



May 12, 2020

Pennsylvania Public Utility Commission  
Attn: Secretary Rosemary Chiavetta  
Commonwealth Keystone Building, Second Floor  
400 North Street  
Harrisburg, Pennsylvania 17120

Re: Act 129 Energy Efficiency and Conservation Program Implementation Phase IV  
Docket No. M-2020-3015228  
Suspension of Regulatory and Statutory Deadlines; Modifications to Filing and  
Service Requirements; Docket No. M-2020-3019262  
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 Rosemary Chiavetta:

The Building Performance Association appreciates this opportunity to file comments in opposition to the Petition of the Industrial Energy Consumers of Pennsylvania (IECPA Petition) at Docket Numbers M-2020-30152282021, M-2020-3019262 and P-2020-3019562. For the reasons set forth below, and for the reasons set forth in the Answer of the Energy Efficiency Advocates with which BPA has joined, the IECPA Petition should be denied because it fails to set forth sufficient evidence and a legal justification for the extraordinary relief sought.

#### **Background on the Building Performance Association**

The Building Performance Association (BPA) is a membership-driven 501(c)(6) industry 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 non-profits focused on residential and commercial energy efficiency. BPA was formed through the re-alignment of Efficiency First, Home Energy Magazine and the Home Performance Coalition and works closely with the Building Performance Institute, Inc. (BPI).

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 members 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 30<sup>th</sup> 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 in Moon Township, Pennsylvania.

### **Pennsylvania's Skilled Energy Efficiency Workforce Remains Prepared to Meet Act 129's Realistic and Achievable Phase III and Phase IV Goals**

According to [Energy Efficiency Jobs in America](#), the energy efficiency industry supports over 68,820 energy efficiency workers in Pennsylvania, most of whom comprise part of a highly skilled workforce. BPA believes that Pennsylvania has an enormous potential for long term future growth in energy efficiency jobs given the age of its housing stock and its highly skilled energy efficiency workforce. BPA's members and Pennsylvania trained workforce remain prepared to fulfill the goals of Phases III and IV of Act 129 in the coming years. In fact, notwithstanding the obstacles presented by the COVID crisis, Pennsylvania's highly skilled energy efficiency workforce remains focused on preparing to get back to work as soon as it is safe to do so.

Pennsylvania ranks 41<sup>st</sup> in per capita employment among states in energy efficiency according to [Energy Efficiency Jobs in America](#). That low ranking is consistent with the Commonwealth's moderate approach towards funding and support for energy efficiency programs. With a relatively low 2% cap on spending for energy efficiency programs under Act 129, and a voluntary approach towards natural gas energy efficiency programs, Pennsylvania's per capita employment rate in energy efficiency jobs is approximately one half of the per capita employment rate in neighboring Maryland. Although the IECPA Petition describes the Commonwealth's program design on energy efficiency as a "proactive and aggressive" (Petition at page 6), BPA believes that compared to many other states, and some of its neighbors, Pennsylvania's approach under Act 129 is a moderate one. The energy efficiency savings targets and goals developed under the Act 129 planning process over many years are both reasonable and achievable.

## **The IECPA Petition's Proposed Remedy Should Be Rejected and the Commission Should Determine Instead How Best to Maximize the Delivery of Program Services and Training During the COVID Crisis**

The IECPA Petition incorrectly assumes that there are no energy efficiency services that are being provided to customers, or can be provided, in the current COVID conditions. That assumption is not accurate. More importantly, the Petition misses the point that there are existing mechanisms to amend Phase III and Phase IV goals and timelines before the Commission. The focus of the existing proceedings and activities before the Commission, regulatory agencies and the utilities should instead be placed on what energy efficiency services can be funded during the COVID crisis and how those services might best accelerate the achievement of the energy, cost savings and environmental goals of Act 129 in the long term.

BPA and its allies have been working with states to move forward with work during the COVID crisis. While energy efficiency providers in Pennsylvania have extremely limited on-site work opportunities right now, BPA has been very active in conversations with state agencies and regulators in New York, Connecticut, Rhode Island and Massachusetts on how best to keep energy efficiency work moving forward during the COVID crisis. Potentially reimbursable activities under those state programs include:

1. Customer service for existing customers (appointment rescheduling);
2. Emergency response for existing customers;
3. Technical and program support for online training provided to staff - critical to maintain/support the staff capabilities (including COVID safety);
4. Continued marketing for new customers post-COVID;
5. Remote Energy Assessments or Virtual Pre-Assessments that identify short term measures that can be implemented now and opportunities for future on site investments; and
6. Scheduling services in advance for post-COVID work so that energy efficiency services can be quickly delivered to consumers.

Connecticut and New York have already provided guidance letters on interim measures and procedures for the provision and reimbursement of energy efficiency services during the COVID crisis.<sup>1</sup> Many of BPA's members and businesses in Pennsylvania are ensuring that they can

---

<sup>1</sup> SEE, MARCH 27, 2020 - DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, INITIAL ACTION ITEMS: COVID-19 CONTINGENCY PLANNING IN THE 2019-2021 CONSERVATION AND LOAD MANAGEMENT PLAN AT: [HTTP://WWW.DPUC.STATE.CT.US/DEEPENERGY.NSF/C6C6D525F7CDD1168525797D0047C5BF/1BEA440B8DD68314852585380071A0EF?OPENDOCUMENT](http://www.dpuc.state.ct.us/DEEPENERGY.NSF/C6C6D525F7CDD1168525797D0047C5BF/1BEA440B8DD68314852585380071A0EF?OPENDOCUMENT).

SEE, APRIL 23, 2020, COVID-19 RESPONSE LETTER FROM PUBLIC SERVICE COMMISSION CHAIR RHODES AND NYSERDA PRESIDENT ALICIA BARTON at: <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={0B3496B9-3E0A-48EC-B624-77D40C001B5B}>.

continue to provide critical services (whether reimbursable or not), retain trained staff and be prepared to ramp up activities as soon as work stoppages are lifted. The IECPA Petition's arguments seem to assume that Phase III never happened, Phase IV will not be necessary, and that the only logical option for the Commission to consider is how fast and for how long should all Commonwealth energy efficiency programs, funding and activities be shut down.

BPA believes that the focus of this proceeding should instead be on how best to achieve Act 129's goals during the COVID crisis and beyond. Pennsylvania's highly trained energy efficiency workforce stands ready to implement those Act 129 program goals and is willing to work with utilities, state agencies and the Commission to maximize the delivery of program services and training now during the COVID crisis, and accelerate work on Act 129 goals once the COVID crisis allows on site work to get safely underway.

### **The IECPA Petition Fails to Meet Its Burden Of Supplying Evidence to Support The Extraordinary Remedy Sought**

In what might be best understood as a series of complaints about the existence of Act 129 in the first place, the IECPA Petition strings together a series of general observations about the COVID pandemic, submits no direct evidence of specific harms to its members (or their identities) as a result of the COVID crisis, and provides no description of the relief its members may have already sought or obtained from other government sources. Instead, without laying any foundation of evidence or data, the IECPA Petition jumps to the relief that it seeks – a 270-day suspension of energy efficiency services and the reduction of statutory fees collected for clean energy programs. The IECPA Petition fails to submit any data or information on how it selected this 270-day suspension period, and its relationship to the alleged harms to its members (which are unsupported in the record). As a result, the remedy sought cannot be said to be tailored to the alleged harms to any specific member or group of members.

The IECPA Petition suggests equal treatment for all ratepayers in its remedy request. But the IECPA represents larger commercial and industrial customers who are likely faced with disparate impacts from the Commonwealth's work-from-home rules. Not all industries are closed. Those that are will have reduced utility bills, and some have workers producing revenue from home and others do not. By comparison, residential customers, particularly many lower-wage workers, are in the opposite position. They will have increased bills from families staying at home 24/7 and lower incomes due to widespread unemployment. The Commonwealth's ratepayers deserve a more comprehensive and thorough review of COVID impacts and potential amendments to Phase III plans and Phase IV planning under Act 129. The IECPA Petition fails to meet its burden of supporting the remedy sought with the evidence required.

## **Continued Phase III Funding Will Provide Multiple Benefits**

BPA believes an accelerated plan to “catch up” on the number of homes that will be retrofitted under Phase III of Act 129 through 2021 (and Phase IV beyond that) factoring in construction time losses due to COVID is the preferred approach. While delivery of services and expenditures will decrease during the COVID -19 slow down, it is not now at zero, and after restrictions are lifted, it will need to ramp up higher than previously scheduled to meet Pennsylvania’s long-term energy, cost savings and environmental goals. That will certainly require the funds that are collected during the slowdown to be used. A short-term suspension now of the collection of funding mandated by Act 129 will almost certainly result in project delays once post COVID project implementation gets underway.

More important, the rapid redeployment of energy efficiency programs post-COVID will provide many economic stimulus benefits to Pennsylvania. BPA has seen in states across the country that properly designed and implemented energy efficiency programs to be the lowest cost, most predictable and most immediate method to manage energy demand, create local jobs, provide opportunities for small business energy efficiency entrepreneurs while also providing health and comfort benefits to consumers and help lower customer utility bills in the long term.

In a post-Covid economic environment, the so-called “non-energy benefits” of job creation and additional spending money in the local economy can help drive Pennsylvania’s economic recovery by creating new jobs and aiding existing workforces, boosting economic activity in key labor-intensive sectors, and delivering benefits for all Pennsylvania. Energy efficiency programs, for example, offer many win-win opportunities because they involve labor-intensive projects that can start quickly and draw upon local supply chains such as construction and manufacturing while also saving money for customers, improving the economic competitiveness of businesses, and reducing pollutants and chemicals that cause respiratory illnesses.

This post-COVID potential of Act 129 spending is not just a theory. The recent past in Pennsylvania shows that the clean energy sector is a proven catalyst for quick job growth in the aftermath of a recession. No part of the 2009 American Recovery and Reinvestment Act (“ARRA”) was more successful at stimulating the economy following the Great Recession than the \$90 billion in federal investments in clean energy. ARRA helped create nearly one million clean energy jobs and resulted in the weatherization of more than one million homes by expanding energy efficiency, getting electricians, HVAC technicians, and other construction workers, as well as manufacturers of building supplies and Energy Star appliances, back to work. This was particularly true in Pennsylvania, where many current BPA members got their initial start during the ARRA recovery period. The IECPA Petition ignores the demonstrated job creation benefits of energy efficiency program delivery.

## **The IECPA Petitioners Should Present Their Evidence During the Act 129 Comment Process**

The IECPA Petitioners ignore the fact that there are processes already in place to amend Phase III and Phase IV programs, targets, schedules and goals. Instead, the Petitioners have attempted to skip those existing proceedings and bootstrap its members' COVID related hardships to the Pennsylvania population at large in calling for complete 270-day shutdown of energy efficiency programs. This is too blunt of an instrument to remedy the alleged harms caused to its members.

At a minimum, the IECPA Petitioners should be required to demonstrate the harm imposed specifically on its members, the greater need for the relief sought in this Petition rather than other potential government sources of relief available to (or already obtained by) its members and also demonstrate why the harm caused requires the complete suspension of Act 129. For all the Commission knows, the IECPA Petitioners may have already sought financial relief offered through recent federal statutes designed to offset economic hardships caused by the COVID crisis. Although receipt of such federal funding would not preclude the IECPA Petitioners from seeking relief before the Commission, disclosure of the existence and amount of COVID related federal funding (or federal tax reductions) already received, would certainly better inform the Commission of the nature of the IECPA Petitioners hardships that allegedly require the extraordinary relief sought here.

## **BPA Concurs With the Advice of the Pennsylvania Office of Consumer Advocate That the Commission Should “Do No Harm” When Addressing Act 129 Implementation Issues**

One critical theme contained in the Comments submitted by the Office of Consumer Advocate is that the Commission should be careful to “do no harm” when deciding on whether and how to alter Phase III and Phase IV plans to implement Act 129 in the context of the COVID crisis. BPA agrees that implementation of the goals set forth in Act 129 should move forward with an eye towards cost-effective delivery of energy efficiency and demand response services that are most beneficial to customers in both the short and long term. The IECPA Petitioners have proposed what appears to be a drastic measure cut that may provide short term rate relief to its members but would do more harm to program implementation and related benefits to all customers in the medium and long term. The Office of Consumer Advocate states at page 3:

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.

BPA concurs with this thematic suggestion of the Office of Consumer Advocate and requests that the Commission consider first that it “do no harm” to Act 129 implementation strategies when fashioning responses to the COVID crisis.

## **Conclusion**

BPA appreciates this opportunity to file comments in opposition to the Petition of the Industrial Energy Consumers of Pennsylvania (IECPA Petition). We also join in with the thoughtful comments filed separately by the Energy Efficiency Advocates.

We agree with the Energy Efficiency Advocates and other commenting parties that a more comprehensive review of how to protect ratepayers, specifically mass market residential and small business customers, during and after the COVID public health crisis is appropriate.

A more comprehensive review is currently available through the Phase III and Phase IV planning processes and would be a more appropriate method to balance the immediate needs of Pennsylvania ratepayers in the face of the COVID crisis and the goals and legal requirements of Act 129. The approach sought through the IECPA Petition is neither comprehensive nor balanced.

Respectfully Submitted,



J. Joseph Cullen

Director of Policy and State Outreach  
Building Performance Association  
[jcullen@building-performance.org](mailto:jcullen@building-performance.org)  
[www.building-performance.org](http://www.building-performance.org)