



800 North Third Street, Suite 205, Harrisburg, PA 17102
Telephone (717) 901-0600 | Fax (717) 901-0611
www.energypa.org

April 22, 2025

Matthew L. Homsher, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

**Re: Reply Comments of the Energy Association of Pennsylvania to Act 129 Phase V
Tentative Implementation Order, Docket No. M-2025-3052826**

Dear Secretary Homsher:

Enclosed for filing are the reply comments of the Energy Association of Pennsylvania to the Tentative Implementation Order in the above-referenced proceeding.

Sincerely,

A handwritten signature in black ink that reads 'Nicole W. Luciano'. The signature is written in a cursive, flowing style.

Nicole W. Luciano
Director of Policy

Enclosure

CC: Tiffany Tran (tiftran@pa.gov)
Joseph Sherrick (josherrick@pa.gov)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Energy Efficiency and Conservation Program : Docket No. M-2025-3052826

**Reply Comments of the
Energy Association of Pennsylvania
To Act 129 Phase V Tentative Implementation Order**

I. Introduction

The Energy Association of Pennsylvania (“EAP” or “Association”) filed comments on April 7, 2025 to the Act 129 Phase V Tentative Implementation Order Re: Energy Efficiency and Conservation Program (“TIO”) entered by the Pennsylvania Public Utility Commission (“PUC” or “Commission”) on February 20, 2025. EAP files these reply comments on behalf of its electric distribution company (“EDC”) members subject to the obligations of Act 129 of 2008¹. These reply comments seek to further support the positions and analysis provided by EDCs in opposition to many of the suggestions offered by other stakeholders to this proceeding. Individual EAP members may also provide individual reply comments. The fact that EAP has not addressed every suggestion made by interested parties should not be viewed as support for those positions.

EAP notes that many of the suggestions made by the non-utility interested parties are not supported by an analysis of available facts or data reported by the EDCs, by the parameters of the law, or based on a critical review of the Statewide Evaluator (“SWE”) expert studies or third-party expert opinions and studies. And, while many of the stakeholders would like to see their

¹ Duquesne Light Company (“Duquesne”), FirstEnergy Pennsylvania Electric Company (“FE”), PECO Energy Company (“PECO”), and PPL Electric Utilities (“PPL”), collectively referred to herein as “EDCs”.

particular interests furthered and promoted (i.e., gain financially) via the Act 129 Energy Efficiency and Conservation Program, EAP contends that mandating specific spend, measures, program designs, or carve-outs that benefit discrete sectors of customers – and that have been summarily dismissed by the Commission in previous Phase implementations – does not further the legislative goals of Act 129.

EAP urges the Commission to refrain from adding to the number and specificity of requirements already embedded in Act 129. Moreover, EAP reiterates its point from initial comments to the TIO that creating additional, binding Act 129 mandates subject to compliance penalties through the current generic order process does not protect the interests of either the EDCs or their customers.

For these reasons, as well as those set forth below and contained in the comments and reply comments of its individual EDC members, EAP respectfully request the Commission to exercise its discretion to avoid increasing the complexity of or adding to the list of requirements for Phase V of Act 129.

II. EAP Opposes Increasing Targets & Budgets for Act 129 Programs

Several commenters suggested that savings targets should be increased or that spending caps and associated program budgets should be raised. The Commission correctly recognized that, per the language of Act 129, the budget limits cannot be increased for any reason, including for inflation. EAP underscores, however, that although budget increases based on inflation are not permitted under the statute, the Commission can and should consider inflation in the context of analyzing the SWE potential studies which failed to consider inflation (or the uncertainty surrounding the continuation of certain federal programs) when it calculated potential or recommended EE and DR savings targets for each EDC. EDCs will likely face penalties if

targets are set which ignore increased costs to customers due to inflation and other factors. Since budgets cannot be raised, EAP respectfully recommends dismissing suggestions to increase targets and instead adjust incentives and costs for all measures to more conservative / achievable levels and calibrate EDC targets accordingly.

Relatedly, EAP opposes the suggestions to: establish subcategories for single family, individually metered multifamily tenant units, and master-metered multifamily tenant units within the low-income savings carve-out; require utilities to develop pilot programs for health and safety issues; require utilities to establish referral processes to local or state-run health and safety programs; or require utilities to track and report on homes deferred from receiving Act 129 services.² It's not clear from the commenters suggestions how such pilots and increased administrative requirements would impact the budgets, savings potential and cost-effectiveness results. Funding for non-energy benefits could reduce available dollars for achieving energy savings and jeopardize overall program compliance. Setting up and maintaining referral partnerships would require ongoing staff time, relationship management, and IT systems changes; these partnerships can be tenuous as local agencies have varied eligibility, capacity, and timelines. If referrals fail or partner agencies are under-resourced, utilities could be held responsible for outcomes outside of their control. Requiring tracking of deferred homes adds an additional reporting obligation with potential new systems or manual data management and an associated increase in administrative work and costs. Further, public reporting on deferred homes could lead to the view that utilities are not meeting Act 129 goals when many deferrals are outside of a utility's control or responsibility to correct.

² CAUSE-PA Comments at 50 and 62-63.

III. EAP Opposes Suggestion for Additional Stakeholder Engagement or Working Groups

EAP acknowledges the benefit of and generally supports the use of working groups or other collaborative processes to explore issues in the context of Commission investigations or proceedings. EAP does not and cannot agree, however, with suggestions made by commentators that a separate working group should be established for the coordination of state Act 129 programs or that the Multifamily Working Group should reconvene.

The determinations regarding mandates, carve-outs, program design, budget allocation, and acquisition costs set forth in the Commission's future final order for Phase V will affect how compliance is achieved and could lead to statutory penalties that do not consider the reasonableness or best efforts of EDCs in striving to meet the targets and direction set by the Commission. EAP has concerns that, if the Commission were to use working groups to further dictate policy direction or mandate program designs, administrative activities or pilots (e.g., for multifamily housing) while the EDCs were devoting resources, time, and funding to the development and approval of Phase V EE&C Plans, such plans would be imperiled by the lack of clarity on expectations, costs and timelines for completion.

Further, while EAP supports the Commission's and other stakeholders' emphasis on comprehensive programs and program design, EAP does not believe that additional guidance regarding definitions or new and different methods for stakeholder input in program design and reporting are necessary. The Commission's existing process offers various methods for stakeholder input including the TIO and its associated comments and reply comments and EDCs' semi-annual reporting and stakeholder meetings where the companies and stakeholders can review and comment on the performance, progress, and operation of the programs. EDCs have been open to meeting with stakeholders more frequently as needed to discuss ongoing plans and

programs. Additional prescriptive stakeholder meeting mandates would add to the administrative burden of these programs without a clear need or benefit.

EAP would ask the Commission to forgo the use of any staff led working group to examine potential programs or pilots, including those that would address coordination or multifamily housing. EAP believes that such efforts, if necessary at all, should be discussed within the existing collaborative process used by each EDC to hear suggestions and concerns from stakeholders.

IV. EAP Opposes Suggestion for Additional Act 129 Requirements for Demand Response (“DR”)

Regarding Demand Response (“DR”), commentators have made suggestions that are contraindicated by the reality of constraints on EDCs. EDCs can no longer bid into PJM’s market for DR. PJM’s market rules specify that only Curtailment Service Providers (“CSPs”) – typically third-party aggregators or retail customers – are authorized to register and bid DR resources into the wholesale capacity and energy markets. EDCs, by contrast, are not considered eligible market participants for this purpose. EDCs do not generate electricity and are therefore not load-serving entities in the context of the PJM wholesale market. EDCs therefore are structurally, legally, and operationally prohibited from bidding into DR markets as commentators suggest.

Other commenters suggest that DR targets should be increased, that EDCs should be required to file DR pilot programs as a part of Phase V, or that EDCs be required to file pilots to aggregate DR. EAP rejects these suggestions and reiterates its and its EDC members’ comments encouraging the Commission to reduce or eliminate peak DR reduction targets given the constraints.

As discussed above in section II, Act 129 budgets are limited and must be devoted to the implementation of EE&C plans aimed at meeting the directives of the General Assembly as set

forth in Act 129. The vast majority of suggestions from non-EDC commentators urge the Commission to revise the EE&C program with its inflexible penalty structure to address policy concerns that have been raised and considered in a myriad of separate PUC proceedings. EAP urges the Commission to resist the “call” of other commentators to add to the complexity and inflexibility of Act 129 obligations and requirements. While EAP may agree that there is value in discussing ways to streamline and improve utility and state-administered programs aimed at helping low-income citizens of the Commonwealth and that issues relating to resource adequacy, increasing demand, reliability, and affordability are pressing, EAP does not believe that the solution lies with the creation of a behemoth Act 129 EE&C program. EAP urges the Commission to focus instead on the flaws and constraints of the SWE potential studies discussed in its comments and those of the EDCs, and to issue a final Phase V implementation order which furthers the legislative intent of Act 129 without creating unreasonable performance risk for the EDCs in this next phase of the EE&C program.

V. EAP Opposes Suggested Requirement to Utilize Common Vendors or Contractors

EAP rejects commentators suggestions that the Commission should *require* the use of common contractors or common auditing across Act 129 and utility-funded LIURPs as well as state-funded Weatherization Assistance Programs (“WAPs”). Common contractors or vendors could create increased risk should the contractor(s) go out of business, engage in illegal or immoral acts, or otherwise imperil their ability to provide services. While EAP and the EDCs support coordination, there is no support for extra plan requirements that spend Act 129 funds but have limited opportunity to obtain measurable and verified compliance savings.

While the goal of expanding access to and coordination across weatherization services is commendable, requiring utilities to use the same contractors as state-funded programs risks

undermining the access that is desired, and the efficiency, flexibility, and innovation that utility-led initiatives can offer. Utilities are accountable to their ratepayers and the PUC, and they must be able to tailor programs to local needs, secure contractors to deliver program services, manage costs effectively, and meet program performance metrics that come with steep penalties for missed compliance.

Mandating the use of state-selected contractors (e.g., those utilized via WAP) – who may be chosen through different procurement processes and governed by distinct priorities – could limit utilities’ ability to choose the most qualified, cost-effective vendors for their specific programs. It may constrain program implementation. It may also stifle competition, discourage new market entrants, and create unnecessary administrative complexity.

Moreover, utilities often operate under different timelines, budgets, and compliance requirements than state-run programs. Forcing a one-size-fits-all contractor model could delay service delivery and dilute the focus on utility-specific goals. Coordination and collaboration between utility and state programs are valuable but preserving utility discretion in contractor selection helps ensure programs remain accountable, efficient, and responsive to ratepayer interests.

VI. Conclusion

In summary, while the stakeholder proposals aim to enhance equity and expand the reach of utility energy efficiency programs, they raise significant concerns regarding cost, feasibility, and mission alignment. Collectively, these proposals could erode the energy savings, cost-effectiveness, focus, and accountability that have made Act 129 a successful framework for delivering measurable benefits to Pennsylvania households. EAP respectfully requests that the Commission dismiss suggestions that would: shift responsibility for systemic issues (such as

housing quality, overall energy affordability, or public health) onto utility programs funded by ratepayers; increase administrative overhead that would erode cost-effectiveness of programs under Act 129; complicate compliance and performance measurement in ways that would distract from core energy savings objectives and unduly increase penalty risks for utilities; or all of the above.

Respectfully submitted,



Donna M.J. Clark
Vice President & General Counsel
dclark@energypa.org



Nicole W. Luciano
Director of Policy
nluciano@energypa.org

Energy Association of Pennsylvania
800 N Third Street, Suite 205
Harrisburg, PA 17102