



April 22, 2025

VIA E-File

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
400 North Street, Filing Room
Harrisburg, PA 17120

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

Dear Secretary Homsher,

Attached for filing, please find the *Joint Reply Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Tenant Union Representative Network (TURN) (collectively "Low Income Advocates")* in the above referenced matter.

Respectfully submitted,

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

JOINT REPLY COMMENTS OF
THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY
IN PENNSYLVANIA (CAUSE-PA)
AND
TENANT UNION REPRESENTATIVE NETWORK (TURN)

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I. INTRODUCTION

On February 20, 2025, the Pennsylvania Public Utility Commission (Commission or PUC) issued a Tentative Implementation Order for the Act 129 (the Act) Energy Efficiency and Conservation (EE&C) Program Phase V (Phase V). Notice of the Tentative Implementation Order (Tentative Order or TO) was published in the Pennsylvania Bulletin on March 8, 2025. Comments to the Tentative Order were due within 30 days of publication, with reply comments due 15 days thereafter.

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)¹ and the Tenant Union Representative Network (TURN)² (collectively, Low Income Advocates) filed comments in this proceeding on April 7, 2025.

Comments were also filed by Coalition for Equitable Energy and Housing in PA (CEEH-PA); Building Decarbonization Coalition, 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 (PASSIA), Celentano Energy Services, PennEnvironment, Pennsylvania Interfaith Power & Light, Pennsylvania Solar Center, Pennsylvania Sustainable Business Network, POWER Interfaith, Physicians for Social Responsibility Pennsylvania, Sierra Club Pennsylvania Chapter, Vote Solar, and the Pennsylvania Utility Law Project

¹ **CAUSE-PA** is an unincorporated association of low-income Pennsylvanians from all corners of the state that advocates on behalf of its members to families of limited economic means across the state are able to connect and maintain safe and affordable water, electric, heating and telecommunication services to their home. CAUSE-PA was an active party in the Phase II, Phase III, and Phase IV implementation and plan review proceedings, and, through its counsel, has long been an engaged participant in Act 129 stakeholder meetings, working groups, and other processes.

² **TURN** is a not-for-profit organization with moderate- and low-income tenant members. All of TURN's members are either customers of or dependent on service from the public utilities of this Commonwealth. TURN has intervened in numerous matters before the Commission.

(collectively Energy Advocates); The Commission on Economic Opportunity (CEO) and Pennsylvania Weatherization Providers Task Force (WPTF); The Pennsylvania Department of Environmental Protection (DEP); Keystone Energy Efficiency Alliance (KEEA); Northeast Energy Efficiency Partnerships (NEEP); Philadelphia Solar Energy Association, Pennsylvania Solar Center, Pennsylvania Solar and Storage Industries Association, and Evergreen Action (collectively Clean Energy Advocates); Oracle Utilities Opower; RMI; Uplight; Advanced Energy United (AEU); The Office of Consumer Advocate (OCA); The Office of Small Business Advocate (OSBA); Industrial Energy Consumers of Pennsylvania ("IECPA"); Energy Association of Pennsylvania (EAP); PPL Electric Utilities Corporation (PPL); Duquesne Light Company (DLC); PECO Energy Company (PECO); FirstEnergy Pennsylvania Electric Company (FEPA).

Preliminarily we voice our general support for the comments submitted by CEEH-PA, Energy Advocates, CEO and WPTF to the extent that they offer recommendations to meaningfully improve the availability of and access to low-income EE&C programs that offer durable, comprehensive energy savings and appreciable bill savings. The following Joint Reply Comments are submitted by the Low Income Advocates in response to specific points raised by PPL, FEPA, PECO, DLC (collectively EDCs), EAP, UGI, NRG, and AEU in their comments to the Tentative Order. In short, we oppose their respective recommendations to eliminate the low-income savings target, remove the Commission's proposed limitations on savings carryover, allow electric generation suppliers (EGSs) to market and administer DR programming, and to allow the use of voluntary EE&C programs to subsidize electric to fossil fuel switching measures.

Given the short timeframe provided by the Commission for Reply Comments, and the breadth of comments provided, the Low Income Advocates focus their attention here only on those areas where we have significant disagreement with other commenters. The absence of reply to comments on any specific points raised by other parties should not be construed as support for or agreement with those points.

II. REPLY COMMENTS

A. Savings Targets

In their respective Comments, the Energy Association of Pennsylvania (EAP) and various of the electric distribution companies (EDCs) comment on the methodology that the Statewide Evaluator (SWE) used to develop the proposed portfolio consumption reduction targets and low income targets in the TO.³ Generally, EAP and the EDCs argue that acquisition costs assumed by the SWE were artificially low due to the SWE's inclusion of potential savings attributable to uncertain federal funding and its failure to adequately account for inflation and other economic factors.⁴ They argue that these assumptions resulted in portfolio savings targets and low-income savings targets that were unreasonably high.⁵ DLC argues that its low income Act 129 programs serve the same population as its Low Income Usage Reduction Program (LIURP), suggesting potential savings are overstated because the programs may compete for a limited number of electric heating and water heating jobs.⁶ EAP agrees with the Commission that the EE&C Programs have matured over time and EDCs should be able to focus on more comprehensive measures, but argues

³ EAP Comments at 6; PPL Comments at 6-7; FEPA Comments at 2-4, DLC Comments at 14; PECO Comments at 20-21.

⁴ EAP Comments at 6; PPL Comments at 6-7; FEPA Comments at 2-4; DLC Comments at 14; PECO Comments at 20-21.

⁵ EAP Comments at 16; FEPA Comments at 14-16; DLC Comments at 3-8; PECO Comments at 20-21; PPL Comments at 7-8.

⁶ DLC Comments at 5-8.

that the approach taken by SWE to reduce the low income acquisition cost will have the opposite effect.⁷ We respectfully disagree with EAP and the EDCs' recommendations.

As explained in our initial comments, the Low Income Advocates strongly support the focus on durable savings derived from comprehensive measures, such as weatherization and heating equipment upgrades.⁸ Specifically, with regard to low-income Act 129 programs, we recognize and share concerns that the low income acquisition costs and savings targets in the TO may hinder adoption of durable, comprehensive programming.⁹ That said, we strongly disagree that the solution to these concerns is to lower or eliminate the low-income savings targets. Such a move would lead to greater disparities in relative energy burdens and would contradict the intent of Act 129 and the requirement that the program equitably and proportionately serve low-income households that cannot otherwise afford to adopt efficiency measures.

It is premature to assume the end of federal funding at this stage of planning. Many of the largest federal energy and efficiency programs continue to move forward through the planning and design phase and are anticipated to launch in the coming weeks and months. Moreover, any uncertainty surrounding the launch of new federal energy and efficiency programs only further underscores the acute need for state-level leadership to create strong and equitable efficiency programs capable of driving meaningful energy and bill savings for low-income households.¹⁰ We also note that, while the percentage of savings carve-out is higher in the Commission's Phase V low-income savings target, the actual MWh required to meet the low-income savings carve-out for

⁷ EAP Comments at 2.

⁸ Low Income Advocates Comments at 18-22.

⁹ *Id.*

¹⁰ *Id.* at 16

Phase V are substantially lower than Phase IV for three of the four utilities, representing a 5.5% decrease in required low-income MWh reductions statewide.¹¹

The best way to ensure that the Commission achieves its policy priority of increasing longer-lived, deeper savings through comprehensive measures is not to reduce the savings targets. Such a move would achieve the exact opposite result. Rather than continuing the years-long trend and further incentivizing cheap, short-lived energy reduction measures that do not produce appreciable bill savings for low-income participants, the Commission should implement the integrated package of reforms recommended in the Low Income Advocates' initial comments. Adoption of these reforms will improve the delivery of coordinated and comprehensive whole-home program measures that prioritize durable, deeper saving measures such as direct installation of appliances, heating system upgrades, and building envelope measures such as air sealing and insulation.¹² Specifically, the Commission should:¹³

- (1) Set statewide low-income budgets based on the MPS' Statewide Program Potential Low-income acquisition cost of \$958.60.
- (2) Increase the statewide Phase V low-income savings goal to 308,041 MWh, equal to approximately 46% of the program potential.
- (3) Require the EDCs to achieve no less than 25% of the low-income savings goal through comprehensive whole-home program measures and require data tracking and reporting on these measures.
- (4) Prohibit the application of Phase IV carryover savings to the 25% comprehensive whole-home program portion of the low-income savings target.
- (5) Reduce the statewide Phase V residential non-low-income savings goal to 917,608 MWh, which would equalize the non-low-income and low-income savings goals so that both are approximately 46% of the program potential.¹⁴

¹¹ See Low Income Advocates Comments at 30-31, Table 1.

¹² *Id.* at 19-20.

¹³ *Id.*

¹⁴ *Id.*

Note that these recommendations are designed to function in tandem and should be adopted as a package of policy reforms. This integrated set of recommendations would increase the total state-wide low-income budget to \$293.3 million to accommodate higher acquisition costs and would set the low-income savings targets commensurate with these increased budgets. Further, the required 25% comprehensive whole-home program measures target would ensure that EDCs prioritize durable, deeper saving measures such as direct installation of appliances and envelope measures such as air sealing and insulation.

Regarding DLC’s argument that Act 129 programs serve the same population as LIURP, we believe that DLC’s concerns would be better addressed through improved coordination between LIURP and Act 129 programs and through increased focus on the utilization of local, community-based service providers to deliver both LIURP and Act 129 programs. We recognize that there is some overlap in the eligible population for both programs, but it is vital to recognize that Act 129 is statutorily designed to supplement LIURP, not supplant it. Furthermore, LIURP is focused on the highest usage households and is intended to help low income customers conserve energy and reduce bills – helping to improve collections performance, support home health and safety, and achieve other critical policy goals.¹⁵ Act 129 EE&C, on the other hand, is intended to be accessible to all low income consumers – regardless of usage – to help reduce overall energy consumption and home energy costs. Act 129 low-income expenditures are statutorily required to be “in addition to expenditures made under 52 Pa. Code Ch. 58 (relating to residential low-income usage reduction programs).”¹⁶ In short, Act 129 low-income programs must be designed to work in tandem and in coordination with LIURP to enhance overall services – either through expansion

¹⁵ 52 Pa. Code § 58.1.

¹⁶ 66 Pa. C.S. § 2806.1(b)(1)(i)(G).

of the measures available to LIURP participants or by focusing on reaching those ineligible for LIURP because they do not meet the high usage thresholds.

It is also important to note that the TO’s proposed Act 129 low-income savings target for DLC is slightly less than the traditional Act 129 low-income potential identified in the Energy Efficiency and Demand Reduction Market Potential Study (MPS) and barely more than half of the low-income Program Potential. This alone should be sufficient evidence to refute DLC’s concerns.

TABLE 1: DLC MPS Savings Potential¹⁷

	Savings	% of Program Potential
MPS Low Income Program Potential	34,972	100%
MPS Low Income Act 129 Potential	19,458	56%
TO Low Income Target	18,933	54%
Untapped Potential	16,039	46%

Importantly, in the TO, the Commission seeks recommendations on ways to “harmonize the management and spending of Act 129 low-income funds with Low-income Usage Reduction Program (LIURP) funds that the Commission also oversees.”¹⁸ As explained in our initial comments, the Commission must ensure that coordination efforts in no way erode or supplant the availability of services to high usage low-income families through LIURP. The Commission can better coordinate LIURP and Act 129:¹⁹

- (1) Improve coordination with LIURP by requiring the use of common contractors and common auditing tools in the delivery of Act 129 and LIURP programming.
- (2) Ensure that LIURP, WAP, and Act 129, are delivered in tandem to provide a “no wrong door” approach to the delivery of comprehensive efficiency, conservation, and weatherization services to low-income families.

¹⁷ *Energy Efficiency and Demand Reduction Market Potential Study (MPS)*, Table 13 p. 20; MPS Table 27 p. 33; TO Table 10 p. 27.

¹⁸ TO at 27.

¹⁹ Low Income Advocates Comments at 52-54.

- (3) Develop specific coordination programs with WAP and/or LIURP providers to allow LIURP and/or WAP service providers to install Act 129 program measures not covered by LIURP or WAP at the time of program delivery.
- (4) Mandate the use of standardized eligibility criteria, application forms, energy audits, and data sharing policies to facilitate coordinated and streamlined delivery of LIURP and Act 129 low-income programs – as well as other local, state, and federal low-income energy programs.
- (5) Require creation of a consolidated website that can serve as a landing spot to streamline application for LIURP and Act 129.²⁰

This kind of coordination across programs would help to ensure the delivery of all available resources to a home while reducing unnecessary administrative costs.

B. Carryover

In its TO, the Commission proposes that the EDCs only be allowed to utilize carryover savings in excess of their Phase IV portfolio and low-income savings targets up to a maximum of 20% of their Phase V savings targets.²¹ The Commission believes this approach will encourage EDCs to continue program operations through the full phase (i.e., not allow programs to “go dark”), while at the same time addressing concerns that Phase V target attainment could be significantly achieved via excess carryover savings.²²

EAP, several EDCs, and IECPA oppose the Commission’s proposal.²³ They argue that the 20% cap on carry-over savings could slow down program implementation in the remainder of Phase IV and contradict the Commission’s goal that EDCs continue offering low-income programs after meeting their Phase IV targets.²⁴ They also argue that the Commission’s proposal could make it more difficult to meet future targets.²⁵

²⁰ *Id.*

²¹ TO at 31.

²² *Id.*

²³ EAP Comments at 15-16; FEPA Comments at 17-18; PPL Comments at 12; DLC Comments at 11-12; IECPA Comments at 2-5.

²⁴ EAP Comments at 15-16; DLC Comments at 11-12; FEPA Comments at 17-18; PPL Comments at 10.

²⁵ DLC Comments at 11-12.

The Low Income Advocates agree that it is important to establish policies that will ensure programs are available through the full phase. At the same time, we recognize the critical need to avoid the overreliance of EDCs on carryover savings to meet their savings targets. Thus, we disagree with EAP and the EDCs that the solution is to allow full attribution of all carry-over savings toward the low income carve-out. Specifically, regarding the low-income savings carveout, the data simply does not support the conclusion that full carry-over savings work to increase the availability of low-income programs either in the current phase or in planning for a future phase. To the contrary, as we explained in our initial comments, by the end of PY 15 – just three years into Phase IV – nearly every EDC, with the exception of DLC, had already achieved at least 90% of its Phase IV targets because they were able to include their Phase III carryover.²⁶ This does not serve the public interest of continued and ongoing reductions in electricity usage that are required by Act 129 when the Commission determines that a new phase would result in cost effective savings because it relies on banked savings as opposed to new savings within the phase. We also note that the penalties for failure to reach low-income savings targets are discretionary and even if levied, likely to be substantially less severe than those for failure to reach portfolio savings targets overall.²⁷

As explained in our initial comments, we recommend that the Commission require EDCs to design their Phase V plans to meet their Phase V goals without the use of any carryover,²⁸ and that any excess carryover (up to the Commission’s proposed 20% maximum) only be used as a backstop in situations where EDCs are unable to achieve their Phase V targets using exclusively

²⁶ Low Income Advocates Comments at 46.

²⁷ TO at 28 (EDCs that fail to meet this proposed Phase V low-income carve-out, will not be subject to the penalties prescribed under subsection 2806.1(f) of the Act, 66 Pa. C.S. § 2806.1(f). They will, however, be subject to the penalties prescribed under Chapter 33 of the Public Utility Code, 66 Pa. C.S. § 3301(a).).

²⁸ Low Income Advocates Comments at 47.

Phase V savings.²⁹ Further, EDCs should be required to track their progress toward their savings targets based solely on savings derived from Phase V.³⁰ Phase IV carryover savings should only be used for EDCs who cannot meet their Phase V targets after a good faith effort to meet those goals by fully utilizing their Phase V budgets.³¹ This approach offers a more effective way to ensure that Phase V EE&C programming achieves the maximum possible energy savings. The Commission requiring EDCs to achieve their savings compliance goals *before* applying carryover savings from the prior phase allows EDCs a more realistic opportunity to maximize ratepayer benefits by spending their full budgets and achieving the expected energy savings potential for the Phase, while still allowing carryover savings to serve as a safety net that could be applied at the end of a Phase to help avoid penalties for non-compliance.

C. Coordination

In its TO, the Commission presented several proposals to enhance coordination between Act 129 EE&C programs and other complimentary programs and funding sources, including allowing EDCs to count savings from braided IRA funding, data sharing, and coordinated marketing campaigns.³² In their comments, EAP and several EDCs offer vague support for coordination and agree with the Commission's decision to allow full attribution of the gross verified savings for any EE&C project they support through braided funding from other state administered conservation programs.³³ However, they disagree that those savings should be included in the Phase V potential for EDCs.³⁴

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² TO at 54-61.

³³ EAP Comments at 15-16; PECO Comments at 24-25.

³⁴ *Id.*

EAP also opposes several Commission proposals that we believe would greatly improve coordination with Act 129 and other energy-efficiency-related programming. In what can only be described as having their cake (full attribution of savings from other programs) and eating it too (refusing to help facilitate those savings), EAP opposes the Commission’s proposal that EDCs co-fund American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) Level 2 audits,³⁵ the proposal that EDCs be required to track and report leveraged funding by source, the development of a data sharing program between EDCs and other state agencies offering energy conservation Programs,³⁶ and any required coordinated marketing campaigns with other conservation providers.³⁷

EAP and the EDCs’ positions regarding coordination discount the value of administrative efficiencies that can be achieved through coordination and data sharing with other programs. Rather than work to streamline program delivery for the benefit of consumers, their positions would work to supplant overall energy savings gained across programs, allowing EDCs to achieve their savings requirements through attribution from other programs. This is not leveraging – it is freeloading. Effective program coordination is not merely good practice, it is a statutory requirement.³⁸ To avoid adverse outcomes, EDCs should not be allowed to claim the full gross verified savings for projects they support through braided funding from other programs without tracking and reporting those outside funding sources and meeting higher low-income goals and specific requirements for longer-lived, deeper-saving measures.³⁹ As explained in our initial comments, program coordination, including braided funding, should be leveraged to increase

³⁵ EAP Comments at 18. (Of note, ASHRAE Level 2 audits are required under the IRA to access certain EE&C benefits.).

³⁶ *Id.* at 17

³⁷ *Id.* at 19.

³⁸ Low Income Advocates Comments at 51-52, citing 66 Pa. C.S. § 2806.1(b)(1)(i)(G) (stating that EDCs “shall coordinate measures ...with other programs administered by the commission or another Federal or State agency.”).

³⁹ *Id.* at 56.

participation and savings for eligible households, not to make it easier for the EDCs to claim success while doing less.⁴⁰ Without these targets and reporting requirements, any IRA funding could simply supplant Act 129 program dollars to achieve required energy savings goals, rather than fund deeper comprehensive measures that the Commission hopes its policies will produce.⁴¹ Furthermore, the Commission's proposal that EDCs pay for ASHRAE Level II audits to help facilitate savings from other program sources that cannot be used to fund these audits is critical to the successful stacking of resources that will drive down overall energy usage and allow customers to achieve meaningful bill savings. EDCs should not be permitted to impute the full savings achieved from other jobs yet refuse to pay for things that are permitted under Act 129 based on some vague notion that it interferes with the autonomy and independence of their plan implementation.

Further, we stand by our position that data sharing and coordinated marketing campaigns are important to facilitate a more integrated program delivery.⁴² As such, the Commission should build on the work of the Universal Service Working Group to develop standardized guidance governing data sharing between EDCs, state agencies, and program administrators, including the LIHEAP data sharing policy between the Department of Human Services and utilities. We recognize the concerns voiced by EAP and the EDCs that the 30-day comment and 15-day reply comment period are insufficient to address the complexity of the issue and the varied interests at stake. However, Act 129 plans last 5 years and planning does not begin and end with the Tentative Order. Put simply, the solution is not to abandon the Commission's attempt to achieve a data sharing process that provides a clear and articulable benefit to consumers while limiting risk of

⁴⁰ *Id.* at 55.

⁴¹ *Id.* at 56.

⁴² *Id.* at 58, 61.

exposure. Instead, we reiterate our recommendation that the Commission build on the work of the Universal Service Working Group to develop a data sharing policy framework – including a potential centralized website, template MOU, consumer consent process, shared data points, and parameters for data protection.⁴³

D. Low Income Demand Response (DR)

In its comments, Advanced Energy United (AEU) recommends that the Commission establish a low-income peak demand reduction target for each EDC, which will “allow EDCs to have a greater impact on energy burden with the Act 129 programs.”⁴⁴ The Low Income Advocates share AEU’s concern that many load-shifting programs rely on technologies that are only found in higher income households and agree that it is crucial for low-income customers to receive greater deployment incentives to allow them access the benefits of participation.⁴⁵ While we agree that demand response measures installed in low income households could help reduce energy use and improve affordability, we do not support a specific low income DR carve-out. We are concerned that a specific low income carve-out may divert attention from the delivery of comprehensive, deep-measure efficiency programs better capable of reducing energy and bills over the long term. If incentive structures are appropriately set to allow low-income households to participate in the general DR program, then participation will follow. Coordinating outreach for DR measures with EDC Act 129 low-income EE&C programming and other low-income programming should assist with this effort.

We note here the critical importance of ensuring DR programs are designed to obtain clear and informed consumer consent, provide meaningful incentives that reduce energy costs – *without*

⁴³ *Id.* at 58-59, 61.

⁴⁴ AEU Comments at 13-14.

⁴⁵ *Id.* at 13.

financial penalty, and establish a clear process that allows households to seamlessly override participation if necessary. EDCs should be strictly prohibited from installing service limiters under the guise of DR measures. All DR measures should be incentive based to provide real, meaningful benefits to customers and should not be based on any penalty structure for failure to comply with DR events.

In their Comments, NRG Energy Inc. (NRG) recommends that the Commission should include smart thermostat virtual power plants (smart thermostat VPP) as part of the Act 129 portfolio and that electric generation suppliers (EGS) be allowed to market smart thermostat devices and exercise dispatch rights for those devices.⁴⁶ While the Low Income Advocates are supportive of the use of smart thermostat VPPs through Act 129 program, we oppose NRG's recommendation that EGSs be allowed to market smart thermostats through Act 129 programming and that they should be allowed to remotely adjust customers' smart thermostats during peak load events.

The EGS market has the potential for deceptive and manipulative marketing.⁴⁷ This fact is evidenced by the data demonstrating that residential customers in aggregate are financially harmed when they receive service from EGSs as compared to remaining on default service.⁴⁸

⁴⁶ NRG Comments at 8-17.

⁴⁷ *Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. National Gas & Electric, LLC*, M-2022-2633098; *Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Green Mountain Energy Co.*, M-2021-3009235; *Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Eligo Energy PA, LLC*, M-2020-3019204 See also *PUC Urges Consumers to Be Alert for Energy Marketing Scams* (July 18, 2022) <https://www.puc.pa.gov/press-release/2022/puc-urges-consumers-to-be-alert-for-energy-marketing-scams>.

⁴⁸ The following table, comprised of aggregate supplier pricing data compiled through the course of the EDCs' default service plan proceedings, reveals that shopping customers were charged, in the aggregate, nearly \$1.8 billion more than the default service price:

Given that EGS marketing for basic services – price for energy – is rife with concerns because it results in consistently higher energy prices – especially for low income households – the Low Income advocates are concerned about EGSs gaining a foothold within Act 129 DR. Control over home devices is too great of an issue to risk the health and safety of customers to suppliers, which largely operate outside Commission oversight and control. To the extent that smart thermostat VPPs are provided through Act 129 programming, they should be offered and administered solely by the EDC so that customers have access to the regulatory protections and dispute processes available through the Commission.

Aggregate Residential Shopping Charges in Excess of Default Service

Utility	Dates Analyzed	Aggregate Shopping Charges Over Default Service Price
PECO	Jan. 2018 – Dec. 2023	\$801,873,392
PPL	Jan. 2015 – April 2024	\$339,220,116
Duquesne	Jan. 2017 – May 2024	\$224,273,497
FirstEnergy	Aug. 2017 – Dec. 2021	\$431,152,822
Total		\$1,796,519,827

See Pet. of PECO for Approval of DSP June 1, 2025-May 31, 2029, P-2024-3046008, TURN/CAUSE-PA St. 1 at 13 (Apr. 25, 2024); Pet. of PPL for Approval of DSP June 1, 2025-May 31, 2029, P-2024-3047290, CAUSE-PA St. 1 at 9, Ex. 1 & 2 (Sep. 12, 2024); Pet. of DLC for Approval of DSP June 1, 2025-May 31, 2029, P-2024-3048592, CAUSE-PA St. 1 at 8 (July 12, 2024); Pet. of FEPA for Approval of DSP June 1, 2025-May 31, 2029, P-2021-3030012, et seq., CAUSE-PA St. 1 at 9 (Feb. 25, 2022).

Low-income customers are subject to even higher prices, as evidenced by a comparison of rates charged to low-income shopping customers compared to residential shopping customers in PPL’s service territory:

PPL Average Residential v. Low Income Shopping Charges in Excess of Default Service

Shopping Rates in PPL Service Territory	Residential Shopping Charges in Excess of Default Service Rate	Confirmed Low-Income Shopping Charges in Excess of Default Service Rate	Difference
January 2024	\$6.94	\$19.08	\$12.14
February 2024	\$4.70	\$16.06	\$11.36
March 2024	\$4.34	\$14.63	\$10.29
April 2024	\$3.70	\$12.63	\$8.93
TOTAL	\$19.68	\$62.40	\$42.72

Pet. of PPL for Approval of DSP June 1, 2025-May 31, 2029, P-2024-3047290, CAUSE-PA St. 1, Ex. 1 & 2.

In sum, we offer the following recommendations to better ensure that DR programming, and more specifically, low-income peak demand reduction programming would be equitably accessible and provide meaningful benefits, including real energy and bill savings to low-income households:

- All DR measures for low-income customers should be offered as a component of no cost, incentive-based programs and should include direct installation of any necessary equipment.
- The Commission should develop standard notice and consent forms with input from a range of stakeholders.
- DR program materials should include clear, plain language disclaimers for customers at risk of negative consequences, such as households with vulnerable household members, including seniors, families with young children, individuals with medical conditions or who rely on electric medical equipment, or other special circumstances.
- Low-income participation should not be conditioned on or in any way connected to EGS contracts.
- Low-income customers should be able to opt out of DR events and/or disenroll from the program without penalty – financial or otherwise.
 - Note that we recognize there may be circumstances, such as repeated opt-out, which may reasonably result in forfeiture of incentives. We are not opposed to reasonable rules generally applicable to all customers, provided participants are never affirmatively penalized.
- EDCs should take steps to ensure that low-income peak demand reduction programs are cross-marketed with weatherization and HVAC programs to ensure that low-income customers who participate in any initiatives have the greatest opportunity for maximum energy and bill savings.
- The PUC should closely monitor any such program to ensure that low-income customers are receiving just and equitable treatment.

Further, to ensure that low-income customers enrolled in their EDC's customer assistance program (CAP) receive the same level of financial benefit from participation as other customers, the Commission should ensure that any incentive bill credits for CAP customers who participate

in a low-income DR program are applied to their “asked to pay” amount, similar to the application of LIHEAP cash grants.

E. Fuel Switching

In its TO, the Commission proposes to limit the allowance of fossil fuel –to-electric switching through Act 129 programs to situations where another state program incentivizes the electric equipment measure.⁴⁹ UGI Utilities, Inc. (UGI) indicates that it offers a portfolio of voluntary EE&C programs through both its electric and gas divisions and seeks allowance to “continue incentivizing high efficiency gas and electric equipment for all qualifying customers, regardless of their prior fuel source.”⁵⁰ UGI seeks clarification on how fuel switching would operate if IRA programs were no longer available or if there were material changes to IRA funding.⁵¹

Regarding UGI’s request to be allowed to continue a fuel blind approach through its self-initiated EE&C programs, the Low Income advocates disagree and respectfully assert that the same policies and limitations should apply to all ratepayer funded EE&C programming regardless of whether it is initiated by the utility or explicitly authorized and required by statute. While UGI’s request for clarification was raised in the context of fuel switching, this is an especially important consideration regarding the proportional and equitable treatment of low-income customers.

UGI’s and other elective, ratepayer funded EE&C programming should be held to standards at least as high as programs that are explicitly mandated by statute. The Commission’s long-established standards and practices developed over nearly two decades of Act 129 implementation provide a crucial roadmap for elective programs that have no statutory or

⁴⁹ TO at 56.

⁵⁰ UGI Comments at 2-3.

⁵¹ *Id.* at 3.

regulatory authorization or guidance. Further, we believe that it is inappropriate for the Commission to allow UGI or other utility-operated self-initiated EE&C programs to continue to use ratepayer funded EE&C to convert electric heating customers to gas heating, especially to the extent that it is used to convert customers from other Commission regulated utilities. Like the statutorily authorized, mandatory Act 129 EE&C programs, these self-initiated programs should focus on providing durable building shell measures that help reduce overall home energy usage and provide meaningful bill savings, especially for low-income households in their respective service territories.

F. Plan Approval Process

In their comments, EAP and the EDCs point out that the time between the scheduled Phase V Final Implementation Order (June 18, 2025) and the due date for submission of EDC's Phase V EE&C Plans (November 1, 2025) is shorter by 29 days than the timeline provided in Phase IV.⁵² EAP, FEPA, PECO, and DLC recommend that the Commission extend the due dates for EE&C Plan filing due date to November 18, 2025 and PPL recommends an extension to November 30, 2025.

In the absence of modifications to the current process in which comments precede litigation of plans, which we proposed to modify in our comments and reiterate below, the Commission should not extend the filing deadline further into the winter holiday season. November is still seven months away, and EDC planning is already underway based on the blueprint provided in the Commission's Tentative Implementation Order. Even after a final implementation order is issued, there will still be nearly five months for the utilities to design their proposed plans. Adding several

⁵² EAP Comments at 20; PPL Comments at 16; FEPA Comments at 27; PECO Comments at 28; DLC Comments at 15.

additional weeks for utilities to design their plans would not meaningfully add to this lengthy preparation period, but it would serve to further erode the already constrained due process review.

As explained in our initial comments, the compressed timeframe for litigation in previous phases has made it difficult for stakeholders to fully investigate utility proposals and create an adequately detailed record for the Commission to review. These time constraints are further exacerbated by the intervening comment period that is currently held between the plan submission and the start of litigation (as opposed to occurring concurrently with the litigation), and the twenty-day turnaround timeframe for discovery.⁵³ Extending the deadline for EDC plan submission would further truncate the ability of stakeholders to meaningfully investigate the justness and reasonableness of the EDCs' plans – in turn eroding the Commission's ability to meaningfully review and oversee these crucially important programs.

To address this issue, and consistent with our initial comments, we recommend the Commission make the following modifications to the EE&C Plan review process to better coordinate the public comment period with the litigation schedules set by the Office of Administrative Law Judge (OALJ):

- Refer Plans to the OALJ immediately upon filing so that a prehearing conference can be held promptly at the conclusion of the formal answer period.
- The referral to the OALJ and commencement of the formal review process should be co-extensive with the public comment period.
- Shorten the Answer period to 15 days.
- Establish an interim process for granting petitions to intervene and discovery modifications – permitting the discovery process to commence as soon as possible after plans are filed.

If the Commission adopts our recommendations to protect the ability of the public to meaningfully engage in the review process and prevent unnecessary delay in commencement of

⁵³ 52 Pa. Code § 5.342(d).

litigation, we would not oppose the proposals to provide additional time for EDCs to file their plans. However, to the extent that the Commission rejects our recommendations, we strongly recommend that the Commission keep the November 1, 2025, filing deadline to provide the parties with sufficient time to conduct litigation.

G. Plan Change Process

In their respective comments, EAP and the EDCs propose that they be allowed to make certain changes through a “Notification Process” rather than following the Commission’s Minor Plan Change Process.⁵⁴ They propose to use this new “Notice Process” when: (1) the cumulative value of the budget transfers across programs and/or rate classes resulting from all previously-approved changes and the proposed changes (the “Cumulative Change Value”) does not exceed 10% of the EDC’s total EE&C plan budget for the Phase; and (2) for any program year, the Cumulative Change Value does not exceed 5% of the EDC’s total EE&C plan budget for the Phase.⁵⁵

The Low Income Advocates oppose this proposed “Notification Process” as it would strip the stakeholders of the due process for challenging such proposed changes by EDCs, which was already scaled back under the Commission’s Minor Plan Change process.⁵⁶ In its Minor Plan Change Order, the Commission took steps to “provide adequate and meaningful due process for all interested parties.”⁵⁷ The Minor Plan Change process provides a comment period of 15 days and the reply comment period to 10 days, intended to “give interested parties with an opportunity to provide meaningful and specific comments and replies to more fully inform the staff decision.”⁵⁸

⁵⁴ EAP Comments at 21-22.

⁵⁵ *Id.* at 21-22

⁵⁶ See *Minor Plan Change Order*, Docket No. M-2008-2069887, (June 10, 2011).

⁵⁷ *Id.* at 9.

⁵⁸ *Id.*

The Minor Plan Change process also provides the option for staff to refer matters to the OALJ for hearings.⁵⁹ While the due process provided to stakeholders under the Minor Plan Change process is not particularly robust, the proposed “Notification Process” does not provide *any* opportunity for input from stakeholders or referral to the OALJ. We are particularly concerned that the proposed “Notification Process” would allow EDCs to transfer up to 10% of total EE&C budget between rate classes without any due process or input from stakeholders in those classes. Further, we note that the Commission’s current Minor plan Change process has been utilized for over a decade and has not prevented any EDC from being able to achieve its savings targets. For these reasons, we urge the Commission to reject EAP and the EDC’s proposed “Notification Process”.

III. CONCLUSION

The Low Income Advocates reiterate our strong recommendations that the Commission meaningfully improve the availability of and access to meaningful low-income EE&C programs that offer durable, comprehensive energy savings and appreciable bill savings. We look forward to a successful transition into Phase V.

⁵⁹ *Id.* at 10.

Respectfully submitted,

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