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August 7, 2009

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Honorable James McNulty
Secretary, Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Joint Petition for Consolidation of Proceedings and Approval of Energy
Efficiency and Conservation Plans for Metropolitan Edison Company,
Pennsylvania Electric Company and Pennsylvania Power Company
PUC Docket No. M-2009-2092222
PUC Docket No. M-2009-2112952
PUC Docket No. M-2009-2112956

Dear Secretary McNulty:

Please find enclosed Comments and Recommendations of the Commonwealth of
Pennsylvania, Department of Environmental Protection in the above referenced matter. Copies
have been served on all parties listed on the enclosed Certificate of Service.

Sincerely,

/s/ Scott Perry

Scott Perry
Assistant Counsel

Enclosures

cc: Service List
OSA

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company for Consolidation of Proceedings and Approval of Energy Efficiency and Conservation Plans :
: **Docket Nos. M-2009-2092222, M-2009-2112952 and M-2009-2112956**

**COMMENTS AND RECOMMENDATIONS OF THE
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to the July 18, 2009 *Pennsylvania Bulletin* notice issued in the above-captioned matter, the Commonwealth of Pennsylvania, Department of Environmental Protection (the “Department”) submits the following comments and recommendations to the Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company’s (“First Energy”) Petition for Approval of its Energy Efficiency and Conservation Plan (“EEC Plan”).

CORE CONCERNS OF THE DEPARTMENT

Act 129, along with Act 1 of 2008 and the Alternative Energy Portfolio Standards Act, represent the Commonwealth’s strong commitment to transforming the way Pennsylvania generates and uses electricity. The goals of these laudable pieces of legislation cannot be realized, however, unless there is a firm commitment to proper implementation. The Department recognizes that Act 129 established aggressive goals. However, these are only minimum standards and where more cost effective and environmentally beneficial alternatives exist, they

must be pursued. To that end, the Department identified the following core concerns that must be addressed if First Energy's plan is to achieve the goals and purpose of Act 129. These comments are intended to provide an overview of the Department's concerns and will be elaborated on in the testimony and briefs submitted by the Department in this matter.

1. Projects Funded Through Act 1 or the American Recovery and Reinvestment Act ("ARRA") Cannot be Used to Demonstrate Compliance with Act 129

Coordination between the Department and First Energy can yield substantial benefits to First Energy's customers. Act 1 and ARRA provide the Commonwealth with significant resources with which to promote energy conservation. These efforts can be expanded further if the Commonwealth and First Energy work together to provide optimal incentives to First Energy's customers. Unfortunately, this will not occur if First Energy is permitted to claim "credit" under Act 129 for projects funded by the Commonwealth. Indeed, allowing First Energy to claim credit for Commonwealth funded projects thwarts the shared purposes of ARRA, Act 1 and Act 129 – which are to promote cost effective new or expanded programs of energy conservation. Without proper coordination, customers will be over subsidized and the conservation funds will have been used in an inefficient manner.

Equally troubling, the EEC Plan as proposed jeopardizes the Commonwealth's ability to obtain future funding under ARRA. The Department of Energy ("DOE") requires States to make a written commitment that certain ARRA funds will not be used to supplant or replace existing projects funded by the state, ratepayers, or other funding. Pennsylvania was required to list all existing energy efficiency and renewable energy programs, including those funded by ratepayers, that it intended to expand with ARRA funds. No Act 129 program was included in the list Pennsylvania submitted to the DOE.

The Department is aware that in its Total Resource Cost Test Order, the Commission determined that “[f]or the purposes of TRC testing, if the end-use customer is a recipient of an incentive/rebate from an Act 129 program, even if the customer is also a recipient of an Act 1 incentive or rebate for the same equipment or service, we conclude that the entire savings of that equipment or service can also be claimed by the EDC for TRC testing purposes.” The plain language of the Order limits the determination to whether a measure is cost effective – not whether projects installed with government funds can be used to determine compliance with Act 129. The Commission must not allow First Energy to use Commonwealth funded projects as a means of complying with Act 129.

2. Financial Assistance for a State Wide “Whole-Building” Approach is Necessary.

Despite the strong urging of Chairman Cawley and Commissioner Gardner, no EDC proposed a statewide program similar to Keystone HELP – or any statewide program for that matter. Indeed, it appears that no effort beyond sharing information concerning rebate programs was made. The EEC Plans need to encourage and partner with existing programs so that residential, commercial, and government building can make substantive investments designed to achieve maximum long-term energy conservation goals. As the plans are proposed now, each EDC will duplicate efforts in the design, education and marketing of their programs. At the very least, a state-wide whole building program will move these overhead expenses into actual program measures as Act 129 intended. At most, the whole building approach will deliver the most cost effective and longest lasting energy conservation measures available.

The focus on lighting-only projects and prescriptive rebate programs in government buildings is of particular concern because these programs fundamentally impair a government’s ability to obtain significant long term energy consumption reductions through guaranteed energy

savings contracts provided by energy service companies. These contracts are often the only way governments can finance these important energy conservation measures. By eliminating the ability of governments to take advantage of these contracts, the EEC plan actually contravenes the very purpose of Act 129. The Commission should direct all EDCs to implement a uniform state wide program that provides the finances necessary to achieve whole building energy consumption reductions for residential and government owned buildings. This state wide program must also include measurement and verification protocols that meet proven, nationally accepted standards such as the data collection protocols of Energy Star Portfolio Manager and Home Performance with Energy Star.

3. Measures That Result in Negative Environmental Impacts or Increased Energy Consumption Should Not Be Approved.

The Department is charged with the guardianship of Pennsylvania's land, water and air resources and the need to balance that protection with the Commonwealth's goals of economic growth. In pursuing Act 129 goals, there are three particular pitfalls that must be avoided in order to advance the objects of energy conservation while continuing to sustain high standards for environmental protection. The first is proper disposal of appliances. The second is avoiding an increase in electricity consumption by incentivising the purchase of an additional appliance. The third is promoting fuel switching.

Appliance recycling programs encourage customers to dispose of their existing appliances when they purchase new ones or eliminate a second unit that may not be needed. From an environmental perspective, removing and capturing refrigerants from old appliances has a greater greenhouse gas impact than the energy saving from the equipment replacement. Therefore, the EEC plan must contain provisions that require proper management of the refrigerants and recycling, rather than landfilling, the appliance

Appliance rebate programs, if not managed correctly, can increase electricity consumption. For example, the appliance rebate program may result in increased energy consumption if the “old” appliance is moved into another service rather than being decommissioned - such as air-conditioning a previously unconditioned space with the old room air-conditioner or putting a second refrigerator into service. Similarly, the rebate program can promote fuel switching from a combustion appliance to an electric appliance.

Alternatively, the rebate program can promote fuel switching from a combustion appliance to an electric appliance. Simply stated, fuel switching is not a conservation measure. The Department opposes any measures that would promote consumers switching from electric consumption to gas or other fuels as a means to capture energy reduction. EDCs should instead focus on programs or measures that reduce base load consumption through conservation and source reduction strategies or use renewable sources of energy.

Finally, EEC Plans that attempt to address peak demand through the increased use of distributed generation rather than through management of energy consumption should be prohibited. Grid demand reduction that is merely replaced by higher emitting distributed generation has negative air impacts, and is an unacceptable strategy for Pennsylvania.

4. Deployment Of Smart Meters And Time Of Use Rates Should Be Expedited.

Early deployment of smart meters and implementation of the time of use rates and real time price plans that smart meters support are key components to a successful energy efficiency and conservation program. Smart meters and time sensitive price plans effectively use market forces to reduce consumption, shift some uses to cheaper times of day, save the consumer money and provide system-wide benefits to all consumers. Customers who shift their electric use away from times of peak electricity demand not only save money, but also help to reduce prices for everybody. Providing electricity at peak demand periods is very expensive. A one-percent

reduction in peak demand during the highest peak demand times can cut the entire market price by ten percent. Reducing peak and overall demand alleviates stress on the electric system and keeps wholesale prices down, which saves everybody money.

As demonstrated by Allegheny's EEC Plan, a commitment to early smart meter deployment is entirely consistent with both this proceeding and the smart meter procurement and installation proceeding. If First Energy does not revise its EEC plan and agree to commit itself to expedited smart meter deployment as Allegheny has done, the Commission should require First Energy to furnish the meters at a faster rate.

5. Measurement And Verification Of EEC Plan Performance Should Be Rigorous, Continual and Open.

Active participation by stakeholders and oversight by the Commission will be necessary to ensure high quality performance of the EEC Plan. The Commission and stakeholders must be able to analyze the results of the EEC Plan programs in sufficient detail, and in a timely enough manner, so that if necessary, an EDC can reshape its program. To accomplish this goal, the Department believes that all EDCs must use the same measurement and verification protocols, ideally those associated with proven, nationally accepted standards such as the data collection protocols of Energy Star Portfolio Manager and Home Performance with Energy Star.

This requirement ensures the consistency of data over time; provides a common database through which many sorts of analyses – particularly verification of energy savings – are supported; and offers a long-established and widely-used system supported by the U. S. Department of Energy and embedded in the Department's own energy efficiency programs. Finally, the Department recommends that the PUC approve any modification to an EEC program

that involves reallocation of funds (from one project to another), amendment to project details (standards, metrics, etc.) or other significant change.

Respectfully submitted,

/s/ Scott Perry

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Dated: August 7, 2009

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition of Metropolitan Edison :
Company, Pennsylvania Electric :
Company and Pennsylvania Power : **Docket Nos. M-2009-2092222,**
Company for Consolidation of : **M-2009-2112952 and M-2009-2112956**
Proceedings and Approval of Energy :
Efficiency and Conservation Plans :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document, Comments and Recommendations of the Commonwealth of Pennsylvania, Department of Environmental Protection, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

SERVICE BY E-MAIL AND FIRST CLASS MAIL

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