

COMMONWEALTH OF PENNSYLVANIA



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April 22, 2025

**Via Electronic Filing**

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Reply Comments of the OCA to Act 129  
Phase V Tentative Implementation Order;  
Docket No. M-2025-3052826

Dear Secretary Homsher:

Attached for electronic filing please find the Office of Consumer Advocate's Phase V Reply Comments, in the above-referenced proceeding.

Copies have been served to the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Katherine M. Kennedy  
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cc: Certificate of Service  
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CERTIFICATE OF SERVICE

Act 129 Energy Efficiency and  
Conservation Program Implementation  
Phase V

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Docket No. M-2025-3052826

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Phase V Reply Comments 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 22<sup>nd</sup> day of April, 2025

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Dated: April 22, 2025

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Act 129 Energy Efficiency and Conservation : Docket No. M-2025-3052826  
Program Implementation Phase V :

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REPLY COMMENTS OF THE  
OFFICE OF CONSUMER ADVOCATE

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Dated: April 22, 2025

## I. INTRODUCTION

On April 7, 2025, Comments were filed to the Commission’s (PUC’s or Commission’s) Tentative Implementation Order (T.O.) regarding Phase V of the Act 129 Energy Efficiency (EE) and Demand Response (DR) Programs. In addition to the Comments filed by the Office of Consumer Advocate (OCA), the OCA found 21 other stakeholders or stakeholder groups (collectively, stakeholders) filed comments to the T.O. raising a wide range of issues. The OCA reviewed Comments filed by the following stakeholders: Advanced Energy United (United); Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Tenant Union Representative Network (TURN) (collectively referred to as “Low Income Advocates”); Philadelphia Solar Energy Association, Pennsylvania Solar Center, Pennsylvania Solar and Storage Industries Association, Evergreen Action (collectively referred to as “Clean Energy Advocates”); ACTION Housing, Inc., the Housing Alliance of Pennsylvania, National Housing Trust, New Ecology, Inc., the Pennsylvania Utility Law Project, and Regional Housing Legal Services (collectively referred to as “Coalition of Equitable Energy and Housing in PA” (CEEH-PA)); Commission on Economic Opportunity and Pennsylvania Weatherization Providers Task Force (CEO and the Task Force); Duquesne Light Company (DLC); Energy Association of Pennsylvania (EAP); Building Decarbonization Coalition, Celentano Energy Services, Center for Coalfield Justice, Clean Air Council, Conservation Voters of PA, Energy Efficiency Alliance, Green Building United, Jewish Earth Alliance-PA, Natural Resources Defense Council, PA Solar & Storage Industries Association, PennEnvironment, Pennsylvania Interfaith Power and Light, Pennsylvania Solar Center, Pennsylvania Sustainable Business Network, Pennsylvania Utility Law Project, POWER Interfaith, Physicians for Social Responsibility Pennsylvania, Sierra Club Pennsylvania Chapter, Vote Solar (collectively referred to as “Energy Advocates”); FirstEnergy

Pennsylvania Electric Company (FirstEnergy); Office of the Small Business Advocate (OSBA); Industrial Energy Consumers of Pennsylvania (IECPA); Keystone Energy Efficiency Alliance (KEEA); Northeast Energy Efficiency Partnerships (NEEP); NRG Energy, Inc.; Oracle; Office of Small Business Advocate; Pennsylvania Department of Environmental Protection (DEP); PECO Energy Company (PECO); PPL Electric Utilities Corporation (PPL); RMI; UGI Utilities Inc. – Gas Division and Electric Division; and Uplight.

The OCA appreciates the breadth of the Comments from the other filing stakeholders, as well as the thoughtfulness of the Comments, which was significant. The OCA will be unable to reply to each point raised by the many stakeholders. In these Reply Comments, the OCA will address some key points. The OCA’s failure to reply to a specific point raised by another stakeholder or stakeholder group should not be interpreted as agreement with that position. The OCA reserves its rights to respond to issues during the continued development of the Phase V EE&C plans.

## II. REPLY COMMENTS

### A. COMPREHENSIVE MEASURES AND LOW-INCOME PROGRAM TARGET

Several stakeholders noted the lack of comprehensive measure offerings for low-income customers that allows for deeper and longer-term savings. See CAUSE-PA Comments at 3, CEEH-PA Comment at 7 and 21, DEP Comments at 5-6, CEO and the Task Force at 3, PPL Comments at 7, Energy Advocate Comments at 1. CEEH-PA references the need to equitably design the programs to offer “comprehensive and durable energy and bill savings for low-income families in all housing types” which can be achieved through the installation of building-envelope measures that can aid in the reduction of both summer and winter demand. CEEH-PA at 7 and 21. PPL notes that the current establishment of the low-income goal “requires EDCs to apply low-

cost, less impactful measures for low-income households in order to meet that target.” PPL Comments at 7. PPL continues its comments, requesting a spending goal in lieu of a savings goal.

Note that the OCA does not support spending goals, particularly as it relates to low-income programs, as it allows for the potential for administrative costs to limit the level of savings. Rather, the OCA is supportive of increasing the acquisition costs used to determine the low-income goal for Phase V if the acquisition costs are comprised of deeper, comprehensive measures, such as air/duct sealing, insulation, and equipment upgrades. A revision to the acquisition costs should not reduce the overall savings set for the low-income goal since it is known that the investment in comprehensive low-income homes and buildings is more costly than market-rate EE savings. The OCA respectfully asserts that the low-income savings goal should not be reduced below 5%, which will require a decrease in savings accounted for in other areas, including but not limited to solar, combined heat and power, and market rate consumption savings. While the overall savings may be reduced, this methodology provides a more equitable approach to address EE and DR in low-income households and buildings.

#### B. DEMAND RESPONSE

The EDCs have highlighted their concern with the Commission’s modeling of daily load shifting programs to develop the acquisition cost to achieve the demand reduction targets. Related to daily load shifting programs, the EDCs expressed concerns related to limited examples of daily load shifting throughout the nation, need for stakeholder input before developing programs, barriers related to marketing, event dispatch, and developing incentive levels, overstated potential load reductions from the various technology options, and uncertainty in customers’ willingness to participate with no incentive. See. First Energy Comments at 18-22, PECO Comments at 4-5, and PPL at 10-12. In order to develop demand response programs that will be successful in terms of

customer enrollment and impact on peak load with the purpose of achieving benefits in reducing distribution, transmission, and potentially generation supply prices, the OCA encourages the Commission to support and promote the development of pilot programs designed to test these key criteria. It would not be appropriate to implement larger scale programs without testing and evaluation of program design and customer participation. As stated in the OCA's comments, the OCA supports the inclusion of a demand reduction target that is modeled after demand response opportunities. The OCA respectfully requests that the Commission allow flexibility in the approaches allowed for EDCs offering to achieve their demand reduction targets. Both daily load shifting and event-based demand response opportunities should be available for consideration by the EDCs when developing their portfolios. As noted by PECO, "each of the measures identified in the potential study is likely to deliver lower saving through daily load shifting than it would through event-based DR." PECO Comments at 9. The EDCs should have the flexibility to offer the demand response opportunities that are cost-effective to achieve the desired level of demand reduction.

If the Commission wishes to encourage daily load shifting as a form of demand reduction, then the OCA respectfully recommends that the Commission revise its proposal to calculate demand reductions from load shifting at an average peak demand reduction across all of Phase V. The proposed methodology does not consider the need for an EDC to develop the programs, and the ramp up period to properly market the efforts and enroll participants. The OCA supports PECO's recommendation for the Final Implementation Order to account for a ramp up period by averaging years three to five of Phase V. PECO Comments at 15.

C. CARRYOVER SAVINGS

The Commission's proposal to allow the EDCs to limit the carryover of savings beyond Phase IV targets to 20% of the energy savings and 50% of the peak demand reduction received mixed reviews. See, PPL Comments at 12, DLC Comments at 11, First Energy Comments at 25, EAP Comments at 15, As part of its Comments, the OCA supported the Commission's proposal with a recommendation that the carryover percentage be tied to the next Phase's targets to limit to 1/5 of the total savings in a given phase because the savings targets for Phases are based on acquisition costs that does not take into account potential carryover. Some of the comments, such as that made by PPL that a carryover maximum could result in a "cooling effect on the final year of Phase IV, as EDCs will be weary of exceeding targets" is concerning to the OCA. PPL at 12. First, there is no penalty for achieving excess savings. While the carrot for the savings would be limited to the first 20% overage, additional savings can assist with the cost-effectiveness of the programs due to economies of scale, allows for program continuity to benefit future phases of the programs, limits customer confusion, and maintains workforce levels. Second, if there is funding available, the utilities are expected to continue to offer the programs, regardless of the level of savings achieved. While DLC recognizes that utilities are required to continue to offer programs until the budget is met, it states that "the proposed limit on carryover diminishes any incentive for the EDCs to try to secure as much savings as possible for each dollar invested." DLC Comments at 11. This is concerning as the programs are funded by ratepayers, not by the EDC or its shareholders. The investment of ratepayer dollars in Act 129 is critical to address rising energy prices and provide lower costs for Pennsylvania's ratepayers. Chairman Stephen M. DeFrank issued the following Statement during the Commission's Public Meeting on or about February 20, 2025 stating the same:

“Now as we prepare for Phase V of the program, the cost of electricity and the question of guaranteeing adequate electric supply for the system are once again looming large in Pennsylvania, just as they did back in 2008. In this environment, I believe Act 129 is one of the most important tools available to the PA PUC to meet our mission of providing reasonable, adequate, and affordable service to the Commonwealth’s electric ratepayers.”

Through Act 129, the utilities should be acting in the best interest of ratepayers and offer cost-effective savings opportunities to the full extent of the funds allowed under Act 129, regardless of the “incentives,” such as carryover savings. The impact of inflation on the Act 129 funds has already reduced savings opportunities and the EDCs should not further exacerbate that.

The OCA respectfully recommends that the Commission maintain its carryover maximum and accompany it with explicit instruction for the utilities to continue to implement its programs cost-effectively regardless of exceeding the savings carryover targets.

#### D. UNCERTAINTY

One of the themes throughout the Comments was uncertainty. Uncertainty pertaining to inflation, tariff impacts, Inflation Reduction Act funds, future of the Low Income Energy Assistance Program (LIHEAP), Weatherization Assistance Program (WAP), methodology in determining peak demand savings, solar costs, and combined heat and power projects. See. PPL Comments at 12, PECO Comments at 21, First Energy Comments at 3, 10, 13, and 16, DLC Comments at 3 and 13, EAP Comments at 3, 9, and 13, CAUSE-PA Comments at 4 and 16. Some of these uncertainties exist regardless of the Act 129 phase, such as inflation and program/measure costs, while others are new and changing daily, such as the availability of federal funding and tariff impacts. The OCA recognizes the need for flexibility in establishment of goals, particularly when it’s dependent on coordination and braiding with outside resources. To the extent possible, the Commission should consider which sensitivities related to the various federal funding availability and its subsequent impact on goals. This concern also supports the OCA’s proposal that smaller

scale pilot programs for new and innovative programs, particularly demand response programs, be emphasized as a first step to gather data and respond to current and near term events.

The Commission should establish Act 129 goals independent of the Inflation Reduction Act funding to allow the EDCs to develop their EE and DR plans without the complication of relying upon availability of funds to achieve their goals. The OCA respectfully requests that the Commission track and report how much of the energy efficiency progress is directly tied to federal funds, so that if those funds do not materialize, the state can adjust its expectations and goals accordingly. However, if the Commission decides to include federal Inflation Reduction Act funding as part of the plan to meet Act 129 goals, then the OCA recommends that the Commission should: (1) be transparent about how federal money is being used and (2) require EDCs to show clearly how much of the energy savings are specifically due to federal funding (like IRA or federal weatherization programs). The EDCs should be directed to design their EE and DR plans with these adjustments in mind so that they can pivot as necessary, particularly if decisions on these items are known after the issuance of the Final Implementation Order and the plan filings.

Furthermore, based on the various uncertainties, the OCA recommends that a Phase V Working Group be established to encourage discussion of these uncertainties between the EDCs and interested parties, as well as to have a forum to discuss demand response opportunities and pilots, and leverage general energy efficiency and demand response program best practices. The Working Group can convene monthly to address the more mature and comprehensive Act 129 plans and report back to the Commission by and through a quarterly filing with recommendations and a summary of the meeting(s) thereafter.

Convening an Act 129 Working Group, hosted by the Commission, would also allow for parties and stakeholders to communicate regarding any Petitions for Revision that EDCs may want

or need to file in response to any continued and extreme uncertainty. The Working Group would also provide a forum for problem solving on a systems-based level, and it is the OCA's hope that better and consistent communication in this area will yield less need for penalties and/or misunderstandings related to Phase V.

E. DATA SHARING

As part of the T.O., the Commission asked stakeholders to provide suggestions on data sharing practices between the EDCs and other state agencies. T.O. at 57. PECO responded indicating that data sharing is an issue that should be addressed through a "separate, dedicated proceeding." PECO Comments at 25-26. PPL also indicated that it would prefer the Commission not issue direction on data sharing in its Final Implementation Order as "there is a substantial risk that the Commission's data sharing provisions will not meet minimum security requirements across multiple organizations." PPL Comments at 15. The Energy Advocates indicated their concern that decisions related to data accessibility warrants detailed consideration and collaboration. Energy Advocates Comments at 17. The OCA agrees with the referenced parties' arguments and supports PPL's request to hold a separate proceeding and/or docket and comment period to allow for all parties to sufficiently address issues on data sharing, such as establishing the level of data shared, protocols for sharing, and developing a data breach process.

F. PHASE V TIMELINE

The OCA notes that some of the EDCs requested various extensions for the filing of the Phase V EE&C plans, with the latest requested date being November 30, 2025. See. PPL Comments at 16, DLC Comments at 15, and First Energy Comments at 27. The OCA is not opposed to the extension request from the EDCs on the timing of the Plan filing; however, it

respectfully requests that the Commission adjust any subsequent filing date requirements by the same number of days granted by the Commission on the extension to file the Phase V EE&C Plans.

### III. CONCLUSION

The Office of Consumer Advocate appreciates the Comments from all stakeholders designed to assist in the crafting of the Commission's Tentative Implementation Order regarding Phase V of the Act 129 Energy Efficiency and Demand Response Programs. The OCA looks forward to continuing to work with all stakeholders in designing effective programs that benefit all consumers.

Respectfully Submitted,

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