COMMONWEALTH OF PENNSYLVANIA

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September 11, 2009

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Metropolitan Edison Company Energy Efficiency and Conservation Plan
Docket No. M-2009-2092222
Pennsylvania Electric Company Energy Efficiency and Conservation Plan
Docket No. M-2009-2112952
Pennsylvania Power Company Energy Efficiency and Conservation Plan
Docket No. M-2009-2112956

Dear Secretary McNulty:

Enclosed for filing is the Main Brief of the Office of Consumer Advocate, in the above-referenced proceeding.

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

Respectfully Submitted,

Aron J. Beatty

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Enclosure
cc: Honorable David A. Salapa
Office of Special Assistants

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Metropolitan Edison Company Energy Efficiency and Conservation Plan	:	Docket No. M-2009-2092222
Pennsylvania Electric Company Energy Efficiency and Conservation Plan	:	Docket No. M-2009-2112952
Pennsylvania Power Company Energy Efficiency and Conservation Plan	:	Docket No. M-2009-2112956

MAIN BRIEF OF THE OFFICE OF CONSUMER ADVOCATE

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Dated: September 11, 2009

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Administrative Decisions

Statutes

I. INTRODUCTION

The Office of Consumer Advocate (OCA) is filing this Main Brief in accordance with the Public Utility Commission's (Commission) Implementation Order entered on January 16, 2009, at Docket No. M-2008-2069887 and Administrative Law Judge David A. Salapa's (ALJ) Prehearing Conference Order dated July 8, 2009, at the above docket numbers. This Main Brief is in response to the Joint Petition for Consolidation of Proceedings and Approval of Energy Efficiency and Conservation Plans of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company filed on July 1, 2009, the Comments thereto filed by various parties on August 7, 2009, the direct, supplemental and rebuttal testimonies admitted into the record on August 31, 2009, and the cross examination of several witnesses during hearings on August 31, 2009.

On November 14, 2008, Act 129 of 2008 (Act 129) became effective and among other provisions, contained an Energy Efficiency and Conservation Program (EE&C).[1] See 66 Pa.C.S. § 2806.1 and § 2806.2. The EE&C portion of Act 129 requires Electric Distribution Companies (EDCs) with at least 100,000 customers to present an EE&C plan to the Commission for approval. The EE&C plan must be designed to reduce energy demand and consumption within each EDC's service territory. Specifically, each EDC must reduce electric consumption by at least 1% of its expected base load for the period of June 1, 2009, to May 31, 2010, adjusted for weather and extraordinary loads. This reduction must be achieved by May 31, 2011. See 66 Pa.C.S. § 2806.1(c)(1). Also, each EDC must reduce its energy consumption by 3% of the aforementioned base load by May 31, 2013. See 66 Pa.C.S. § 2806.1(c)(2). Further, each EDC

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1 Act 129 also included: amendments to the duties of EDCs' obligation to serve; provisions for smart meter technology and time of use rates; provisions for additional market power remediation for market misconduct; provisions for additional alternative energy sources; and provisions for a carbon dioxide sequestration network. Further, the Act makes a number of significant amendments to the Public Utility Code, many of which will have a direct impact on the rates and service of customers of Pennsylvania EDCs.

must reduce electricity demand by a minimum of 4.5% of its annual system peak demand for the 100 hours of highest demand by May 31, 2013, as measured against the EDC's peak demand during the period from June 1, 2007, through May 31, 2008. See 66 Pa.C.S. § 2806.1(d)(1). Act 129 provides specific fines for an EDC's failure to achieve these standards for reduction. See 66 Pa C.S. § 2806.1(f)(2).

Act 129 also charged the Commission with adopting an Energy Efficiency and Conservation Program (Program) by January 15, 2009. The Commission's Program must include the following: (1) procedures for the approval of plans submitted by EDCs pursuant to Act 129; (2) an evaluation process "to monitor and verify data collection, quality assurance and results" of each EDC EE&C plan; (3) a cost-benefit analysis of each EDC EE&C plan in accordance with a total resource cost test approved by the Commission; (4) analysis of how the Commission's program and each EDC EE&C plan will achieve or exceed Act 129's consumption and peak demand reduction requirements; (5) standards to ensure that each EDC EE&C plan includes a variety of EE&C measures that are provided equitably to all customer classes; (6) procedures to make recommendations as to additional measures that will enable EDCs to improve their EE&C plans and exceed the Act's required reductions in consumption; (7) procedures to require EDCs to competitively bid all contracts with conservation service providers (CSPs); (8) procedures to review, and modify if the Commission deems necessary, all proposed contracts with CSPs prior to execution; (9) procedures to ensure compliance with the Act's requirements for reduction in consumption; (10) a requirement for the participation of CSPs in the implementation of all or part of their respective EDCs' EE&C plans; and (11) cost recovery to ensure that the measures approved are financed by the same customer class that will receive the direct energy and conservation benefits. See 66 Pa.C.S. § 2806.1(a).

In the latter months of 2008, the Commission commenced a stakeholder process and invited written comments from the EDCs and other interested parties to develop the Program required by Act 129. The OCA participated by submitting Comments to the Commission on November 3, 2008, and again on December 8, 2008. The OCA also participated in a stakeholder meeting. Pursuant to the requirements of Act 129, on January 16, 2009, the Commission entered its Implementation Order. See Energy Efficiency and Conservation Program, Docket No. M-2008-2069887 (Order entered January 16, 2009) (Implementation Order).[2]

In the Implementation Order, the Commission called for the publication of the EE&C plans in the *Pennsylvania Bulletin* and allowed for the filing of Comments on them. The Commission also directed evidentiary and public input hearings on each EE&C plan so that recommendations for improving the plans could be submitted by the statutory advocates and the public. See Implementation Order at 8. Further, the Commission established a specific litigation schedule within Act 129's requirement that it rule on each EDC's EE&C plan within 120 days of submission, and provisions were established for the re-submission of rejected EE&C plans.[3] Id. See also 66 Pa.C.S. § 2806.1(e)(2). In its Implementation Order, the Commission also encouraged each EDC to conduct a collaborative process during the development of its plan in order to receive input from various stakeholders. Also pursuant to the Implementation Order, each EDC was required to submit its consumption forecast to the Commission by February 9, 2009. See Implementation Order at 8. The Commission approved the consumption forecasts

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2 The Implementation Order was adopted at the Public Meeting on January 15, 2009.

3 Based on the established consideration period of 120 days, the schedule was broken down as follows: (1) each EE&C plan is assigned to an Administrative Law Judge (ALJ), who will establish discovery, public input hearing schedule and evidentiary hearing schedules, but all hearings must be completed by September 3, 2009; (2) all briefs are due by September 14, 2009; (3) each EDCs' reply brief and/or revised plan is due by September 24, 2009; and (4) the Commission will issue its decision regarding each EDC plan by October 29, 2009. See Implementation Order at 12. The Commission extended the opportunity to file reply briefs to all parties. See Energy Efficiency and Conservation Program, Docket Number M-2008-2069887(Order entered June 2, 2009).

and set the consumption savings and demand reduction requirements by Order entered March 30, 2009. See Energy Consumption and Peak Demand Reduction Targets, Docket No. M-2008-2069887 (Order entered March 30, 2009) (Reduction Target Order).

Pursuant to the Implementation Order, on May 7, 2009, the Commission issued a Secretarial Letter, which provided EDCs with an EE&C plan template to be used by the EDCs in preparing and filing their EE&C plans with the Commission. Thereafter, the Commission adopted Standards for the Participation of Demand Side Management Resources in an updated Technical Reference Manual (TRM) to be used as a guide by the EDCs in evaluating the savings impacts of aspects of their plans. See Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources – Technical Reference Manual Update, Docket No. M-00051865 (Order entered June 1, 2009) (TRM Update Order).

Act 129 requires, *inter alia*, each EDC to demonstrate that its EE&C plan is cost-effective using the Total Cost Resource (TRC) test[4] and that its plan provides a diverse cross section of alternatives for customers of all rate classes. See 66 Pa.C.S. § 2806.1(b)(1)(i)(I). After inviting and receiving comments from interested parties on the matter, including the OCA, the Commission adopted a TRC test. See Implementation of Act 129 of 2008 – Total Resource Cost (TRC) Test, Docket No. M-2009-2108601 (Order entered June 23, 2009) (TRC Test).

The FirstEnergy Companies engaged in a stakeholder process both to advise stakeholders of their progress in program development and to seek stakeholders' input regarding further program development. The Companies convened three large group meetings on April 7, 2009, May 12, 2009, and June 16, 2009. The OCA participated in the aforementioned meetings. The

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[4] The TRC test is "a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures." 66 Pa.C.S. § 2806.1(m).

FirstEnergy Companies also convened individual question/answer sessions with various interested parties, including the OCA and its expert.

II. PROCEDURAL HISTORY

On July 1, 2009, Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec) and Pennsylvania Power Company (Penn Power) (collectively, the FirstEnergy Companies) filed their Joint Petition for Consolidation of Proceedings and Approval of Energy Efficiency and Conservation Plans. On July 7, 2009, the OCA filed a Notice of Intervention and Public Statement at each of the above-captioned docket numbers. On July 8, 2009, the Office of Trial Staff (OTS) filed a Notice of Appearance. On July 17, 2009, the Department of Environmental Protection (DEP) filed a Petition to Intervene. Later, on July 21, 2009, the Office of Small Business Advocate filed a Notice of Appearance, Notice of Intervention and Public Statement.

The Met-Ed Industrial Users Group (MEIUG), Penelec Industrial Customer Alliance (PICA), and Penn Power Users Group (PPUG) (collectively MEIUG *et al.*) filed a Petition to Intervene on July 20, 2009. The Pennsylvania Association of Community Organizations for Reform Now (ACORN) filed a Petition to Intervene on July 27, 2009. On July 29, 2009, Representative Camille "Bud" George filed a Petition to Intervene.

Additionally, several natural gas companies serving in the same territories as the FirstEnergy Companies filed Petitions to Intervene. The companies include: (1) UGI Central Penn Gas, Inc. (filed on July 10, 2009); UGI Utilities, Inc. – Gas Division, UGI Penn Natural Gass, Inc., and UGI Central Penn Gas, Inc. (collectively UGI) (filed on July 10, 2009); National Fuel Gas Distribution Corporation (NFGD) (filed on July 31, 2009); The Peoples Natural Gas Company d/b/a Dominion Peoples (Dominion Peoples) (filed July 31, 2009); and Columbia Gas

Company of Pennsylvania (Columbia) (filed on August 12, 2009). The FirstEnergy Companies filed Answers in Opposition to each of the aforementioned Petitions to Intervene of the natural gas companies. At the Prehearing Conference in this matter on July 29, 2009, ALJ Salapa indicated that these Intervenors would be permitted party status on a basis limited to the natural gas companies' roles as customers of the FirstEnergy Companies.

Also filing Petitions to Intervene in this matter were: (1) Direct Energy Business, LLC (filed on July 27, 2009); ClearChoice (filed on July 27, 2009); Field Diagnostic Services, Inc. (filed on July 27, 2009); Direct Energy Business, LLC (filed on July 27, 2009); Constellation New Energy, Inc. (Constellation) (filed on August 3, 2009); and EnerNOC, Inc. (filed on August 3, 2009). The matter was assigned to ALJ Salapa, and a prehearing conference was held on July 29, 2009.

On August 7, 2009, Comments were filed with Secretary McNulty by the OCA; OTS; UGI Utilities, Inc., - Gas Division, UGI Penn Natural Gas, Inc., UGI Central Penn Gas, Inc., and The Peoples Natural Gas Company d/b/a Dominion Peoples (UGI/Dominion Peoples); National Fuel Gas Distribution Corporation (NFGD); EnerNOC, Inc., (EnerNOC); MEIUG *et al.*, Affordable Energy Now, LLC and PA Home Energy. Also on August 7, 2009, the OCA served direct testimony of its witness David G. Hill on the parties to this matter and the ALJ.[5]

Hearings were held in this matter on August 31, 2009, in Harrisburg. During hearings, the following testimonies were admitted into the record: Direct Testimony of John E. Paganie (ME/PN/PP St. 1); Direct Testimony of George L. Fitzpatrick (ME/PN/PP St. 2); Supplemental Direct Testimony of George L. Fitzpatrick (ME/PN/PP St. 2-S); Rebuttal of George L.

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[5] Dr. Hill is the manager of Vermont Energy Investment Corporation's (VEIC) renewable energy consulting division. He has a Masters Degree in Appropriate Technology and a Ph.D. in Energy Management and Policy Planning both from the University of Pennsylvania. Dr. Hill has over 17 years of experience in planning, evaluation and implementation of energy efficiency and renewable energy programs.

Fitzpatrick (ME/PN/PP St. 2-R); Direct Testimony of Raymond I. Parrish (ME/PN/PP St. 3); Direct Testimony of David G. Hill (OCA St. 1); Direct Testimony of Dorothy Morrissey (OTS St. 1); Direct Testimony of Robert D. Knecht (OSBA St. 1); Direct Testimony of Ian Phillips (ACORN St. 1); Direct Testimony of Todd M. Rossi (FDSI St. 1); Direct Testimony of Carolyn Pengidore (ClearChoice St. 1); Direct Testimony of Maureen Guttman (DEP St. 1); and Direct Testimony of Paul H. Raab (NGDC St. 1). The following witnesses took the stand at the hearings: Company witnesses Fitzpatrick, Parrish and Charles Fullem, DEP witness Guttman, and NGDC witness Raab. Several exhibits were also admitted into the record at the hearings.

This Main Brief is submitted pursuant to ALJ Salapa's Prehearing Conference Order dated July 8, 2009.

III. DESCRIPTION OF THE FIRSTENERGY COMPANIES' PLANS

On July 1, 2009, each of the FirstEnergy Companies filed their EE&C Plans with the Commission along with a Joint Petition for Consolidation of Proceedings and Approval of the EE&C Plans. At the Prehearing Conference in this matter, ALJ Salapa granted the FirstEnergy Companies' Joint Petition for Consolidation of Proceedings. The FirstEnergy Companies' Plan filings are similar in that each proposes to address the requirements of Act 129 through the implementation of nineteen (19) voluntary programs for residential; commercial and industrial (C&I); and governmental/institutional customers. The portfolio of programs is designed to meet the goals established by Act 129 through energy efficiency, conservation and peak load reduction measures, programs and education.

The proposed residential programs include: (1) Home Energy Audits; (2) Residential Appliance Turn-In Program; (3) Residential HVAC; (4) Residential Energy Efficiency Products Program; (5) Residential New Construction; (6) Residential Whole Building; (7) Multi-Family –

Tenants; and (8) Residential Direct Load Control. Additionally, for low income and low income/low-use customers, the FirstEnergy Companies will offer energy saving measures free of charge.

The proposed C&I programs include: (1) Energy Audit and Technology Assessment Program; (2) C&I Equipment Program; (3) Industrial Motors and Variable Speed Drives; (4) C&I Demand Response Program; and (5) C&I Performance Contracting. The proposed governmental/institutional programs are: (1) Federal Facilities Program; (2) Municipal Street Lighting; (3) Municipal Lighting; (4) Local and County Government Audits; and (5) Local County and State Government, Institutional, Non-Profit and Schools. See FirstEnergy Companies EE&C Plans at 2-5.

On July 31, 2009, the FirstEnergy Companies filed supplements to their Plans in accordance with the Commission's TRC Test. Tr. at 200. Specifically, the FirstEnergy Companies filed revised explanations of how their proposed Plans will be cost effective as defined by the TRC and Tables representing the lifetime costs and benefits of the Plans and TRC benefits.[6]

The FirstEnergy Companies propose to collect the primary costs of their EE&C Plans through an Energy Efficiency and Conservation Charge (EEC-C) rider, which will collect fixed amounts from each major customer class for the entire 43-month plan period. The Companies intend to begin collection of the EEC-C rider on November 1, 2009. See FirstEnergy Companies EE&C Plans at App. H; St. 3. The proposed EEC-C rates are levelized and designed to collect 2% of each Company's 2006 annual revenue and reconciled periodically without interest on over- or under-collections. Id. See also 66 Pa.C.S. § 2806.1(g). In their Rebuttal testimony, the

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6 The revised pages replace pages 103 and 104 and Tables 1 and 7 to Appendix G of the Met-Ed Plan; pages 103 and 104 and Tables 1 and 7 to Appendix G of the Penelec Plan; and pages 97 and 98 and Tables 1 and 7 to Appendix G of Penn Power's Plan.

Companies adopted the position of the OSBA that the EEC-C rider should appear on customers' bills as a separate line item. ME/PN/PP St. 3R at 2.

The FirstEnergy Companies request that the Commission approve all of these programs together as an integrated portfolio designed to meet Act 129 EE&C goals in the Companies' service territories.

IV. SUMMARY OF ARGUMENT

The following is a summary of the OCA's conclusions and recommendations as set forth in this Main Brief and the testimony of its expert witness:

Overall Plan Assessment and Compliance with the Requirements of the Act:

- The EE&C Plans are reasonably designed to meet or exceed most of the requirements for consumption and demand reductions set forth in Act 129 in the time period specified for compliance and within the budget limitations specified in the Act. However, the EE&C Plans are not designed to meet the Companies' low income reduction targets. Also, although the Companies recognized that they improperly included costs and incentives in the budget for the Residential Direct Load Control Program beyond the Plans' period and removed those costs and incentives from their budgets, the Companies have not set forth a detailed plan for use of these monies.

- The EE&C Plans do not meet the requirements in Section 2806.1(b)(1)(i)(G) for providing programs and savings for low income customers.

- The EE&C Plans are designed to meet or exceed the requirements in Section 2806.1(b)(1)(i)(B) for savings within the government/non-profit sector.

- There are errors in the EE&C Plans, which must be corrected. Specifically, the targeted reduction cited by Met-Ed in its Plan is incorrect, and the FirstEnergy Companies' calculations of cumulative savings for 2013 are incorrect.

- The EE&C Plans are designed to provide a variety of programs to all customer classes but may not achieve an equitable distribution to all customer classes as specified in Section 2806.1(a)(1)(5) due to the Companies' failure to re-assign monies removed from the budgets for the Residential Direct Load Control Program, as described above.

- The EE&C Plans have benefit/cost ratios of 2.46 for Met-Ed, 2.39 for Penelec, and 2.13 for Penn Power based on the TRC Test as set forth by the Commission, making the Plans a cost-effective means of achieving the requirements of the Act.[7]

- The EE&C Plans proposed by the FirstEnergy Companies should be subject to certain modifications recommended in this Main Brief.

Program Design:

- The programs in the EE&C Plans, and the initial program designs, are generally reasonable, but the Low Income Program, should be subject to modification, and the Companies should provide a plan for use of the monies properly removed from the Residential Direct Load Control program.

- The Low Income Programs in the FirstEnergy Companies' Plans should be further evaluated and developed to meet the reduction requirements in Act 129.

- The design of the Companies' Plans could be improved through consideration of replacement of residential furnace fans, new C&I construction, and efficiency opportunities in the agricultural sector and other targeted subsets, such as supermarkets and data centers, as additional efficiency measures. The Companies should be directed to consider these programs as part of the ongoing stakeholder process.

On-Going Stakeholder Process And Plan Adjustment Process:

- The FirstEnergy Companies have commited to an on-going stakeholder process with at least quarterly meetings. This commitment should be formalized as part of the Commission Order and should provide for certain specific information to be provided to stakeholders through the process. Further, the Companies should be directed to reach out to a broad and diverse group of stakeholders in order to increase the likelihood of success of their Plans meeting the Act's requirements.

- The FirstEnergy Companies should take steps to enhance the levels of statewide coordination with other EDCs subject to the requirements of Act 129 in the design, delivery and evaluation of the program portfolios.

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7 Based on the budget revisions entered into evidence by the FirstEnergy Companies at hearings in this matter and the adjustments made to the Residential Direct Load Control program for each Company, it is unclear if and how the cost/benefit ratios may have changed from the ratios in the original EE&C Plans. See ME/PN/PP St. 2-R at 4-5. See also ME/PN/PP St. 3-R at 9-10.

Cost Recovery

- The Companies' proposal to recover the costs of their EE&C Plans on a levelized basis over 43 months through an EEC-C rider should be approved. However, the Companies should not collect or pay interest on any portions of the under- or over-collected amounts. If interest is permitted, the total Plan cost *plus the interest* cannot exceed the 2% cap provided for in the Act.

- The Companies should not be permitted to recover interest on their start-up costs.

- The EEC-C charges should be rolled into distribution rates and not appear as a separate line item on customers' bills.

- Met-Ed and Penelec should be required to bid any qualifying energy efficiency and demand response measures into the PJM RPM auctions and credit customers with all benefits received through the cost recovery mechanism. Further, Penn Power should be directed to do the same once it joins PJM.

These issues are discussed in more detail below.

V. ARGUMENT

A. Act 129 Conservation and Demand Reduction Requirements

Pursuant to the Implementation Order, each EDC was required to submit its consumption forecast to the Commission by February 9, 2009. The Commission approved the consumption forecasts and set the consumption savings and demand reduction requirements in the Reduction Target Order.

1. Overall Conservation Requirements

a. 2011 Requirements

i. Introduction

According to Act 129:

> (1) By May 31, 2011, total annual weather-normalized consumption of the retail customers of each [EDC] shall be reduced by a minimum of 1%. The 1% load reduction in consumption shall be measured against the [EDC's] expected load as forecasted by the commission for June 1, 2009, through May 31,

> 2010, with provisions made for weather adjustments and extraordinary loads that the [EDC] must serve.

See 66 Pa.C.S. § 2806.1(c)(1).

As per the Commission's Reduction Target Order, the FirstEnergy Companies' 2011 consumption reduction targets are as follows:

2011 Consumption Reduction Targets	
Met-Ed	148,650 MWh
Penelec	143,993 MWh
Penn Power	47,729 MWh

See Reduction Target Order at 3.

ii. Met-Ed

In its EE&C Plan, Met-Ed misstated the Commission-identified 2011 consumption reduction goal as 146,239 MWh rather than the Commission-approved goal of 148,650 MWh. See Met-Ed EE&C Plan at PUC Table 2, page 18. The OCA identified this issue in its Comments filed on August 7, 2009, and the Company did not present rebuttal on the topic. See OCA Comments at 11; see also OCA St. 1 at 8. However, as OCA witness Hill states in his direct testimony, Met-Ed's EE&C Plan to meet the 2011 consumption reduction target is broadly consistent with Act 129 and regulatory directives. See OCA St. 1 at 6. The Company did not indicate its intention to correct this error during hearings in this matter. The OCA submits that Met-Ed should be directed to correct the error in its EE&C Plan.

iii. Penelec

Pursuant to Act 129 and the Reduction Target Order, Penelec must reduce its consumption by 143,993 MWh by May 31, 2011. Penelec is seeking to achieve 171,237 cumulative MWh savings by 2011, and its consumption reduction target is 143,993 MWh. See

Penelec EE&C Plan at PUC Table 2, page 18. It appears that Penelec will meet or exceed this target by the May 31, 2011, deadline.

iv. Penn Power

Pursuant to Act 129 and the Reduction Target Order, Penn Power must reduce its consumption by 47,729 MWh by May 31, 2011. Penn Power is seeking to achieve 55,847 cumulative MWh savings by 2011, and its consumption reduction target is 47,729 MWh. See Penn Power EE&C Plan at PUC Table 2, page 18. It appears that Penn Power will meet or exceed this target by the May 31, 2011, deadline.

b. 2013 Requirement

i. Introduction

According to Act 129:

> (2) By May 31, 2013, the total annual weather-normalized consumption of the retail customers of each [EDC] shall be reduced by a minimum of 3%. The 3% load reduction in consumption shall be measured against the [EDC's] expected load as forecasted by the commission for June 1, 2009, through May 31, 2010, with provisions made for weather adjustments and extraordinary loads that the [EDC] must serve.

See 66 Pa.C.S. § 2806.1(c)(2).

As per the Commission's Reduction Target Order, the FirstEnergy Companies' 2013 consumption reduction targets are as follows:

2013 Consumption Reduction Targets	
Met-Ed	445,951 MWh
Penelec	431,979 MWh
Penn Power	143,188 MWh

See Reduction Target Order at 3.

ii. Met-Ed

In its EE&C Plan, Met-Ed misstated the 2013 consumption reduction goal as 438,718 MWh rather than the Commission-approved goal of 445,951 MWh. See Met-Ed EE&C Plan at PUC Table 2, page 18. The OCA identified this issue in its Comments, and the Company did not rebut the OCA's conclusion. See OCA Comments at 11; see also OCA St. 1 at 8. At the hearings in this matter, the Company did not indicate its intention to correct this error. The OCA submits that Met-Ed should be directed to correct this error in its EE&C Plan.

In its Comments, the OCA also identified a calculation error in Met-Ed's PUC Table 2 (page 18 of the Plan). See OCA Comments at 12-13; see also OCA St. 1 at 8. In short, there is an addition error in Met-Ed's 2013 MWh Cumulative Projected Savings column on page 18 of its EE&C Plan. Id. Met-Ed did not rebut the OCA's conclusion regarding this calculation error. The OCA submits that Met-Ed should be directed to correct this error in its EE&C Plan.

Further, based on Met-Ed's corrected 2013 forecasted savings (444,978 MWh) and Met-Ed's correct forecasted consumption reduction target (445,951 MWh), the Company appears to slightly miss its consumption target by 973 MWh (445,951 MWh – 444,978 MWh = 973 MWh). As discussed in Dr. Hill's testimony, even with the shortfall, Met-Ed will meet 99.78% of its targeted consumption reduction. See OCA St. 1 at 8-9. It is the OCA's position that Met-Ed should be directed to adjust its Plan during implementation to make up this minor difference and still meet the requirements of Act 129.

iii. Penelec

In its Comments, the OCA also identified a calculation error in Penelec's PUC Table 2 (page 18 of the EE& C Plan). See OCA Comments at 12-13; see also OCA St. 1 at 8. In short, there is an addition error in Penelec's 2013 MWh Cumulative Projected Savings column on page

18 of its EE&C Plan. Id. Penelec's PUC Table 2 indicates the cumulative MWh savings for 2013 to be 447,100 MWh, but the correct cumulative MWh savings for 2013 is 442,782 MWh. Id. Penelec did not rebut the OCA's conclusion regarding this calculation error. It should be noted that even with the calculation correction, Penelec should still meet its 2013 consumption reduction target of 431,979 MWh. The OCA submits, however, that Penelec should be directed to correct this error in its EE&C Plan.

iv. Penn Power

In its Comments, the OCA also identified a calculation error in Penn Power's PUC Table 2 (page 18 of the EE&C Plan). See OCA Comments at 12-13; see also OCA St. 1 at 8. In short, there is an addition error in Penn Power's 2013 MWh Cumulative Projected Savings column on page 18 of its EE&C Plan. Id. Penn Power's PUC Table 2 indicates the cumulative MWh savings for 2013 to be 145,693 MWh, but the correct cumulative MWh savings for 2013 is 144,364 MWh. Id. Penn Power did not rebut the OCA's conclusion regarding this calculation error. It should be noted that even with the calculation correction, Penn Power should still meet its 2013 consumption reduction target of 143,188 MWh. The OCA submits, however, that Penn Power should be directed to correct this error in its EE&C Plan.

2. Overall Demand Reduction Requirements

According to Act 129:

> (1) By May 31, 2013, the weather-normalized demand of the retail customers of each [EDC] shall be reduced by a minimum of 4.5% of annual system peak demand in the 100 hours of highest demand. The reduction shall be measured against the [EDC's] peak demand for June 1, 2007, through May 31, 2008.

See 66 Pa.C.S. § 2806.1(d)(1).

As per the Commission's Reduction Target Order, the FirstEnergy Companies' 2013 peak demand reduction targets are as follows:

2013 Peak Demand Reduction Targets	
Met-Ed	119 MW
Penelec	108 MW
Penn Power	44 MW

<u>See</u> Reduction Target Order at 5.

Based on the FirstEnergy Companies' EE&C Plans, each Company will meet its peak demand reduction target. <u>See</u> FirstEnergy Companies' EE&C Plans at PUC Table 2, page 18.

3. <u>Requirements for a Variety of Programs Equitably Distributed</u>

a. <u>Introduction</u>

The Act requires that the Plan include a variety of measures and that the measures be provided equitably to all customer classes. <u>See</u> 66 Pa.C.S. § 2806.1(a)(5). The FirstEnergy Companies' Plans contain 19 different programs distributed across all of their customer classes. The Companies have provided at least one energy efficiency program and one demand response program for each class in accordance with the Commission's Implementation Order, and in fact, they offer multiple programs for each customer class, with the exception of low income customers as discussed below. <u>See</u> FirstEnergy Companies EE&C Plans, Tables 4a, b and c, pages 2-5.

While determining reasonableness or equity is a subjective matter, the OCA reviewed the required Budget and Parity Analysis found in PUC Table 5 of the FirstEnergy Companies' Plans and the information following PUC Table 5 in evaluating whether the portfolio proposed by the Companies achieved a reasonable and equitable balance to its portfolio. The OCA also conducted this review keeping in mind the specific requirements of the Act for low income customers, government/non-profit sector and the need for the Plans to be cost-effective under the

TRC Test. The OCA compiled information from the Companies' Plans for spending, revenues and consumption by class for each FirstEnergy Company.

b. Met-Ed

MET-ED

Plan Spending As Compared To Revenues By Class

	Revenue by Class	Class Revenue % of Total	EE&C Plan Budget	Increase in Spending	% of Total Plan
Residential	543,000,000	43.7%	16,917,339	3.1%	70.2%
Commercial	293,000,000	23.6%	2,991,204	1%	18.8%
Industrial	406,000,000	32.7%	1,300,046	0.3%	11.0%

Consumption Reduction By Class

	mWh by class	% of total usage	mWh saved per plan	% of Commission goal
Residential	5,255,025	38.2%	241,124	54.96%
Commercial	2,832,960	20.6%	172,306	39.27%
Industrial	5,657,535	41.2%	31,548	7.19%

*For purposes of this chart, all of the govt/non profit consumption reductions have been attributed to the Commercial class
See Met-Ed EE&C Plan at PUC Table 5; PUC Table 2; St. 3, Exh. 4, page 3. See also FirstEnergy Companies' Petition at 12.

Total Bill Impact Of Proposed EEC-C

	Average kWh Usage	Dollar Increase	% Increase Total Bill
RS	910	3.21	2.95%
GSVF (volunteer fire)	3290	11.60	3.12%
GS-S	470	0.89	1.55%
GS-M	8400	15.87	1.99%
GP	520000	233.81	0.56%
TP	6050000	2720.32	0.58%

See OCA St. 1 at 41; OCA Cross Exam Exh. 1.[8]

[8] The proposed EEC-C rate was modified in the Companies' Rebuttal testimony provided at the evidentiary hearings. As a result, the bill impact will be slightly different than those shown here. As Companies' witness Parrish testified, the rates would "change slightly based on my exhibit RJP-5." Tr. at 163. The overall magnitude of the increases would not change in any significant manner.

For Met-Ed, as the above tables illustrate, over 70% of the total Plan budget is to be spent on residential programs that produce a cost/benefit ratio of 2.08 (excluding low income, which is 2.48). Much of that spending, though, is related to the Residential Direct Load Control Program, which is discussed in detail below in Section V.A.6.a.1. The OCA recommends that Met-Ed consider redirecting some of the funding that was incorrectly included in the Residential Direct Load Control Program budget to achieve a better balance and better targeting of the efficiency dollars. OCA witness Hill made recommendations for improvements in certain programs, which will be discussed below.

c. Penelec

PENELEC **Plan Spending As Compared To Revenues By Class**					
	Revenue by Class	Class Revenue % of Total	EE&C Plan Budget	Increase in Spending	% of Total Plan
Residential	438,000,000	38.1%	14,991,244	3.4%	67.16%
Commercial	358,000,000	31.2%	3,110,446	0.9%	20.1%
Industrial	353,000,000	30.7%	1,502,097	0.4%	12.7%

Consumption Reduction By Class				
	mWh by class	% of total usage	mWh saved per plan	% of Commission goal
Residential	4,313,618	31.1%	219,298	50.8%
Commercial	3,653,546	26.4%	183,556	42.5%
Industrial	5,889,237	42.5%	39,928	9.2%
*For purposes of this chart, all of the govt/non profit consumption reductions have been attributed to the Commercial class See Penelec EE&C Plan at PUC Table 5; PUC Table 2; St. 3, Exh. 4, page 3. See also FirstEnergy Companies' Petition at 12				

Total Bill Impact Of Proposed EEC-C			
	Average kWh Usage	Dollar Increase	% Increase Total Bill
RS	730	2.76	3.62%
GSVF (volunteer fire)	1700	6.44	3.86%
GS-S	440	0.62	1.45%
GS-M	8800	12.47	1.86%
GP	431500	206.71	0.82%
LP	5125000	2455.08	0.83%
See OCA St. 1 at 41; OCA Cross Exam Exh. 1.			

For Penelec as the above tables illustrate, over 67% of the total Plan budget is to be spent on residential programs that produce a cost/benefit ratio of 2.07 (excluding low income, which is 2.49). Much of that spending, though, is related to the Residential Direct Load Control Program, which is discussed in detail below in Section V.A.6.a.1. The OCA recommends that Penelec consider redirecting some of the funding that was incorrectly included in the Residential Direct Load Control Program budget to achieve a better balance and better targeting of the efficiency dollars. OCA witness Hill made recommendations for improvements in certain programs, which will be discussed below.

d. Penn Power

PENN POWER Plan Spending As Compared To Revenues By Class					
	Revenue by Class	Class Revenue % of Total	EE&C Plan Budget	Increase in Spending	% of Total Plan
Residential	137,000,000	41.0%	3,316,668	2.4%	51.79%
Commercial	99,000,000	29.8%	983,920	1.0%	20.3%
Industrial	97,000,000	29.2%	588,682	0.6%	27.9%

Consumption Reduction By Class				
	mWh by class	% of total usage	mWh saved per plan	% of Commission goal
Residential	1,617,204	34.6%	67,086	46.9%
Commercial	1,282,701	27.4%	64,190	44.8%
Industrial	1,778,405	38.0%	13,088	9.1%
*For purposes of this chart, all of the govt/non profit consumption reductions have been attributed to the Commercial class See Penn Power EE&C Plan at PUC Table 5; PUC Table 2; St. 3, Exh. 4, page 3. See also FirstEnergy Companies' Petition at 12.				

Total Bill Impact Of Proposed EEC-C			
	Average kWh Usage	Dollar Increase	% Increase Total Bill
RS	870	1.95	1.48%
GSVF (volunteer fire)	2400	5.36	1.54%
GS	2250	2.59	1.32%
GM	58200	67.04	1.33%
GT	2772000	2943.32	1.18%
See OCA St. 1 at 42; OCA Cross Exam Exh. 1.			

For Penn Power, as the above tables illustrate, nearly 52% of the total Plan budget is to be spent on residential programs that produce a cost/benefit ratio of 1.95 (excluding low income, which is 2.05). Much of that spending, though, is related to the Residential Direct Load Control Program, which is discussed in detail below in Section V.A.6.a.1. The OCA recommends that Penn Power consider redirecting some of the funding that was incorrectly included in the Residential Direct Load Control Program budget to achieve a better balance and better targeting of the efficiency dollars. OCA witness Hill made recommendations for improvements in certain programs, which will be discussed below.

e. Conclusion

As detail below in Section V.A.6.a.1, the Companies accepted the adjustment of OCA witness Hill (with minor modifications), and removed from their budgets the costs associated with the residential direct load control from the years 2014 to 2024. OCA St. 1 at 31; ME/PN/PP

St. 2R at 4-5. OCA witness Hill testified that removing these costs on each Company's proposed budget provides a more reasonable balance. OCA St. 1 at 32. The OCA submits that the budget dollars that have been removed from the Residential direct load control program should be used to achieve a more equitable balance in the portfolio.

4. 10% Government/Non-Profit Requirement

Section 2806.1(b)(1)(i)(B) establishes a specific requirement for achieving reductions from the government/non-profit/school sector. The section provides:

> (B) A minimum of 10% of the required reductions in consumption under subsections (c) and (d) shall be obtained from units of Federal, State and local government, including municipalities, school districts, institutions of higher education and nonprofit entities.

66 Pa.C.S. § 2806.1(b)(1)(i)(B).

Met-Ed forecasts that from the government/non-profit sector it will save 21,403 MWh out of its required 2011 MWh reduction target of 148,650 MWh, and it will save 51,255 MWh out of its required 2013 MWH reduction target of 438,718 MWh. See Met-Ed EE&C Plan at PUC Table 2, page 18. Penelec forecasts that from the government/non-profit sector it will save 22,026 MWh out of its required 2011 MWh reduction target of 143,993 MWh, and it will save 51,594 MWh out of its required 2013 MWH reduction target of 431,979 MWh. See Penelec EE&C Plan at PUC Table 2, page 18. Penn Power forecasts that from the government/non-profit sector it will save 7,277 MWh out of its required 2011 MWh reduction target of 47,729 MWh, and it will save 16,741 MWh out of its required 2013 MWH reduction target of 143,188 MWh. See Penn Power EE&C Plan at PUC Table 2, page 18. Based on the Tables and descriptions provided in the FirstEnergy Companies' filings, the Companies will meet the consumption reduction targets required by Act 129. See FirstEnergy Companies EE&C Plans at PUC Table 2, page 18.

5. Low Income Program Requirements

Throughout this case, the OCA has raised concerns that the Companies have not met the requirements of Section 2806.1(b)(1)(i)(G). Section 2806.1(b)(1)(i)(G) establishes a requirement for specific energy efficiency measures for low income households. Section 2806.1(b)(1)(i)(G) reads in pertinent part:

> (G) The plan shall include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines. The number of measures shall be proportionate to those households' share of the total energy usage in the service territory.

66 Pa.C.S. § 2806.1(b)(1)(i)(G). It is the OCA's view that the General Assembly sought to establish a set aside for low income customers through this language to ensure that low income customers received the benefits that energy efficiency can bring. This becomes even more pressing in light of the Commission's conclusion in its Implementation Order that all customers be required to pay the costs associated with Act 129, including low income customers. Implementation Order at 37.

While the language of the Act uses the terms "measures" within the section, it also refers to "in proportion to usage." The OCA submits that the most effective way to implement this Section is to require each EDC to assure that a specified percentage of the overall savings to be achieved from its Plan are realized through programs and measures that are specifically directed to the low income customer segment. This approach would parallel the set aside approach for the government/non-profit sector. See Section 2806.1(b)(1)(i)(B). This percentage should be determined by calculating the percentage, or proportion, of low income customer usage to the total system usage.

The FirstEnergy Companies performed a calculation to determine the percentage of low income usage to the total system usage. The Companies provided an explanation of how the proportion of low income households' share of the total energy usage of the system was calculated in discovery. OCA Cross Exam. Exh. 2 (OCA Set I, No. 16). In order to determine the percentage of low income use of each company's system, the Companies first attempted to determine the number of low income customers on their system. Once this number was obtained, the Company multiplied the number of low income customers by the average residential customer usage. The Company then compared this low income usage to the total system usage to determine the percentage. The OCA submits that the Companies' methodology for calculating the percentage of low income customer usage was reasonable.[9]

The OCA submits, however, that the inputs used for the initial calculation of low income usage by the Companies were not appropriate. In its initial calculation, the Companies utilized billing data to determine the number of low income customers and the average usage of those customers. Tr. at 211. On cross-examination, however, Companies' witness Fitzpatrick acknowledged that he only reviewed low income data based on those customers who are already identified as low income in the billing system, which was provided to him by the Companies, and did not take into account the likelihood that not all low income customers are identified in those billing records. Tr. at 210-211. At the evidentiary hearings, the Companies provided an updated exhibit that used census data to determine the number of low income customers in each service territory. See Exh. GLF-5. The resulting low income usage as a percent of the total

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9 The methodology used by the Companies is consistent with the methodology used by ACORN witness Ian Phillips. ACORN St. 1 at 20. The OCA submits that this is a reasonable approach for determining low income usage as a percentage of total usage.

system usage using the two different estimates of the number of low income customers is as follows:

	Met Ed	Penelec	Penn Power
Billing Data	3.2%	4.0%	3.5%
Census Data	5.5%	7.2%	7.1%

Source: OCA Cross Exh. 2; ME/PN/PP Exhibits GLF-4, GLF-5.

As this chart shows, the choice of this input makes a significant difference. The OCA submits that the percentage of low income usage in the Companies' service territories must be calculated using census data. The Act clearly calls for energy efficiency measures based on all households at or below 150% of the Federal poverty income guidelines. The use of billing data to determine the percentage of low income customer usage is not reasonable, because billing data only accounts for customers known by the Companies to be low-income. Tr. at 210. The Act does not limit this requirement to low income customers in the Companies' billing systems. The use of census data is more appropriate for capturing all low income usage for the purposes of Section 2806.1(b)(1)(i)(G).

At the evidentiary hearings, the Companies' submitted rebuttal testimony addressing the OCA's concerns that the plans do not adequately address the low-income requirements of Act 129. ME/PN/PP St. No. 2R at 2-4. In their rebuttal testimony, the Companies claim that their plans meet the targets prescribed by Act 129 whether using billing data or census data. In making this claim, however, the Companies make several errors and improper assumptions regarding the savings attributable to low income customers.

First, the Companies have calculated the low income savings by including savings from their existing low income usage program (the WARM program) to try to show that they meet the goals. The Act clearly carves out a requirement for additional energy savings to come from low income customers *beyond* the existing programs. The Act requires that any Act 129 expenditures "shall be in addition to" existing funding for low income usage reduction programs. Section 2806.1(b)(1)(i)(G). The OCA submits that the energy savings that are currently achieved through the existing WARM program, within the existing WARM funding, are not Act 129 programs. As such, the existing savings from WARM should not be attributed to the Companies' low income reduction obligations under Act 129.

The second error made by the Companies is the inclusion of what is labeled the "Prorata Share of Other Residential Programs." In this category of savings, the Companies have attempted to assign a share of savings from the general Residential programs to the low income requirements. The Act specifically requires, however, that each utility "shall include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines" in order to meet the low income mandate. 66 Pa.C.S. § 2806.1(b)(1)(i)(G). The OCA submits that the savings from the general Residential programs are not the result of "specific" energy efficiency measures designed for low income customers, as required by the Act. The programs for all residential customers are not specific to the energy efficiency needs of low income households.

Indeed, the Companies' own exhibit demonstrates the problem and why specific measures for low income customers are needed. In allocating projected savings from the residential programs to low income customers on a pro-rata basis, the Companies have assumed that low income customers will participate in these programs in exactly the same manner that non-low income customers will participate. The OCA submits that this is a flawed assumption. For example, the Companies include their programmable thermostat rebate program in Exhibit GLF-5 and assume that low income customers will participate exactly like other residential customers. The Companies' programs, however, only cover the incremental cost of each measure (the difference between a regular thermostat and a more expensive programmable model). The Companies presume that low income customers can pay the initial cost plus the incremental cost until the rebate arrives. The OCA submits that low income customers are not able to act on the incentives contained in this program in the same manner as non low income customers. The financial resources of many low income households do not allow for the upfront or initial expenditure. In addition, the Companies assume in Exhibit GLF-5 that low income customers would participate in the CFL programs in the same manner as non-low income customers, despite the fact that the program only covers $1 of the incremental $3.30 needed to purchase those bulbs. The OCA submits that it is unreasonable to assume that low-income customers will spend $2.30 extra on light bulbs at the same rate as non low-income customers.

Using the census data to develop the appropriate reduction target, and excluding savings from the existing WARM program and the pro rata share of programs for all residential customers, it appears that the Companies fall far short of their required low income reductions:

	Low income projected savings-2013 (per PUC Table 2 of each Company's filing)	Total system savings-2013 (per OCA St.1 at 8)	Low Income % of system savings (per OCA St. 1 at 33)	Target Savings (per census input, ME/PN/PP Exh. GLF-5)
Met Ed	1,962 MWh	444,978 MWh	0.44%	5.5%
Penelec	3,045 MWh	442,782 MWh	0.69%	7.2%
Penn Power	859 MWh	144,364 MWh	0.60%	7.1%

Source: ME/PN/PP PUC Table 2; OCA Statement 1 at 8, 33; ME/PN/PP Exh. GLF-5.[10]

The OCA submits that the Companies' compliance with the Act as to the low income requirements fails to comply with Act 129's energy reduction requirements for the low income sector.

[10] The projected "Directly Labeled Low Income Program Savings" identified by the Companies in Exhibit GLF-5 do not match those contained in PUC Table 2 of each Company's filing. In Exhibit GLF-5, the Companies count all directly labeled low income program savings over the 43-month Plans toward their 2013 low income savings goals. Even using those projected low income savings, however, the Companies' plans fall short of the low income savings targets required under Act 129.

The OCA submits that the Companies should do more to directly achieve savings from their low income customers under Act 129. In order to meet their low income usage reduction obligations, the Companies should consider the following:

- additional funding to support all cost effective electric savings measures, which would allow community-based organizations (CBOs) to serve more low income customers overall;
- paying for additional measures for customers already served by the WARM program, who still have energy efficiency opportunities, such as replacing inefficient appliances;
- working with local affordable housing providers that manage units for qualifying low income/low use customers to directly install CFLs, faucet aerators, water heater blankets, programmable thermostats and/or any other electric saving measures.
- coordination with natural gas distribution company LIURP programs to deliver electric efficiency measures at the time of LIURP treatment such as refrigerator replacement, furnace fan replacement and room air conditioner replacement
- coordination with DCED Weatherization Assistance Program (WAP) providers to deliver electric efficiency measures at the time of WAP treatment such as refrigerator replacement, furnace fan replacement and room air conditioner replacement

OCA St. 1 at 27-28.

The FirstEnergy Companies have indicated their intention to work with appropriate CBOs that are currently delivering the Companies' WARM program services. The OCA supports these intentions because working with a service provider network that is already established and serving the intended customer base means less money spent on program development, thereby leaving more money to flow into energy saving services to low income customers who can benefit from lower utility bills.

The OCA recommends that the FirstEnergy Companies be directed to calculate their low income consumption reduction requirements pursuant to Act 129's mandates and expand their low income programs to achieve the requirements of Act 129.

6. Issues Relating to Individual Conservation and Demand Reduction Programs

a. Residential

i. The Companies' Budgets For The Residential Direct Load Control Programs Are Overstated To Include Costs That Will Not Actually Be Incurred During the Plan Period.

The Residential Direct Load Control Program will provide load cycling controls for residential central air conditioning (CAC), electric water heaters and pool pumps. See FirstEnergy Companies EE&C Plans at 3. The FirstEnergy Companies will offer incentives to its qualifying residential customers to join the program, which incentives will include installation of load control equipment, an enrollment incentive of $50 and a participation incentive of $10/month for each summer month for each control installed. Residential customers also allowing control of their water heaters or pool pumps will receive a participation incentive of $15/month. Id.

The FirstEnergy Companies' Residential Direct Load Control programs account for more than $53 million or approximately 28% of the total allowed spending for EE&C Plans. The specific expenditures by Company versus the total program expenditures are as follows:

Total Residential Direct Load Control Program Expenditures vs. Total Residential Program Expenditures		
	DLC Program	Total For All Programs
Met-Ed	$26,900,067	$60,620,465
Penelec	$24,551,287	$53,718,626
Penn Power	$2,185,349	$11,884,726

See FirstEnergy Companies EE&C Plans at App. G, Table 6A.

The OCA strongly supports the implementation of these Residential Direct Load Control programs, but the majority of the proposed costs for the Program included in the budget are associated with future year operation expense and incentive costs (2013-2024). As stated by OCA witness Hill:

> Assigning cost recovery for the direct load control switches and the operations and incentive costs for the first four years of the program plan is appropriate, but future year operations and incentives should be budgeted as part of future program plans and assigned to future years' budgets accordingly.

See OCA St. 1 at 13-14.

The OCA submits that the proposed costs for future periods are not recoverable as part of the Plans because they will not actually be incurred during the Plan period. In order to align the budget with costs actually expected to be incurred during the Plan period, OCA witness Hill recommended that the expenditures of the FirstEnergy Companies for the Residential Direct Load Control Programs that are associated with operations and incentives for years beyond 2013 be excluded from the budgets for Residential Direct Load Control and directed to other efficiency measures. See OCA St. 1 at 14. According to Dr. Hill, the result of excluding the aforementioned expenditures is to reduce the cost of the Residential Direct Load Program by $14.3 million for Met-Ed, $13.1 million for Penelec, and $1 million for Penn Power. See OCA St. 1 at 14.

At the hearings in this matter, the Companies accepted the OCA's recommendation that the program costs associated with future year operation and incentives be removed from this Plan budget. See ME/PN/PP St. 2-R at 5. The FirstEnergy Companies did not agree, however, with the specific amounts identified by OCA witness Hill for Met-Ed and Penelec. Instead, the Companies identified the following amounts for exclusion: Met-Ed \$13.4 million and Penelec \$12.4 million. See ME/PN/PP St. 2-R at 5. The Companies agreed with the amount identified by OCA witness Hill for Penn Power. Id.

The FirstEnergy Companies do not plan, at this time, to increase the budget of any program as a result of this adjustment. See Tr. at 207-208. The Companies have not proposed to utilize these funds for any other purpose at this time. Id. Instead, Companies' witness Fitzpatrick explained that the Companies will hold these funds in reserve, in case they "may find that [the Companies] have to use this money as a contingency for additional funding and emphasis on different programs or different measures within programs." Tr. at 208.

The OCA submits that the FirstEnergy Companies should be directed to use these funds to address improvements in the design of other programs and sectors that are otherwise underserved. See OCA St. 1 at 31. For example the FirstEnergy Companies could be directed to utilize some of these funds to improve their low income programs, as discussed in detail above in Section V.A.5, above, or to implement other recommendations offered by OCA witness Hill as discussed in Section V.A.7, below.

b. Commercial

The OCA has not addressed any issues related to the Commercial sector.

c. Industrial

The OCA has not addressed any issues related to the Industrial sector.

7. Proposals for Improvement of EDC Plan

a. Residential

As part of the Residential Whole Building Program, the FirstEnergy Companies' Plans should include incentives for replacement of residential furnace fans. According to OCA witness Hill, replacing existing permanent split capacitor furnace fans with ones that meet or exceed minimum electric commutating motor standards could meet as much as 6% of the state-wide electric energy savings potential. See OCA St. 1 at 24. Consequently, the Companies should include this important element in their Plans. The OCA recommends that such an incentive be a part of the Companies' Residential Whole Building Programs. The FirstEnergy Companies have indicated their willingness to explore EE&C Plan improvement ideas during an ongoing stakeholder process. ME/PN/PP St. 3R at 5. The OCA submits that the FirstEnergy Companies should be directed to explore implementation of this program during the first meeting of an ongoing stakeholder process.

b. Commercial

The FirstEnergy Companies' EE&C Plans should include a program for new C&I construction. According to OCA witness Hill, although there might not seem to be much potential in C&I new construction at this time due to the state of the economy, there are certainly large energy savings possible within the Plan period, especially once construction picks up again in this time frame. See OCA St. 1 at 24-26. Not including such a program in the overall Plans could be a huge lost opportunity. The OCA recommends that such a program be a part of each Company's EE&C Plan.

Also, the FirstEnergy Companies' EE&C Plans do not provide any specific measures geared toward agricultural customers. While many of the programs proposed by the Companies would be useful to a farmer's residence, there are technologies that have the potential to reduce the EDC-provided energy to the farm. For example, energy measures such as variable speed milk transfer and pre-cooling systems are specific to the unique needs of dairy farmers. See OCA St. 1 at 26. Considering the rural nature of the Companies' service territories, a program tailored to these customers provides the opportunity for additional cost effective savings. The OCA recommends that such a program be a part of each Company's EE&C Plan.

Finally, the FirstEnergy Companies' Plans do not have any initiatives targeted toward high-value market subsets. As stated by OCA witness Dr. Hill, it is important to focus efficiency efforts on specific markets, such as supermarkets and data centers. See OCA St. 1 at 29. Such programs aimed at these subsets should include a considerable amount of energy savings potential from technologies that are pervasive in the targeted markets. Id. For instance, a bundled package of, *inter alia*, refrigeration equipment, efficient specialty lighting fixtures, high efficiency evaporator fans, compressors and defrosting controllers for freezers could be offered to the supermarket subset. Additionally, there are considerable energy efficiency options existing for data centers and servers of all sizes, including but not limited to efficient uninterruptible power supply systems, virtual desktop infrastructure that uses less energy than standard PCs and laptops, optimized HVAC systems, and reclaiming heat from larger data centers for use in preheating supply air going to other parts of the building. Id. at 29-30. The OCA recommends that programs targeted to certain high-use subsets be a part of each Company's EE&C Plan.

The OCA submits that the FirstEnergy Companies' EE&C Plans could be improved by implementation of the recommended measures and programs in their EE&C Plans. Again, the OCA would recommend that these programs be further developed using the on-going stakeholder process. See OCA Comments at 15-17. The FirstEnergy Companies have indicated their willingness to explore EE&C Plan improvement ideas during an ongoing stakeholder process. ME/PN/PP St. 3R at 5. The OCA submits that the FirstEnergy Companies should be directed to explore implementation of these programs during the first meeting of an ongoing stakeholder process.

c. Industrial

The OCA has not addressed any issues related to the Industrial sector.

B. Cost Issues

Each FirstEnergy Company's total proposed budget is as follows: Met-Ed $99.4 million; Penelec $91.8; and Penn Power $26.6 million. See ME/PN/PP Exh. RIP-5.

1. Plan Cost Issues

The OCA has no Plan Cost issues it wishes to address at this time.

2. Cost Effectiveness/Cost-Benefit Issues

The OCA reviewed the cost effectiveness of the Companies plans. According to OCA witness Hill, the Companies' plans call for an aggressive estimate of savings considering the budgets involved. In making this assessment, Mr. Hill compared the cost effectiveness of the proposed plans with plans in other jurisdictions. OCA witness Hill noted the following results of his analysis, as follows:

> Proposed savings and spending levels can be compared to other states by calculating the annual and cumulative proposed $/MWh. In this comparison, a higher value means there are more budget dollars available to attain the proposed savings. In contrast a lower value indicates the savings are being attained relatively less expensively than a higher value. Chart 7 presents the annual $/MWh for each company and compares these values to several other jurisdictions.

Chart 7: Comparative $/MWh Savings

Jurisdiction	2009	2010	2011	2012	2013
First Energy (PA)		$203	$214	$210	$116
Penn Power		$175	$186	$174	$110
Met-Ed		$250	$223	$220	$122
Penelec		$165	$215	$212	$112
Connecticut		$169	$154	$140	$122
Efficiency Vermont*	$278				
New Jersey	$200				

** 2009-2011 Goal*

> As indicated above, the $/MWh values in the First Energy Company plans range from $250/MWh in the first year for Met Ed to $110/MWh in year four for Penn Power. The cumulative four-year average across all First Energy Companies is $183/MWh. The cumulative four-year average for each of the three companies is as follows: $194/MWh for Met Ed, $181/MWh for Penelec and $159/MWh for Penn Power. In comparison to other jurisdictions, these metrics are aggressive. For example the current three year cumulative budget and savings targets for Efficiency Vermont equate to $278/MWh savings. It should be noted that all of the proposed spending portfolios represented in Chart 7 are subject to Cost Effectiveness review.

OCA St. 1 at 14-15. As Mr. Hill's testimony demonstrates, the Companies' Plans assume a relatively low cost per MWh of savings compared to efficiency plans in other jurisdictions. As a result, the OCA has some concerns about whether the plans will be able to meet their intended goals at current budget levels. OCA witness Hill testified regarding these concerns as follows:

> I have some concerns about the generally lower level of spending on efficiency resources as illustrated by Chart 7, but in my professional judgment, with sound collaboration, good program design and effective program implementation and management, these savings are attainable within the available 2% spending limit.

OCA St. 1 at 16.

The OCA submits that, while aggressive, the plans submitted by the Company are cost effective. The OCA submits that sound collaboration going forward is essential to ensure that the dollars available are used to effectively meet the goals of Act 129.

3. Cost Allocation Issues

The OCA does not have any issues with regard to the Companies' allocation of costs to the various customer classes.

4. Cost Recovery Issues

a. Introduction

The FirstEnergy Companies' Plans' Appendix H and Direct Testimony set forth the proposed cost recovery mechanism for the EE&C Plan expenses incurred. The Companies propose to collect the primary costs of their Plans through a rider detailed in the testimony of FirstEnergy Companies' witness Raymond I. Parrish. See FirstEnergy Companies EE&C Plans at St. 3 and Exh. RIP 1 - RIP 3, RIP 5. The Companies have termed this rider the Energy Efficiency and Conservation Charge (EEC-C). Id. at 3. The Companies have proposed specific rates for each major customer class for the entire 43-month plan period and that the EEC-C rider become effective on or after November 1, 2009. Id. at 5, 7.

The levelized EEC-C rates are designed to recover the budget for the four-year Plans, excluding Gross Receipts Tax.[11] See FirstEnergy Companies EE&C Plans at St. 3, Exh. RIP 4; 66 Pa.C.S. § 2806.1(g). The total proposed budgets for the Companies are as follows:

[11] The Companies had initially calculated their total budgets using a 43-month budget. The Companies adjusted their budget to 48 months in the rebuttal testimony of Companies' witness Parrish. ME/PN/PP St. 3R at 9-10.

Total Proposed Budgets	
Met-Ed	$99.4 million
Penelec	$91.8 million
Penn Power	$26.6 million

See ME/PN/PP Exh. RIP 5.

The FirstEnergy Companies propose to recover this total budget over the 43-month period in which their EE&C Plans are in operation. See ME/PN/PP St. 3-R at 9-10. The Companies provide flexibility to request a change to the rates contained in Mr. Parrish's direct testimony if it becomes clear that the existing rates would result in a material over- or under-collection of all recoverable costs. See FirstEnergy Companies EE&C Plans at St. 3, Exh. RIP 1 - RIP 3.

The EEC-C will operate as a reconcilable recovery mechanism and, as the EE&C Plans are expected to benefit both shopping and non-shopping customers, the EEC-C will be non-bypassable. See FirstEnergy Companies EE&C Plans at St. 3, page 6. The EEC-C will appear as a separate line item on customers' bills. ME/PN/PP St. 3R at 2.

The Companies have proposed to waive interest as part of this levelized recovery on both over and under-collections. In their EEC-C riders, however, the Companies are requesting interest on incremental administrative start-up costs. Id.

In order to ensure that EE&C measures are paid for by the same customer class that receives the energy and conservation benefits of those measures, the FirstEnergy Companies propose to directly assign the costs relating to each measure to those classes that will receive the benefits. See FirstEnergy Companies EE&C Plans at St. 3, page 7.

The FirstEnergy Companies also propose to separately calculate the applicable EE&C costs for each of the three major customer classes on their distribution system: (1) residential, (2) small C&I, and (3) large C&I. These costs will vary in each program year of the EE&C Plans.

In other words, in some program years, the costs may be greater than the annual 2% cost cap, while in other program years, the costs may be less than the cap, but recovery will be levelized.

Based on the Plans, the Companies propose the following revised rates, in cents per kWh, for each customer class:

Revised Proposed Rates in cents per kWh			
	Met-Ed	Penelec	Penn Power
Residential	.348	.399	.228
Commercial	.203	.157	.128
Industrial	.049	.052	.131

Source: FirstEnergy Companies EE&C Plans at St. 3, Exh. RIP-5.

The total cost of each FirstEnergy Company's EE&C Plan will also include the costs that each Company incurred to develop its Plan. The Companies propose to amortize these costs over a 7-month period ending May 31, 2010. See FirstEnergy Companies EE&C Plans at St. 3, Exh. RIP 1. The Companies further propose to collect interest on their start-up costs. Id.

b. OCA Issues/Recommendations Regarding The Cost Recovery Mechanism

i. The OCA Supports The Levelized Cost Recovery Mechanism Proposed By the Companies Without Interest on Over- Or Under-Collections Or Any Deferred Costs.

As OCA witness Hill testified, the Plans' expenditures will vary, perhaps significantly, on a year-by-year basis. OCA St. 1 at 38. To provide more stability for customer rates, the FirstEnergy Companies are proposing to recover the same levelized amount each year from customers. This will allow the Companies the flexibility to spend each year based on program ramp up needs, program success and market conditions (within the total spending cap) to maximize implementation of the Plans without undue volatility in customer rates. The OCA supports this approach to cost recovery, particularly for residential customers to avoid any undue volatility and confusion in rates. OCA St. 1 at 38.

The OCA also supports the FirstEnergy Companies' proposals that no interest be charged on any under- or over-collections that may occur as a result of this levelization. See FirstEnergy Companies EE&C Plans at St. 3, pages 10-11. The Act is very clear that the cap on collection for EE&C plan spending is 2% of 2006 revenues, *not* 2% plus interest. Therefore, as an example, Met-Ed's cap on Plan expenditure collection is $24,866,894 per year, *not $24,866,894 plus interest.* See, OCA St. 1 at 38. The FirstEnergy Companies, however, have sought to include the start up costs that each Company incurred to develop its Plan, and propose to amortize these costs over a 7-month period ending May 31, 2010 with interest. See FirstEnergy Companies EE&C Plans at St. 3, Exh. RIP 1.

The OCA does not oppose the FirstEnergy Companies' proposals to recover its administrative start up costs so long as the total amounts recovered by the Companies through the EEC-C riders does not exceed the 2% cap imposed by Act 129, but the OCA does object to the request to recover interest on the start up costs. It is not reasonable to charge interest to customers on this one cost component, without crediting customers with interest on over-collections in the early years of the Companies' Plans. It is the OCA's position that interest should not be paid or collected on any portion of these charges.

ii. Met-Ed and Penelec Should Be Required To Bid Qualifying Energy Efficiency and Demand Response Resources Into The PJM RPM Auction And Credit Customers For The Value Received In The Cost Recovery Mechanism.

As of May 2009, PJM has modified its Reliability Pricing Model (RPM) auction process to allow for the inclusion of energy efficiency and demand response resources. Qualifying energy efficiency and demand response resources can now bid into the PJM auctions as a capacity resource and if cleared, receive capacity payments. OCA St. 1 at 42-43. The OCA submits that Met-Ed and Penelec, both PJM member companies, should be directed to explore this option and to bid their qualifying resources into the auctions. Penn Power recently announced that it will also be joining PJM. Penn Power should be directed to also explore this option and to bid its qualifying resources into the RPM auctions once it is a member of PJM. Capacity payments can provide a significant value that should then be credited to all customers through the cost recovery mechanism to offset the costs that they must bear under the Act. OCA St. 1 at 42-43.

In their Rebuttal testimony, the Companies argue that Curtailment Service Providers (CSP) should install and manage Residential demand response programs and reflect the benefit of the PJM RPM auction in their bids. ME/PN/PP St. 2R at 7. The OCA supports the participation of CSPs in the PJM RPM auction and encourages the Companies to ensure such participation to the benefit of ratepayers. The Companies further argue that, to the extent the Commission requires that they aggregate demand-side resources and participate in the PJM RPM auction, any potential savings must be passed on to customers net of all costs to the Companies for such participation. ME/PN/PP St. 2R at 8. The OCA agrees that the Companies should recover the reasonable costs of participation in the PJM RPM auction, and that the savings credited to ratepayers as a result of the Companies' participation should be reduced accordingly.

iii. <u>Line Item on Bill vs. Distribution Rates</u>

In Rebuttal testimony, the FirstEnergy Companies proposed to collect the EEC-C as a separate charge on customer bills. ME/PN/PP St. 3R at 2. It is the OCA's position that the EEC-C should be included in distribution rates to prevent customer confusion. The OCA submits that, while there may be potential educational and transparency benefits to calling out the cost of

EE&C programs as a line item on the customer's utility bill, there are other, possibly more effective, ways of communicating this information.

OCA witness Hill identified the problems raised by pulling out energy efficiency program costs for separate identification on customer bills, as follows:

> I recommend the company include the EEC & DR costs as an adder to existing distribution charges, as opposed to listing a separate line item on the bill. It is my professional opinion that while there are potential educational and transparency benefits to calling out the cost of energy efficiency programs as a line item on the customer's utility bill, there are other, possibly more effective, ways of communicating this information.
>
> For example, detailed information on energy efficiency program spending and the offerings which are specific to the sector being billed to, as well as how the customer can take advantage of them, could be included in a brochure sent to the customer along with their bill. This lets the customer know that the utility is investing in the programs, while also providing information on the program's benefits and how to participate. It is not clear that separating an individual line item for efficiency, from amongst all of the cost centers that are included in a utility's rates, has particular benefit. It would also ignore the many benefits of the program as these would not be reported on the bill. I would recommend the companies roll the EEC adder into the distribution rates and provide effective marketing to inform customers about the programs being offered.

OCA St. 1 at 40.

Rather than provide a specific line item in bills, detailed information on EE&C program spending and the offerings which are specific to the sector being billed to, as well as how customers can take advantage of them, could be provided to customers as inserts with their bills. This will inform customers that the utility is investing in the programs, while also providing information on the program's benefits and how the customer can participate. The OCA submits that separating an individual line item for efficiency programs, from among all of the cost centers that are included in a utility's rates, is not proper. In addition, by identifying only the costs and not the benefits on the bill, negative attention could be drawn to the programs that will impede their success.

iv. Statewide Evaluator Costs Should Be Included in 2% Cap

The Companies have separated the cost of the Statewide Evaluation from inclusion in the 2% statutory cost cap. While the costs of the statewide evaluator would be included in each Company's EEC-C rider, these costs would not be restricted by the 2% cap. ME/PN/PP St. 3 at 9; OCA St. 1 at 38-39.

The OCA submits that the statewide evaluator costs are part of the Plan. Act 129 states as follows:

> The total cost of any plan required under this section shall not exceed 2% of the electric distribution company's total annual revenue as of December 31, 2006.

Section 2806.1(g). The Act provides clear language that the costs undertaken to meet the goals of Act 129 should not exceed 2% of 2006 revenue. The Act provides one exception, regarding existing low income usage reduction programs under 52 Pa. Code Chapter 58, in order to prevent any confusion with regard to the on-going funding of those programs. The Act does not make any other exceptions.

OCA witness Hill testified that the cost of the statewide evaluator are directly associated with the Companies' Plans. Mr. Hill testified that:

> ...the costs of evaluating the Companies' approved energy efficiency plans... are core costs required to meet the energy efficiency goals of Act 129. Each utility will incur a variety of costs in order to meet its usage and load reduction obligations under the Act. While recognizing that there would be considerable costs to meet these goals, the Act capped the costs of the program at 2% of 2006 revenues. I see no reason to exclude the costs ... of

> evaluating the effectiveness of the plan, from the general cost recovery scheme detailed in the Act.

OCA St. 1 at 39.

The OCA submits that the Companies have not demonstrated that the statewide evaluator costs should be considered separate and apart from their obligations under the Act. As a result, all of the Companies' claimed costs must be collected within the statutory 2% cap.

v. Consumer Education Costs Must Be Included In The 2% Cap

The Companies also propose to collect consumer education costs outside of their 2% cap. ME/PN/PP Petition at 9; OCA St. 1 at 39. The Companies propose to utilize their existing Consumer Education Program, and that program's associated cost recovery mechanism, to recover education costs of the energy efficiency Plan. OCA St. 1 at 39. This could place these fundamental Plan costs outside of the 2% cap.

The OCA does not support exclusion of the costs of implementing and operating the Plans from the 2% cap. OCA witness Hill noted that, like the costs of evaluating the programs, the cost of educating customers on the contents of each Plan are core costs required to meet the energy efficiency goals of Act 129. OCA St. 1 at 39. As such, Mr. Hill concluded that there is no reason to exclude the costs of educating customers about the plan from the general cost recovery scheme detailed in the Act. Id. The OCA submits that the Companies' proposal to collect customer education costs outside of the 2% cap must be rejected.

C. CSP Issues

The OCA has no CSP issues it wishes to address at this time.

D. Implementation and Evaluation Issues

1. Implementation Issues

The OCA has no implementation issues it wishes to address at this time.

2. QA Issues

The OCA has no QA issues it wishes to address at this time.

3. Monitoring and Reporting Issues

The OCA has no monitoring and reporting issues it wishes to address at this time.

4. Evaluation Issues

According to OCA witness Hill:

> There is not an overall consolidated evaluation section and proposed evaluation component for each plan. Rather, elements of evaluation are addressed in the Management, Reporting and Tracking and Quality Assurance sections of each plan. Of these, the Quality Assurance section provides the most details on planned evaluation and verification.

See OCA St. 1 at 35.

The Companies' accounting for an evaluation budget is not clearly presented in the Plans. Id. Also, the information on the budgeting and planning for other evaluation activities is not fully developed. Id. at 36. For example, sections 6.2 and 6.3 of the FirstEnergy Companies' Plans discuss the planned market and process evaluations and a brief strategy for coordinating with the statewide evaluator, but there is insufficient information to determine the reasonableness of the proposed expenditures. Id.

As stated by OCA witness Hill:

> In my professional judgment a total evaluation budget in the range of 1%-3%, of total program spending can provide high value returns. I recommend that the full costs of supporting the statewide evaluator role be included in the Company's 2 % spending cap, and not be included as an additional cost outside of the total program spending.

See OCA St. 1 at 36. The OCA submits that the FirstEnergy Companies should be directed to provide more detail in their accounting of their evaluation budget.

E. Other Issues

1. Ongoing Stakeholder Process

The FirstEnergy Companies have indicated their intentions to continue meeting with stakeholders on a regular basis in order to analyze the progress of the Plans and discuss changes if necessary. ME/PN/PP St. 3R at 5. The OCA submits that this commitment should be formalized in the PUC's order in this matter and that the FirstEnergy Companies should be directed to continue the stakeholder process and meet with stakeholders on a quarterly basis, with announcements of meeting dates, times and places well in advance of commencement thereof. The Companies should be directed to provide specific reports of, *inter alia*, spending, collection and energy consumption and demand reduction at all meetings. Further, the Companies should include a broad array of stakeholders, including but not limited to local governments, chambers of commerce, environmental advocates and CBOs, in their processes. Additional stakeholders will provide additional resources and information to assist the Companies in meeting the requirements of Act 129. Also, the more stakeholders involved in the processes, the more voices there will be to reach customers and encourage their participation in the Companies' programs.

VI. CONCLUSION

Based on the foregoing, the OCA recommends that the Commission approve the FirstEnergy Companies' EE&C Plans subject to the modifications identified in this Main Brief.

VII. PROPOSED ORDERING PARAGRAPHS

THEREFORE, IT IS ORDERED:

1. That the FirstEnergy Companies implement their EE&C Plans with the following modifications:

    a. Correct the Met-Ed targeted reductions and the FirstEnergy Companies' calculations of cumulative savings for 2013;

    b. Submission of a detailed plan for the re-assignment of the monies removed from the Residential Direct Load Control programs; and

    c. Further evaluation and development of the Companies' Low Income Programs.

2. That the FirstEnergy Companies include statewide evaluator and consumer education costs within their respective spending caps.

3. That the FirstEnergy Companies continue the EE&C stakeholder process, including at least quarterly meetings during the EE&C Plan period, with program information regarding costs and savings disseminated to interested stakeholders at least one week prior to each meeting.

4. That the FirstEnergy Companies study implementation of the program improvements recommended by the OCA.

5. That the FirstEnergy Companies not charge interest on cost-recovery over- or under-collections or on their recovery of their start-up costs.

6. That the FirstEnergy Companies' cost recovery mechanism be rolled into distribution rates.

7. That Met-Ed and Penelec bid any qualifying energy efficiency and demand response measures into the PJM RPM auctions and credit their customers with all benefits received through their cost recovery mechanisms. Penn Power shall do the same once it joins PJM.

Respectfully Submitted,

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Dated: September 11, 2009
115684

CERTIFICATE OF SERVICE

Metropolitan Edison Company Energy Efficiency and Conservation Plan	:	Docket No. M-2009-2092222
Pennsylvania Electric Company Energy Efficiency and Conservation Plan	:	Docket No. M-2009-2112952
Pennsylvania Power Company Energy Efficiency and Conservation Plan	:	Docket No. M-2009-2112956

I hereby certify that I have this day served a true copy of the foregoing document, Main Brief of the Office of Consumer Advocate, 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), in the manner and upon the persons listed below:

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