

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120**

Public Meeting held August 28, 2025

Commissioners Present:

Stephen M. DeFrank, Chairman  
Kimberly Barrow, Vice Chair  
Kathryn L. Zerfuss  
John F. Coleman, Jr.  
Ralph V. Yanora

Energy Efficiency and Conservation Program

M-2025-3052826

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Reconsideration, Clarification, and Modification (Petition) filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Tenant Union Representative Network (TURN) (collectively CAUSE-PA/TURN or Petitioners) on July 3, 2025, seeking reconsideration, clarification, and modification of the Implementation Order entered on June 18, 2025,<sup>1</sup> relative to the above-captioned proceeding. On July 11, 2025, the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate

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<sup>1</sup> *Energy Efficiency and Conservation Program, Docket No. M-2025-3052826 (Implementation Order entered June 18, 2025) (June 2025 Implementation Order).*

(OSBA) (collectively, the Statutory Advocates) jointly filed a Letter in Lieu of Answer in support of the Petition. In addition, on July 14, 2025, the Energy Association of Pennsylvania (EAP) filed a letter in response to the Petition. For the reasons stated below, we shall grant the Petition, consistent with this Opinion and Order.

## I. History of Proceeding<sup>2</sup>

Act 129 of 2008 (Act 129 or the Act) was signed into law on October 15, 2008, effective November 14, 2008. Among other things, Act 129 created an Energy Efficiency and Conservation (EE&C) program, codified at Sections 2806.1 and 2806.2 of the Pennsylvania Public Utility Code (Code). *See* 66 Pa.C.S. §§ 2806.1 and 2806.2. Under the Act, every five years, the Commission is required to assess the cost-effectiveness of the EE&C program and establish additional incremental reductions in electric consumption if the EE&C program's benefits exceed its costs. *Id.*

On January 15, 2009, the Commission adopted its Phase I Implementation Order establishing the EE&C program in compliance with Section 2806.1(a) of the Code, 66 Pa.C.S. § 2806.1(a). *Energy Efficiency and Conservation Program Implementation Order*, Docket No. M-2008-2069887 (Implementation Order entered January 16, 2009). Subsequently, the Commission issued Implementation Orders for Phases II, III, and IV, wherein it determined that additional reductions in consumption and/or peak demand were cost-effective and, therefore, prescribed reductions in targets to be met by May 31, 2016, May 31, 2021, and May 31, 2026, respectively. *See Energy Efficiency and Conservation Program Implementation Order*, Docket Nos. M-2012-2289411 and M-2008-2069887 (Implementation Order entered August 3, 2012); *Phase III Final Implementation Order*, Docket No. M-2014-2424864 (Implementation Order entered

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<sup>2</sup> *See June 2025 Implementation Order* at 6-11 for a comprehensive summary describing the background and history of this proceeding, which is incorporated herein.

June 19, 2015); *Phase IV Final Implementation Order*, Docket No. M-2020-3015228 (Implementation Order entered June 18, 2020) (*Phase IV Final Implementation Order*). In accordance with Act 129, electric distribution companies (EDCs) subject to the requirements of the Act have historically filed EE&C plans for Commission approval establishing how the required reductions would be met. *See* 66 Pa.C.S. § 2806.1.

On February 20, 2025, the Commission adopted a Phase V Tentative Implementation Order, seeking feedback for Phase V of the EE&C program, which would operate from June 1, 2026, through May 31, 2031.<sup>3</sup> *See Energy Efficiency and Conservation Program Tentative Implementation Order*, Docket No. M-2025-3052826 (Tentative Order entered February 20, 2025) (*Phase V Tentative Order*). Following a comment/reply comment period, the Commission issued its *June 2025 Implementation Order*, which contains consumption and peak demand targets and standards, along with procedures for review and approval, for the EE&C plans for Phase V of the EE&C program. *See June 2025 Implementation Order*.

As noted, *supra*, on July 3, 2025, CAUSE-PA/TURN filed the instant Petition. On July 11, 2025, the Statutory Advocates jointly filed a Letter in Lieu of Answer in support of the Petition. Also, on July 14, 2025, the EAP filed a letter in response to the Petition.

By Order entered July 17, 2025, we granted the Petition pending further review of, and consideration on, the merits, pursuant to Pa. R.A.P. 1701(b)(3). *Energy Efficiency and Conservation Program*, Docket No. M-2025-3052826 (Opinion and Order entered July 17, 2025).

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<sup>3</sup> The current phase, Phase IV, began on June 1, 2021, and runs until May 31, 2026. *Phase IV Final Implementation Order*.

## II. Discussion

### A. Legal Standards

With respect to petitions for rehearing, reconsideration, rescission, and amendment of Commission orders, the Code establishes a party's right to seek relief within fifteen days following the service of a Commission order pursuant to Subsection 703(f). 66 Pa.C.S. § 703(f) (relating to rehearing).<sup>4</sup> Upon the filing of a petition for relief pursuant to Section 703(f), the Commission may affirm, rescind, or modify its original order. 66 Pa.C.S. § 703(f). The Code further provides that the Commission may, at any time, after notice and opportunity to be heard by all affected parties, rescind or amend any order made by the Commission, pursuant to Section 703(g). 66 Pa.C.S. § 703(g) (relating to rescission and amendment of orders). A request for relief pursuant to § 703(f) or § 703(g) must be brought as a petition for relief consistent with Section 5.572 of Commission Regulations. 52 Pa. Code § 5.572 (relating to petitions for relief).

Petitions for relief predicated upon Sections 703(f) and 703(g) of the Code, whether brought under Section 5.572(c) of Commission Regulations as a petition for reconsideration, rehearing, reargument, clarification, supersedeas, or others within fifteen days of the service of a Commission order, or under Section 5.572(d) as a petition for rescission or amendment filed at any time following service of a Commission order, are reviewed by the Commission as matters seeking relief falling within the agency's discretion.

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<sup>4</sup> Petitions under this section which do not allege new evidence are typically treated as petitions for reconsideration. Petitions for rehearing pursuant to Section 703(f) of the Code typically include an allegation of new evidence. 66 Pa.C.S. § 703(f); see *West Penn Power Co. v. Pa. PUC*, 659 A. 2d 1055 (Pa. Cmwlth. 1995).

The Commission's application of the standard for granting a petition for amendment, reconsideration, or rescission is set forth in *Philip Duick, et al. v. Pennsylvania Gas and Water Company*, 56 Pa. PUC 553 (1982) (*Duick*) as follows:

A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part on the grounds that the decision or ruling of the Commission on a matter or issue was either unwise or in error.

In this regard we agree with the Court in the *Pennsylvania Railroad Company* case, wherein the Court said,

[b]ut the grounds for reconsideration should be restricted to the new matters and new or changed conditions set up in the joint petition, which had arisen since and were not presented in the several petitions of these appellants ... and dismissed by the Commission ... and not appealed from. Parties, ..., cannot be permitted, by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them and not appealed from. ...

*Pennsylvania Railroad Co. v. Public Service Commission*, 118 Pa. Super. 380 (1935).

What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

*Duick* at 559; see also *AT&T v Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlt. 1990).

The Commission utilizes a two-step analysis in determining whether to exercise its discretion to grant relief under *Duick*. See, e.g., *SBG Management Services, Inc./Colonial Garden Realty Co., L.P. v. Philadelphia Gas Works*, Docket No. C-2012-2304183 (Opinion and Order entered May 9, 2019)<sup>5</sup> (discussing *Application of La Mexicana Express Service, LLC, to transport persons in paratransit service, between points within Berks County*, Docket No. A-2012-2329717; A-6415209 (Opinion and Order entered September 11, 2014)). The first step is to determine whether a party has offered any basis to persuade the Commission to exercise its discretion, including but not limited to, new and novel arguments or identified considerations that appear to have been overlooked or not addressed by the Commission in its previous order. This initial step examines whether a party raises the same questions which were specifically considered and decided against them by a prior Order of the Commission. If so, it is unlikely that the Commission will be persuaded to exercise its discretion to grant relief. *Duick* at 559 (citing *Pennsylvania Railroad Co. v. Public Service Commission*, 118 Pa. Super. 380 (1935)). The second step of the *Duick* analysis is to evaluate any matter the Commission has deemed worthy of consideration, to determine whether to grant any relief.

## **B. The June 2025 Implementation Order**

As discussed, *supra*, in our *June 2025 Implementation Order*, we adopted additional incremental reductions in consumption and peak demand, established the standards each EE&C plan must meet, and provided guidance on the procedures to be followed for submittal, review, and approval of all aspects of EE&C plans for Phase V of the EE&C program, which runs from June 1, 2026, through May 31, 2031. *June 2025 Implementation Order* at 5-6. Specifically, the *June 2025 Implementation Order* finalized and established Phase V compliance targets for consumption and peak demand

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<sup>5</sup> *Affirmed, Phila. Gas Works v. Pa. PUC*, 249 A.3d 963 (Pa. 2021); No. 14 EAP 2020 (April 29, 2021); 2021 WL 1681311; *remand granted, in part* (June 15, 2021); 2021 WL 2697432 (Table).

reductions for each EDC. *See Id.* at 12 (Table 2), 13-157, 255. In addition, the *June 2025 Implementation Order* also addressed the coordination of the EE&C program with other state conservation programs,<sup>6</sup> evaluation of the effectiveness of the EE&C plans,<sup>7</sup> cost/benefit analysis,<sup>8</sup> competitive bidding requirements and conservation service providers,<sup>9</sup> EDC cost recovery,<sup>10</sup> and other matters.<sup>11</sup> Finally, of particular relevance to the instant Petition, the *June 2025 Implementation Order* also established the process, timeline, and standards for the submittal, review, approval, and potential change of the Phase V EE&C plans. *See Id.* at 191-205, 255-256.

### C. CAUSE-PA/TURN Petition

In their Petition, CAUSE-PA/TURN seek reconsideration and clarification of the *June 2025 Implementation Order*, arguing that the Commission erred by overlooking the effect of the EE&C Phase V planning timeline on the due process rights of interested parties and the importance of creating a thorough evidentiary record necessary for the Commission to adequately review complex EE&C plans. Petition at 1. CAUSE-PA/TURN argues that the Commission, in the *June 2025 Implementation Order*, failed to provide justification for extending the EE&C plan filing deadline to November 30, 2025, and not amending the subsequent deadlines set forth in the plan approval process, which constitutes an error of law and fact. If the *June 2025 Implementation Order* is not modified, CAUSE-PA/TURN contends that the timeline established therein for the review and approval of the plans will leave fifteen (15) or

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<sup>6</sup> *Id.* at 157-191.

<sup>7</sup> *Id.* at 205-216.

<sup>8</sup> *Id.* at 216-222.

<sup>9</sup> *Id.* at 222-230.

<sup>10</sup> *Id.* at 231-249.

<sup>11</sup> *Id.* at 249-254.

fewer business days for parties to conduct discovery and develop a formal evidentiary record in these cases. By not adjusting the timeline for Phase V review to ensure that petitions to intervene are granted in a timely matter, CAUSE-PA/TURN avers that the Commission truncated the due process rights of stakeholders to conduct discovery in a reasonable timeframe and meaningfully participate in litigation. *Id.* at 12-14.

To cure the alleged errors described, *supra*, CAUSE-PA/TURN requests that the Commission reconsider, clarify, and amend the *June 2025 Implementation Order*. CAUSE-PA/TURN requests that the notice of each EDC's proposed EE&C Phase V plan be published in the *Pennsylvania Bulletin* on or before December 13, 2025, since the *June 2025 Implementation Order* did not provide a date certain for publication. CAUSE-PA/TURN submits that doing so will provide certainty for stakeholders and maximize the limited time available to investigate the Phase V plans. Petition at 16-17.

In addition, CAUSE-PA/TURN proposes that the Commission provide for the public comment and litigation tracks of the process to run concurrently and parallel, but on separate timelines, so the formal litigation can commence while allowing adequate time for public comment as well. The Petitioners contend that doing so is common practice in other Commission proceedings with a public input process, such as rate proceedings, acquisitions, and other utility plan proceedings. Petition at 17.

CAUSE-PA/TURN also requests that the Commission establish a 30-day deadline from the date of publication for public comment on the Phase V plans, in order to avoid conflict with the winter holidays. Also, the Petitioners propose a 10-day deadline from the date of publication for formal Answers and Petitions to Intervene, as well as a requirement that the EDCs serve their plans on interested stakeholders on the date of initial filing. Furthermore, CAUSE-PA/TURN requests that the Commission direct that the EE&C plans be referred to the Office of Administrative Law Judge (OALJ) immediately upon filing and require Prehearing Conferences to be scheduled no later than

January 6, 2026. The Petitioners aver that immediately referring the plans to the OALJ and establishing a date-certain deadline for Prehearing Conferences will provide the OALJ and parties with flexibility around the winter holidays, as well as five additional business days to develop the evidentiary record. Petition at 18-19.

Finally, CAUSE-PA/TURN requests that the Commission clarify that the right to discovery should commence with the filing of a Petition to Intervene, or alternatively, establish an expedited timeline to review and approve Petitions to Intervene and impose discovery modifications prior to the Prehearing Conferences. In addition, the Petitioners request that the Commission impose modifications to shorten the timeframe for discovery response to ten (10) calendar days. CAUSE-PA/TURN submits that these procedural modifications are needed to protect due process, allow meaningful review, and ensure a complete evidentiary record. Petition at 20-21.

CAUSE-PA/TURN included the following table with its Petition, which compares the deadlines for the Phase V process as proposed in the *Phase V Tentative Order*, finalized in the *June 2025 Implementation Order*, and requested to be modified in the instant Petition.

<b>Milestone</b>	<b>TIO Procedural Timeline</b>	<b>FIO Procedural Timeline</b>	<b>Low Income Advocates' Recommended Procedural Timeline on Reconsideration</b>
Plan Filing Deadline	Nov. 3 (M)	Dec. 1 (M)	Dec. 1 (M)
Publication, Pa. Bulletin	Nov. 22 (Sa)	Dec. 20 (Sa)	Dec. 13 (Sa)
Public Comment	Dec. 12 (F)	Jan. 9 (F)	Jan. 12 (M)
Formal Answer/Intervention	Dec. 12 (F)	Jan. 9 (F)	Dec. 23 (Tu)
Prehearing Conference	On/After Dec. 15 (M)	On/After Jan. 12 (M)	On/Before Jan. 6 (Tu)
Close of Evidentiary Hearing (65 days from Plan filing)	Jan. 7 (W)	Feb. 4 (W)	Feb. 4, 2025 (W)
<b>Business Days from Prehearing Conference to Close of Evidentiary Hearing</b>	<b>14 days (max)</b>	<b>15 days (max)</b>	<b>20 days (max)</b>

Petition at 22.

## **D. Answers to the Petition**

### **1. Statutory Advocates' Letter in Lieu of Answer**

In their Letter in Lieu of Answer in support of CAUSE-PA/TURN's Petition, the Statutory Advocates state that they fully support the Petitioners' request. The Statutory Advocates aver that CAUSE-PA/TURN set forth pragmatic and reasonable solutions to amend the *June 2025 Implementation Order* and adjust the litigation schedule to be applied to multiple EDC EE&C plans without extending the required 120-day Phase V planning timeline. Statutory Advocates' Answer at 1. Further, the Statutory Advocates support the proposed revised timelines for the specific milestones contained in the litigation schedule, as well as the proposed concurrent litigation and comment tracks, for the submittal, review, and approval of the proposed EE&C plans. The Statutory Advocates also note that they share the concerns raised by CAUSE-PA/TURN, and they argue that, if unmodified, the current litigation schedule offends the non-EDC parties' due process rights. The Statutory Advocates describe the timeframe for litigation of the EE&C plans in the *June 2025 Implementation Order* as "running the ugliest two-minute drill down the football field." While the Statutory Advocates acknowledge that the Commission will not deviate from the 120-day timeline to address the EE&C plans, they view the proposed modifications to the litigation schedule proposed by CAUSE-PA/TURN to be very reasonable requests that should be granted. *Id.* at 2.

### **2. EAP Letter**

In its letter in response to CAUSE-PA/TURN's Petition, the EAP restates its understanding that, if the Petition is granted, the modifications therein would neither change the due date for the filing of the Phase V EE&C plans, *i.e.*, November 30, 2025, nor change the date to close the evidentiary record for each EDC's proceeding,

*i.e.*, February 4, 2026, while increasing the number of business days available for evidentiary proceedings from fifteen (15) to twenty (20) days, without extending the overall timeframe established in the *June 2025 Implementation Order*. Without waiving any legal arguments with respect to the Petitioners' allegations regarding due process violations or the *Duick* standard for reconsideration, the EAP states that it does not object to the requested interim timeline adjustments proposed by CAUSE-PA/TURN, as long as any granted adjustments neither change the date for filing proposed Phase V EE&C plans, nor extend the close of the evidentiary record beyond February 4, 2026.

EAP Answer at 1-2.

### **E. Disposition**

At the outset, we note that any argument or issue that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider, expressly or at length, each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

We agree with the Statutory Advocates who state that the Petitioners have presented pragmatic and reasonable solutions to amend the *June 2025 Implementation Order* and adjust the litigation schedule across multiple EDC EE&C plans without extending the required 120-day Phase V planning timeline. We believe the Petitioners' proposed timeline adjustments should be made even though the current timeline deviates only slightly from those of the previous four phases of the program. More importantly, we believe the changes should be made because they are in the best interest of the public

and no party opposes them. Therefore, we will modify the *June 2025 Implementation Order* by:

1. Setting a firm deadline (December 13, 2025) for publishing each EDC's Phase V EE&C plan to provide stakeholders with certainty.
2. Running public comment and litigation tracks concurrently but separately, consistent with other Commission proceedings.
3. Setting deadlines and requirements as follows:
  - Thirty (30) days for public comment (to avoid holiday conflicts).
  - Ten (10) days for Answers and Petitions to Intervene.
  - Requiring EDCs to serve plans to stakeholders upon filing.
  - Referring plans immediately to the Office of Administrative Law Judge, with Prehearing Conferences by January. 6, 2026.
4. Allowing discovery to begin with Petitions to Intervene (or expedite intervention reviews) and shortening discovery responses to ten (10) calendar days.

### **III. Conclusion**

Upon our review and consideration of the arguments described herein, we shall grant the Petition for Reconsideration, Clarification, and Modification filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania and the Tenant Union Representative Network, consistent with this Opinion and Order;

**THEREFORE,**

**IT IS ORDERED:**

1. That the Petition for Reconsideration, Clarification, and Modification filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania and the Tenant Union Representative Network, on July 3, 2025, at Docket No. M-2025-3052826, is granted, consistent with this Opinion and Order.

2. That the Phase V energy efficiency and conservation program, outlined in the Implementation Order, entered on June 18, 2025, at Docket No. M-2025-3052826, is modified as outlined in this Opinion and Order. Specifically, the following modifications shall apply to the Phase V energy efficiency and conservation program plan approval process:

- a. The Commission shall publish a notice of each electric distribution company's proposed Phase V Energy Efficiency and Conservation Plan in the *Pennsylvania Bulletin* on December 13, 2025.
- b. The public comment and litigation tracks for each electric distribution company's proposed Phase V Energy Efficiency and Conservation Plan shall run concurrently, but separately, consistent with other Commission proceedings.
- c. Any public comments for each electric distribution company's proposed Phase V Energy Efficiency and Conservation Plan shall be submitted by January 12, 2026.

- d. Answers and Petitions to Intervene for each electric distribution company's proposed Phase V Energy Efficiency and Conservation Plan shall be filed by December 23, 2025.
- e. Upon filing, each electric distribution company shall serve its proposed Phase V Energy Efficiency and Conservation Plan on all interested stakeholders.
- f. Upon filing, each electric distribution company's proposed Phase V Energy Efficiency and Conservation Plan shall be immediately referred to the Commission's Office of Administrative Law Judge, and Prehearing Conferences for each electric distribution company's proposed Phase V Energy Efficiency and Conservation Plan shall occur by January 6, 2026.
- g. Discovery with respect to each electric distribution company's proposed Phase V Energy Efficiency and Conservation Plan may begin upon the filing of Petitions to Intervene.
- h. All responses to discovery in each electric distribution company's proposed Phase V Energy Efficiency and Conservation Plan proceeding shall be provided within ten (10) calendar days.

3. All other procedures and timelines associated with the Phase V energy efficiency and conservation plan approval process, not modified in accordance with Ordering Paragraph No. 2 above, shall remain as established in the Implementation Order, entered on June 18, 2025, at Docket No. M-2025-3052826.

4. That this Opinion and Order be served on all jurisdictional electric distribution companies, the Office of Consumer Advocate, the Office of Small Business Advocate, the Commission's Bureau of Investigation and Enforcement, Law Bureau, Bureau of Technical Utility Services, and all parties who filed comments regarding Phase V of the Commission's Energy Efficiency and Conservation Program under the above-referenced Docket Number.

**BY THE COMMISSION,**

A handwritten signature in black ink, reading "Matthew L. Homsher". The signature is written in a cursive style with a large, stylized initial "M".

Matthew L. Homsher  
Secretary

(SEAL)

ORDER ADOPTED: August 28, 2025

ORDER ENTERED: September 4, 2025