.<sup>7</sup> SEF disagrees with PECO's proposal that EDCs, who have been participating in the Act 129 Program for ten years and will likely rollover many of its Phase III programs into Phase IV, need to lower

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<sup>4</sup> EAP Comments at 2-7.

<sup>5</sup> PA-EEFA Comments at 6-7.

<sup>6</sup> CAUSE-PA Comments at 5-6.

<sup>7</sup> PECO Comments at 3—4.

the annual goals. Moreover, PECO's suggestion that EDCs "approach" a 15% annual reduction target is undefined, not objective, and has the potential to cause unnecessary litigation in the future. The Commission should loosen the EDC's annual requirements.

### C. Carryover Savings

In Commissioner Place's Statement, he specifically requested comments on carryover of excess Phase III savings to Phase IV, because some EDCs would have achieved as much as 75% of the proposed Phase IV consumption reduction targets before any programs were implemented.<sup>8</sup> The Industrial Customers submitted that there should be no limitation on the Phase III excess savings to carry over to Phase IV because these limitations deny ratepayers the opportunity to achieve the maximum value of efficiency savings the consumers previously paid-for.<sup>9</sup> KEEA suggested that the Commission allow EDCs to carryover 50% of excess Phase III savings to Phase IV to prevent programs from going dark while motivating the EDCs to exceed their targets.<sup>10</sup> The Environmental Stakeholders suggested that any excess savings from Phase III should be refunded to ratepayers instead of carrying over to Phase IV.

As it did in its initial Comments, SEF encourages the Commission to adopt a limit of 25% of excess Phase III savings to carry over to the first year of Phase IV. SEF supports permitting some carryover savings because a balance is needed to incentivize the EDCs to continue seeking energy savings in Phase III once its savings targets are achieved. However, the savings carryover needs to be limited so that EDCs are still compelled to seek new energy savings in Phase IV. SEF

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<sup>8</sup> *Phase IV Tentative Implementation Order*, Statement of Commissioner Place, page 1, Docket No. M-2020-3015228, entered Mar.12, 2020.

<sup>9</sup> Industrial Consumers Comments at 23-24.

<sup>10</sup> KEEA Comments at 12-13.

proposes that EDCs be permitted to carryover 25% of their excess Phase III savings into Phase IV and believes this strikes the necessary balance. SEF believes that KEEA's 50% carryover savings is too high while the Industrial Consumers' proposal to allow unlimited carryover savings runs counter to the spirit and intent of Act 129's continuous consumption reduction mandate.

### III. CONCLUSION

The SEF thanks the Commission for the opportunity to submit these Reply Comments as part of the effort to establish the Phase IV EE&C Program and looks forward to a successful partnership with the Commission, EDCs, and Stakeholders in that effort.

Respectfully submitted,



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Date: May 12, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Energy and Efficiency Conservation  
Program

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Docket No. M-2020-3015228

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party) and the Commission's March 26, 2020 COVID-19 Suspension Emergency Order.

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