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VIA OVERNIGHT UNITED PARCEL SERVICE

July 12, 2011

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: ***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***
Docket No. *M-2009-209222*
M-2009-2112952
M-2009-2112956

Dear Secretary Chiavetta:

Enclosed for filing are an original and eleven (11) copies of Main Brief on Behalf of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company.

Please date stamp the two (2) additional copies and return them to me in the enclosed, postage-prepaid envelope. Please contact me if you have any questions regarding this matter.

Very truly yours,

Kathy J. Kolich

kag
Enclosures

cc: As Per Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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	:	Docket Nos. M-2009-2092222 M-2009-2112952 M-2009-2112956

RECEIVED
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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

MAIN BRIEF ON BEHALF OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY, AND PENNSYLVANIA POWER COMPANY

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Dated: July 12, 2011

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I. STATEMENT OF THE CASE

Procedural Background

On February 18, 2011, Metropolitan Edison Company (Met-Ed"), Pennsylvania Electric Company ("Penelec") and Pennsylvania Power Company ("Penn Power") (collectively the "Companies") filed with the Pennsylvania Public Utility Commission ("Commission") a Joint Petition ("Main Petition") for approval of changes to the Companies' Energy Efficiency & Conservation ("EE&C") Plan currently in effect.[1] The filing received the same docket numbers as the Companies' Current EE&C Plan original filing submitted on July 1, 2009, which was approved in an Order dated February 26, 2010.[2] The filing in the instant proceeding consisted of the Joint Petition (Company Exh. 1), Direct Testimony from the Companies' witnesses, Mr. George L. Fitzpatrick (Met-Ed/Penelec/Penn Power Statement No. 1) and Mr. Charles V. Fullem (Met-Ed/Penelec/Penn Power Statement No. 2), and copies of the Companies' Current EE&C Plans, black-lined to show proposed changes to the plans (Company Exh. 2).

The Companies requested an expedited ruling on the Main Petition in order to meet post-2011 Act 129 targets and to provide time to incorporate changes in current and new programs prior to the start of Plan Year 3 on June 1, 2011. In addition, through a separate Petition ("Expedited Petition") filed concurrent with the Main Petition, the Companies requested a separate expedited ruling on three specific plan changes affecting the Residential HVAC and Solar Equipment Programs and C&I Equipment Programs involving Governmental & Institutional customers.

[1] The EE&C Plans currently approved and in effect will be referred to as the "Current EE&C Plans"; while the amended EE&C plans that are the subject of this proceeding will be referred to as the "Amended EE&C Plans").
[2] On October 28, 2009 the Commission entered an Order approving in part and rejecting in part the Companies' original EE&C plans. The Companies submitted revised plans and on January 28, 2010, the Commission entered an Order approving in part and rejecting in part the revised plans. The Companies submitted further revised plans and on February 26, 2010 the Commission approved the EE&C Plans that are currently in effect.

The Office of Consumer Advocate ("OCA") and Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA") and the Penn Power Users Group ("PPUG") (collectively MEIUG et al") filed Answers to both the Main Petition and the Expedited Petition.[3] In an Order entered March 18, 2011, the Commission granted the Expedited Petition, noting that the Companies' proposed amendments will "increase the Joint Petitioners' probabilities of achieving their Act 129 requirements".[4] The Commission also noted that approval of these amendments to the Companies' EE&C Plan would not change the overall recovery rates previously approved and that the Total Resource Cost ("TRC") test would continue to be met.[5] The Commission, however, denied OCA's request that the Expedited Petition's proposed amendments should remain open for further review and analysis during the Main Petition proceeding. Likewise, the Commission denied the MEIUG et al request to condition approval of the increase to incentives paid to Governmental & Institutional Customers upon the opportunity for full review in the Main Petition proceeding, and subject to changes the Commission may order as a result of that review.[6]

In a Secretarial Letter dated April 5, 2011, the Commission granted the MEIUG et al's request to refer the Main Petition to the Office of Administrative Law Judge ("OALJ") for further proceedings, and directed OALJ to proceed expeditiously. The Secretarial Letter also stated that Exceptions would be due no later than 10 days after issuance of a Recommended Decision and that no Replies to Exceptions would be accepted.

A Prehearing Conference was convened before Administrative Law Judge ("ALJ") Dennis J. Buckley on April 29, 2011, at which time a procedural schedule and ground rules for

[3] The MEIUG, PICA and PPUG Answers were Joint Answers filed on behalf of these coalitions.
[4] Expedited Petition Order at 7.
[5] Expedited Petition Order at 7-8.
[6] Expedited Petition Order at 8.

the discovery process were set. MEIUG et al presented two non-expert witnesses in this proceeding.[7] Mr. Todd Hammaker testified as a member of PICA and Mr. Mark Chasse testified as a member of MEIUG. Mr. Hammaker is an employee of Appleton Papers Inc. ("Appleton"), a Penelec customer, at their Spring Mill facility.[8] Mr. Chasse is an employee of East Penn Manufacturing Company, Inc. ("East Penn"), a Met-Ed customer, at their Lyon Station facility.[9] Direct Testimony was served by MEIUG et al (MEIUG/PICA/PPUG Statement Nos. 1 (Hammaker)) and 2 (Chasse)). The Companies served Rebuttal Testimony of Mr. George L. Fitzpatrick (Met-Ed/Penelec/Penn Power Statement No. 1-R), and MEIUG et al served Surrebuttal Testimony (MEIUG/PICA/PPUG Statement Nos. 1-S (Hammaker) and 2-S (Chasse)). On June 28, 2011, a hearing attended by the Companies, MEIUG et al, and OCA was conducted before ALJ Buckley. At this hearing the *Pro Hac Vice* Motion on behalf of Carrie Dunn, Esquire was granted. In addition, the Companies' witnesses, Mr. George L. Fitzpatrick, who presented oral rejoinder testimony, and Mr. Charles V. Fullem, were presented and cross examined. Witness Chasse on behalf of MEIUG and Witness Hammaker on behalf of PICA were also presented and cross examined. ALJ Buckley closed the record at the conclusion of the hearing.[10] Pursuant to the established procedural schedule, the Companies hereby submit their Main Brief.

Summary of Main Petition

The Companies' Main Petition cites three reasons that support the proposed changes to the current EE&C Plan. First, the decision of the State Wide Evaluator ("SWE") and the

[7] Counsel for MEIUG et al acknowledged that Witness Hammaker was not an expert witness. Tr. 166. Given the similarities in background, experience and testimony between Witness Hammaker and Witness Chasse, it is a reasonable inference that Mr. Chasse is not an expert witness either. Collectively these witnesses will be referred to as the "Industrial Witnesses".
[8] MEIUG/PICA/PPUG Statement No. 1, pp. 2-3.
[9] MEIUG/PICA/PPUG Statement No. 2, pp. 2-3.
[10] Tr., p. 216.

Commission's Bureau of Conservation Economics and Energy Planning ("CEEP") that Act 129 savings projections should be calculated at the retail level for compliance purposes, and at the system generation level for TRC purposes, resulted in the Companies' savings projections in the Current EE&C Plans to be overstated by approximately 11%. That is because the current plans assume an 11% transmission and distribution loss factor that was used to gross up all EE&C program savings to reflect savings at the system generation level.[11] Second, certain programs are performing at energy or demand savings levels below projections due to the downturn in the economy, updates to the Technical Resource Manual ("TRM") and unexpected low customer participation levels.[12] Third, programs such as the Commercial & Industrial ("C&I") Equipment Programs, were exceeding participation level expectations such that current funding was fully committed, requiring suspension of the programs until additional funding was approved by the Commission.[13]

The proposed changes to the Current EE&C Plans are detailed in the black-lined versions of the plans submitted by the Companies and included in the evidentiary record.[14] The projected changes in savings levels are primarily based on the loss factor adjustment, updates to the TRM and customer participation levels.[15] Program changes are based on either an increase in budgets for Large C&I programs or a shift in funds from under-performing programs or components of programs.[16] Nevertheless, the overall budget remains within statutory spending caps and affected programs continue to pass the TRC Test on an individual and portfolio basis.[17] Specific proposed program changes are as follows:

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[11] Company Exh. 1, p. 4.
[12] Id.
[13] Id.
[14] Company Exh. 2.
[15] Company Exh. 1, p. 6.
[16] Id., p. 7.
[17] Id.

Large C&I Programs - The Companies propose an additional $4.5 million in funding for Met-Ed, $4 million for Penelec and $400,000 for Penn Power. These budget increases are necessary in order to make up the aforementioned 11% loss factor savings deficit and add funds to the Large C&I Equipment Programs – programs where all Met-Ed and Penelec funds are already fully committed and for Penn Power are expected to be fully committed in Plan Year 3. The Industrial Motors and Variable Speed Drive Program was consolidated into the Large C&I Equipment Program to leverage the success of the Equipment Program and raise customer awareness of the incentives available for industrial motors. In addition, the consolidation creates marketing and accounting synergies. A change in the incentive structure and incentive level of the lighting component of the Large C&I Equipment Program is also proposed.. The Companies moved, effective March 1, 2011, from an incentive paid on a $/Watt basis to a $/kWh basis which provides more consistency and a better correlation between the incentive paid and the energy savings contributed by the customer, as well as more predictability in managing program budgets. The Companies also established, effective March 1, 2011, an incentive range, not to exceed $0.09/kWh for the lighting measure, with the initial incentive set at $0.05/kWh. In the event the Commission does not approve the use of a range for this incentive or the incentive level that has been established, a rebate true up mechanism will be adopted.[18] Only MEIUG et al challenged some of the above changes.

Small C&I Programs - Proposed changes include: 1) including Small C&I customers in the peak load reduction program, 2) adjusting the incentive level and incentive structure for the Small C&I lighting measure to match the proposed changes to the Large C&I Equipment Program for Large C&I customers, 3) adding a new direct install component to the Equipment Program to target strip malls, small grocery stores and certain restaurants to optimize savings, 4)

[18] Company Exh. 1, pp. 7-8.

combining the Energy Audit and Technical Assessment Program with the Small C&I Equipment Program to provide customers with a more effective introduction to the Equipment Program and to create marketing/accounting synergies that streamline program administration, and 5) adding a new conservation kit to the Small C&I Equipment Program through opt-in distribution, initially offering CFL bulbs to test market acceptance and to achieve increased market penetration with the intent to add measures as market conditions warrant. All of these changes are funded by shifting funds from existing Small C&I customer program budgets.[19] No party challenged any of these proposed changes to the Small C&I programs either through testimony or during the evidentiary hearing.

Residential Programs - Proposed changes include: 1) consolidating the Residential Whole Building Comprehensive Program with the Home Energy Audit and Outreach Program, 2) adding a new Behavioral Modification Program to induce savings through dissemination of benchmark usage data and tips for reducing consumption, 3) increasing incentives for air conditioner and heat pump tune-ups from $25 to a not-to-exceed $60 in order to increase customer participation,[20] 4) setting incentives for CFLs at a range of $0.75 to $1.50/bulb and a not-to-exceed level of $2.50/bulb for specialty bulbs in order to increase market penetration in the CFL market, 5) adding Energy Conservation kits for multi-family residential and master-metered facilities to increase CFL market penetration and generate interest in efficiency measures among multi-family tenants, and 6) replacing the Pump and Motor Single Speed incentive with a variable speed pool pump incentive up to $200 per pump to maximize savings. To fund these changes, funds from under-performing programs such as the New Home Construction program, the Appliance Turn-In Program and the Energy Efficient HVAC

[19] Company Exh. 1, pp. 8-9.
[20] This program change was one of the subjects of the Expedited Petition and has been approved by the Commission.

Equipment Program have been shifted to the Home Energy Audit and Outreach Program and the Multi-Family Building Program.[21] No party challenged any of these proposed changes to the Residential Programs either through testimony or during the evidentiary hearing.

Government Program Changes - Increased funds were proposed to raise incentive ranges to levels consistent with those offered to Large and Small C&I customers in order to generate or renew interest in these offerings. This program change was the subject of the Expedited Petition and has been approved by the Commission.[22]

Other Changes - The Companies have also proposed editorial changes for purposes of clarifying or correcting the Current EE&C Plans, and changes to streamline administration of certain programs, all of which are shown in the black-lined versions of the plans.[23]

Changes to the EEC-C Rider - The Companies proposed changes to the EEC-C Riders that serve as the cost recovery mechanism for approved measures. These riders are financed by the customer sector that receives the direct energy and conservation benefits of the measure.[24] All customer rider charges are changing to reflect revised sales and revenue collection projections, however only the Large C&I rider charge is increasing as a result of increases in program budgets.[25] Witness Fullem's Supplemental Exhibit CVF-1 shows the proposed rider charges for Met-Ed, Penelec and Penn Power. Exhibit CVF-2, attached to Mr. Fullem's Direct Testimony, shows in redline the changes to Penn Power's EEC-C rider to reflect the Company's entry into PJM, Inc. ("PJM").

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[21] Company Exh. 1, pp. 9-10.
[22] Opinion and Order at pp. 7, 9 (entered in this docket on Mar. 18, 2011).
[23] *See* Company Exh. 2, Section 1.1.1(C) and (D), where such changes are also summarized.
[24] 66 Pa.C.S. §§ 2806.1(a)(11), 2806.1(b)(1)(i)(F).
[25] Company Exh. 1, pp. 12-13.

II. SUMMARY OF ARGUMENT

Act 129 requires each EDC within the Commonwealth of Pennsylvania to reduce by May 31, 2013, energy consumption by 3%, and peak demand by 4.5%, calculated based on summer, 2012 demands.[26] Prior to submitting the Amended EE&C Plans, the Companies evaluated results from the programs included in the Current EE&C Plans that were approved by the Commission in 2009. Based on this evaluation, the Companies have concluded that the changes included in the Amended EE&C Plans are necessary in order to put the Companies in a position to achieve their 2013 statutory EE&C requirements.[27] The Companies' EEC-C riders, which recover EE&C plan costs from customers have been recalculated to reflect reconciliation amounts and to reflect an increase in spending on programs benefitting Large C&I customers. The proposed rate changes assume an October 1, 2011 effective date.[28]

The Companies have presented ample evidence that demonstrates (i) the need for each proposed program change;[29] (ii) that each program affected by the proposed changes, along with the amended portfolio of programs as a whole, passes the TRC test;[30] (iii) that the budget for the programs included in the Amended EE&C Plans remains below the 2% spending cap as required by Act 129;[31] and (iv) that the proposed changes to the EEC-C rider charges are calculated consistent with the riders as approved by the Commission as part of their approval of the Current EE&C Plans.[32]

No party presented any evidence to the contrary. Indeed, only OCA and MEIUG et al participated in this proceeding and OCA presented no direct testimony and cross examined no

[26] *Energy Conservation and Peak Demand Reduction Targets*, Docket No. M-2008-2069887 (Order entered Mar. 30, 2009).
[27] Met-Ed/Penelec/Penn Power Statement No. 1, p. 6.
[28] Tr. pp 124-125.
[29] Met-Ed/Penelec/Penn Power Statement No. 1, pp. 8-20; Company Exh. 2, Section 1.1.1(A)-(D).
[30] Met-Ed/Penelec/Penn Power Statement No. 1, p. 16; Co. Exh. 2, Table 7B, Appendix G.
[31] Met-Ed/Penelec/Penn Power Statement No. 2, p. 9.
[32] *See generally*, Met-Ed/Penelec/Penn Power Statement No. 2.

witnesses. In essence, the only challenges made to any of the proposed changes included in the Amended EE&C Plans came from MEIUG et al and were limited to changes included in the Amended Plans of Met-Ed and Penelec as those changes affect the Large C&I customer sector.[33] And these challenges were not focused on issues specific to the proposed changes. Rather, the evidence presented by MEIUG et al was limited to how the changes to Large C&I programs would affect two specific customers,[34] with a recommendation to focus the Companies' efforts on customer sectors other than the Large C&I sector.[35] This recommendation was made by two non-expert witnesses with no experience in designing or evaluating energy efficiency programs or measures; no experience in designing or evaluating peak demand reduction programs or measures; and no experience in designing or evaluating comprehensive EE&C program portfolios,[36] and was based on the testimony of counsel[37] by witnesses who had read neither Act 129 nor the entire Amended EE&C Plans of any of the Companies.[38]

In sum, all proposed program changes, other than some of those that affect the Large C&I customers of Met-Ed and Penelec went unchallenged in this proceeding. Moreover, MEIUG et al's request to reject the proposed changes to the Large C&I customer programs is not adequately supported and should be denied. MEIUG et al has not demonstrated that the Amended EE&C Plans will be more cost effective and successful if additional funding to Large C&I programs is denied and more focus is placed on programs for other customer sectors. Accordingly, the

[33] Tr., pp. 148-149, 194, MEIUG/PICA/PPUG Statement No. 2-S, p. 2.
[34] Tr., pp. 148, 194.
[35] MEIUG/PICA/PPUG Statement No. 1, pp. 13-14; MEIUG/PICA/PPUG Statement No. 2, p. 9.
[36] Tr., pp. 153-155, 185, 196-197.
[37] Throughout both the testimony and surrebuttal testimony of MEIUG et al's witnesses, their conclusions were based on what counsel had told them. *See e.g.*, MEIUG/PICA/PPUG Statement No. 1, pp. 9-11; MEIUG/PICA/PPUG Statement No. 1-S, pp. 3, 6; MEIUG/PICA/PPUG Statement No. 2, pp. 5-7; MEIUG/PICA/PPUG Statement No. 2-S, pp. 3, 6; Tr. , pp. 165,166, 178.
[38] Tr., pp. 148, 194.

Commission should approve the proposed changes included in the Amended EE&C Plans, along with the changes to the EEC-C Rider charges, as filed.

III. ARGUMENT

A. The Companies' Proposed Amendments to Their EE&C Plans are Reasonable, Lawful and Necessary to Meet Post-2011 Act 129 Reduction Mandates, and are Supported by the Evidentiary Record.

1. The Proposed Amendments to the EE&C Plans are Necessary

After the Companies implemented their Current EE&C Plans, three factors came to light which jeopardizes the Companies' ability to meet their post-2011 EE&C targets. First, based on then current information, the Companies calculated savings projections at the generation level, rather than at the retail level, which resulted in the savings projections included in the Current EE&C Plans to be overstated by approximately 11%. This was discovered after the Current EE&C Plans were approved by the Commission, when the SWE and CEEP clarified how line losses should be factored into EE&C savings projections at the retail level for Act 129 compliance purposes and at the system generation level for TRC test purposes.[39] Therefore, the Companies must amend their EE&C plans to make up this 11% deficit. Second, the Companies determined that certain programs are performing at energy or demand savings levels below projections due to the downturn in the economy, updates to the TRM, and unexpected low customer participation levels in certain programs.[40] And third, programs such as the Large C&I Equipment Programs were exceeding participation level expectations such that current funding was fully committed, requiring suspension of the programs until additional funding was approved by the Commission.[41]

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[39] Met-Ed/Penelec/Penn Power Statement No. 1, p. 7.
[40] Met-Ed/Penelec/Penn Power Statement No. 1, p. 8.
[41] *Id.*

The Companies' Witness Fitzpatrick, an expert in the design and evaluation of EE&C Programs, testified that these factors created a need for the proposed changes and that implementation of these changes is necessary in order for the Companies to be put in a position to meet their post-2011 EE&C requirements.[42] As will be discussed *infra*, no party presented credible evidence that challenges Mr. Fitzpatrick's testimony. Indeed, except for certain changes that affect the Large C&I customer sectors of Met-Ed and Penelec, no party challenged any of the other proposed changes either through pre-filed testimony or during the evidentiary hearing.

2. The Proposed Amendments to the Current EE&C Plans Are Reasonable and Supported By the Evidentiary Record and Should Be Approved Without Modification.

In order for Met-Ed, Penelec, and Penn Power to meet their post-2011 EE&C targets, the Companies proposed amendments to their Current EE&C Plans for Residential, Small C&I and Large C&I customers. Specifically, additional funding is needed for the Large C&I programs and existing funds must be shifted from various under-performing programs within a customer sector either (i) to programs and measures within that sector that have proven to be more effective; (ii) to new programs or measures within that sector; or (iii) to programs and measures within that sector to increase incentives. The Companies are also making some minor editorial changes to correct or clarify the Current EE&C Plans; and incorporating changes, such as consolidation of programs and the expanded use of incentive ranges, in an effort to streamline program administration.[43] All of these changes are discussed below[44]:

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[42] *Id.* As Mr. Fitzpatrick testified, in order for the Companies to meet their post-2011 EE&C targets, the proposed changes should have been approved in time to implement them prior to the start of Program Year 3 on June 1, 2011. (Met-Ed/Penelec/Penn Power Statement No. 1, p. 8.) Clearly, this did not occur. However, this testimony demonstrates that time is of the essence and highlights the need for a final ruling as is soon as is reasonably practical.

[43] Met-Ed/Penelec/Penn Power Statement No. 1, pps. 8-9.

[44] Each change, along with an explanation of the rationale for the same, is also set forth in Company Exh. 2, Section 1.1.1(A) – (D).

Residential and Small C&I Programs

The Companies have determined that many of the Residential and Small C&I EE&C programs were under-performing.[45] In an effort to increase participation in these programs, they believe the following changes to the Residential and Government Programs are necessary:

(a) The Residential Whole Building Comprehensive Program has been consolidated with the Home Energy audit and Outreach Program.

(b) A new Behavioral Modification Program has been added to the residential sector in which participating customers receive benchmark usage data and tips for reducing energy consumption..

(c) Incentives for residential air conditioner and heat pump tune-ups have increased from $25 to a maximum not to exceed $60, a change that is necessary in order to increase participation in this program.

(d) Upstream incentives for CFLs have been set at a range from $0.75 to $1.50/bulb, and at a level not to exceed $2.50/bulb for specialty bulbs. This change has been made to increase market penetration in the CFL market that has been relatively successful to date.

(e) Energy Conservation Kits for Multi-family residential and master - metered facilities have been added, partly to increase CFL market penetration and to also generate interest in other potential energy efficiency measures for Multi-family tenants.

(f) A variable speed pool pump replaces the "Pump and Motor Single Speed" incentive and increases the incentive level to $200 per pump in order to maximize savings for this particular measure.

(g) Government incentives have been increased to levels consistent with those being offered Large and Small C/I customers.[46]

For similar reasons, they also believe the following changes to the Small C&I Programs are necessary:

(a) The peak load reduction program has been expanded to include the Small C/I class.

[45] Met-Ed/Penelec/Penn Power Statement No. 1, p. 13.
[46] Met-Ed/Penelec/Penn Power Statement No. 1, p. 13.

(b) The incentive structure and incentive level for the C/I lighting measure within the Small C/I Equipment Program has been changed.

(c) A new direct install component has been added to the Small C/I Equipment Program through opt-in distribution. The kit will initially offer only CFL bulbs partly to test market acceptance while also increasing market penetration for this popular measure, with the intent to include additional measures as market conditions warrant.

(d) The Energy audit and Technical Assessment Program has been consolidated with the Small C/I Equipment Program. Because an energy audit is the customer's logical first step towards developing an energy efficiency plan, the Company believes that this combination will provide a more effective introduction to the Equipment Program. It will also create marketing and accounting synergies and streamline the administration of the program.[47]

As Mr. Fitzpatrick explained, the above changes are being funded through the existing budget for that customer sector. Therefore, the Companies have not requested an overall budget increase for the residential, government, and Small C&I customers.[48] In light of the fact that the above explanations are reasonable and no party challenged any of the above changes either in pre-filed testimony or during the evidentiary hearing, the Commission should approve each of these changes without modification.

Editorial and Administrative Changes

The Companies have made several changes that either correct or clarify the Current EE&C Plans. First, they corrected and clarified Met-Ed, Penelec and Penn Power Tables 5, which is more fully discussed in Section 1.1.1(C)(1) in each of the Amended EE&C Plans. They have also updated their C/I Demand Response Programs by removing references to "PJM Capacity Programs" so as to be consistent with the directive set forth in the Commission's January 12, 2011 Secretarial Letter. These changes are summarized in Section 1.1.1(C)(2) in each of the Amended EE&C Plans. And finally, the Companies have added a footnote in the

[47] Met-Ed/Penelec/Penn Power Statement No. 1, p. 12.
[48] Met-Ed/Penelec/Penn Power Statement No. 1, pp. 12-13.

program description section of each of the plans to clarify that they will add new measures as appropriate to the various programs as new measures are approved for inclusion in the TRM. This change is more fully discussed in Section 1.1.1(C)(3) of the Amended EE&C Plans.[49]

The Companies also made three types of changes to improve the administration of the programs. First, they have combined several of the under-performing programs with more effective programs with similar characteristics. This action results in marketing and accounting synergies and provides a larger combined budget that will allow the Companies to more effectively direct the funds for changing market demand without additional Commission approval. Second, while some of the incentive levels in the Current Plans were approved as ranges, the Amended EE&C Plans have restated *all* incentive levels as ranges, thus providing the Companies with the flexibility to change incentive levels within those ranges as market conditions warrant without further Commission approval, provided that the program budgets do not exceed those approved by the Commission. And, third, the Companies have added a footnote to clarify their intention to offer new measures within existing programs and approved budgets as new measures are approved for inclusion in the TRM. As designed, the Companies would not seek further Commission approval prior to making the TRM additions provided that the aforementioned conditions are met.[50]

As Mr. Fitzpatrick explained, these changes were necessary for several reasons. First, as already discussed, they streamline the administration of the various programs, thus minimizing administration costs. More importantly, these changes build in much needed flexibility to manage the various programs.[51] Based on recent Commission orders, it appears to be the Commission's policy to require most changes to an EDC's EE&C plan to be submitted for

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[49] Met-Ed/Penelec/Penn Power Statement No. 1, p. 16.
[50] Id. at 17.
[51] Met-Ed/Penelec/Penn Power Statement No. 1, p. 17.

review, at least by Staff, prior to their implementation.[52] Indeed, even under the expedited review process, approval could take 75 days or more. While this is an improvement over past policy, these changes do not alleviate the concerns expressed by Mr. Fitzpatrick who believes that the need for additional review is setting the Companies up for failure by (i) compressing an already small compliance window; (ii) unnecessarily increasing compliance costs by requiring the Companies to spend valuable time and resources preparing petitions for amendments for relatively minor plan adjustments; and (iii) hamstringing their ability to quickly adjust as market conditions warrant.[53]

As Mr. Fitzpatrick explained, the window for compliance with post-2011 Act 129 requirements is relatively narrow, and the resources available to accomplish it are limited. Therefore these resources should not be overburdened by requiring applications to make amendments for changes that have already been addressed by the Commission. Furthermore, the preparation of these petitions and supporting materials requires outside resources, which increases compliance costs and may threaten the Companies' ability to remain within the statutory 2% spending caps. And finally, the market is fluid and requires constant monitoring and "fine tuning", especially given the relative newness of most of the EE&C programs being offered in the Companies' service territories. If the Companies must wait for approval prior to making these minor changes, they could miss opportunities or pay more for an opportunity than the market requires.[54]

[52] *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order entered June 9, 2011).
[53] Met-Ed/Penelec/Penn Power Statement No. 1, p. 19.
[54] Id. at 19.

The Companies believe that all parties have an opportunity in this proceeding to fully vet the incentive ranges included in the Amended EE&C Plans[55]; and new measures and corresponding savings levels, through the TRM update process. This, when coupled with the two percent spending cap, the Commission's approval of overall program budgets and its prohibition against the shifting of funds among customer classes, provides sufficient safeguards without the need for redundant reviews of relatively minor adjustments to programs. Accordingly, for all of the foregoing reasons, the Commission should approve the administrative changes, acknowledging that no further review by the Commission would be necessary for similar changes in the future.[56]

Large C&I Programs

Generally, the Companies made two changes to Large C&I Programs by (i) increasing the funding for the Large C&I Equipment Programs and Demand Response Programs; and (ii) modifying both the incentive amount and structure for the Large and Small C&I Lighting Programs. As explained below, these changes, along with the rationale for the same, are reasonable and supported by the evidentiary record.

a. The Increase in the Companies' Large C&I Budget is Appropriate and Supported by the Evidentiary Record.

The Companies are proposing an additional $4.5 million for Met-Ed; $4 million for Penelec; and $400,000 for Penn Power, with the budget adjustments being broken out between

[55] As Mr. Fitzpatrick explained, the rebate levels will be applied uniformly and will be changed immediately if the Companies increase the rebate, and any decreases will be changed only after providing thirty days.notice to customers, contractors and others affected by the rebates. (Tr., p. 114.)
[56] Met-Ed/Penelec/Penn Power Statement No. 1, pp. 19-20.

the peak demand reduction program and the Large C&I Equipment Program as follows[57]:

Company	DR Program	LCI Equip Program
Met-Ed	**$2.5 million**	**$2 million**
Penelec	**$2.6 million**	**$1.4 million**
Penn Power	**$-1.5 million**	**$1.9 million**

The Companies must adjust their budgets for their peak demand reduction programs because: (i) the Amended EE&C Plans reflect a calculation of projected EE&C savings at the retail, rather then at the generation level, resulting in an immediate 11% shortfall in projected program results; and (ii) there are significant reductions in estimated peak demand savings resulting from modifications to the TRM and customer participation levels in certain programs and measures different from those assumed in the Current Plans.[58]

As the Companies' witness Mr. Fitzpatrick testified:

> In order to off-set the impacts of these factors, all three Companies had to significantly increase participation and budgets in 2012, which is the year that Act 129 peak demand reduction compliance will be measured. In order to conserve Act 129 program funding, the scope of this program and resulting budget in 2011 has been significantly reduced to only a pilot level. The net effect of the changes results in Met-Ed and Penelec needing greater load reduction commitments under contract during the combined 2011-12 period compared to their Current Plans, while Penn Power needs less under contract during the two-year period when compared to its Current Plan. Thus, the peak demand reduction program budget for Met-Ed and Penelec requires an overall increase, while Penn Power's comparable program budget is reduced.[59]

The Companies also must increase their budgets for their respective Large C&I Equipment Programs because these programs are extremely popular. Because Met-Ed and

[57] Met-Ed/Penelec/Penn Power Statement No. 1, pp. 9-10.
[58] Met-Ed/Penelec/Penn Power Statement No. 1, p. 10.
[59] *Id.*

Penelec's approved funding is already fully committed their Large C&I Equipment Programs have been suspended until further funding can be approved. Due to current projections and the anticipated number of customer applications in the near future, it appears that Penn Power's approved funding for its Large C&I Equipment Program will be fully subscribed in Program Year 3. Therefore, the budget increases are necessary in order to continue each of the Companies' programs and for the Companies to meet their post-2011 Act 129 EE&C targets.[60] In the Companies' view, the fact that, as of April 30, 2011, there are 78 Met-Ed Large C&I customers and 64 Penelec Large C&I customers for which incentive payment funds totaling $600,000 and $1.06 million respectively, have been committed, and there are another 43 Met-Ed and 111 Penelec Large C&I customers in the queue for similar benefits, assures the Companies of achieving additional savings - once additional funds are approved by the Commission. In contrast, because none of the Residential or Small C&I programs are fully subscribed, funding is still available for additional participants. It would not be prudent to ignore this clear customer demand for Large C&I customer funding and instead commit more resources to Residential/Small C&I programs on an "if you fund it they will come" assumption.[61]

Only MEIUG et al challenged these proposed changes, yet they did not present any evidence to refute these facts. Instead, MEIUG et al's witnesses, Messrs. Hammaker and Chasse, hope that providing additional funds for other customer sectors will spur enough activity to make up the expected shortfall – an approach that is not practical for Act 129 compliance.[62] Witness Fitzpatrick pointed out that due to the Act 129 spending cap and the TRC test, the Companies are obligated to support programs that give them the "greatest results for their

[60] Met-Ed/Penelec/Penn Power Statement No. 1, p. 11.
[61] Met-Ed/Penelec/Penn Power St. No. 2-R, pp. 4-5.
[62] Met-Ed/Penelec/Penn Power St. No. 2-R, p. 3.

money."[63] Witness Fitzpatrick explained that the Industrial Witnesses were under the erroneous impression that allocating more funds to programs will automatically increase the targeted savings levels. The reality is that one must look at the popularity of the program and how much energy and/or peak demand reduction can be achieved.[64] This fundamental error on the part of the Industrial Witnesses is not surprising given that they have no experience in EE&C measure or program design, and were not familiar with either Act 129 or the Companies' plans.[65] Their recommendation is not based on any analysis or studies, and MEIUG et al provided no specifics as to which non-Large C&I programs should be targeted, or how such actions would impact the TRC of the individual programs or the portfolio as a whole.[66] Instead, they argue (i) based on the testimony of counsel, that Act 129 requires the Companies "to implement EE&C standards that use a variety of measure that are applied equitably to all customer sectors;"[67] (ii) that approval of the changes to the Large C&I programs will cause large C&I customers "to carry a disproportionate share of the burden of meeting [the Companies'] Act 129 requirements while reaping very limited benefit;"[68] and (iii) that the Companies may not be "effectively managing [their] distribution of EE&C incentive payments to optimize the energy savings on [their] system."[69] As explained below, each of these arguments is without merit and, accordingly, none support a rejection of the increase in the Large C&I Equipment program budget as proposed by the Companies.

[63] Id.
[64] Met-Ed/Penelec/Penn Power St. No. 2-R, p. 4.
[65] Tr. 148; 194.
[66] Tr., pp. 179-181, 212-213.
[67] MEIUGPICA/PPUG Statements 1-S, pp. 3-4; MEIUGPICA/PPUG Statements 2-S, pp. 6-7.
[68] MEIUGPICA/PPUG Statements 1-S, p. 4; MEIUGPICA/PPUG Statements 2-S, p. 4.
[69] MEIUGPICA/PPUG Statements 2-S, p.7.

i. Act 129 Does Not Require Pro Rata Spending Among Customer Sectors.

The Industrial Witnesses contend that on advice of counsel, Act 129's reference to equity of measures relative to all sectors of customers should be interpreted as barring the Companies' strategy of providing further financial support to Large C&I measures that have proven successful.[70] The actual language of Act 129 on this subject is as follows. Electric Distribution Company EE&C programs shall include "[s]tandards to ensure that each plan includes a variety of energy efficiency and conservation measures and will provide the measures equitably to all sectors of customers."[71] There is no indication in Act 129 that this language was intended as legal direction to the Commission with regard to the cost of EE&C measures to any particular customer sector. In its Act 129 Implementation Order, the Commission disagrees with the Industrial Witnesses' and their counsels' interpretation of this portion of Act 129 by saying:

> [W]e believe that EDCs should develop plans to achieve the most energy savings per expenditure. The driving principle should be the most cost effective use of resources so that benefits can accrue to all customers, even if only by virtue of more reasonable energy market prices.
>
> * * *
>
> We agree that "equitable" does not mean "pro rata", especially when cost-effectiveness is factored into the process.
>
> * * *
>
> There is no single set of measures that will fit all EDCs and the myriad mix of customer sectors. It is entirely possible that the most cost effective energy efficiency and demand response programs may not come proportionally from each customer sector.[72]

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[70] MEIUG/PICA/PPUG Statement No. 1-S, p. 6; MEIUG/PICA/PPUG Statement No. 2-S, p. 6.
[71] 66 Pa.C.S. §2806.1(a)(5).
[72] *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (January 16, 2009) at 22 ("Implementation Order").

The Commission concluded its discussion of this issue by stating that each customer sector must be offered at least one energy efficiency and one demand response program.[73] However there was not to be a pro rata or proportional allocation of measures, and their associated costs, to customer sectors.. The EDCs were to develop plans that achieved the most energy savings per expenditure through the most cost effective use of resources.[74] The Companies have demonstrated through their record of achieving customer participation and energy savings that additional funding is warranted for the Large C&I programs.

ii. The Proposed Changes do not Cause the Large C&I Sector to Carry a Disproportionate Share of the Companies' Act 129 Compliance Costs.

The Industrial Witnesses claim that the proposed changes to the Large C&I programs cause them to carry a disproportionate share of the Companies' Act 129 compliance costs both on an individual and collective basis. Collectively, as Mr. Fitzpatrick explained, based on EE&C costs as a percentage of total revenues collected from customers, the financial responsibility of for Met-Ed's Large C&I customers was 6.76 % of revenues while Small C&I customers paid 11.4% of revenues for EE&C programs. For Penelec, Large C&I EE&C costs were 8% of revenues while Small C&I customers paid 14.1% of revenues. And Penn Power Large C&I customers paid 13.7% of revenues in EE&C costs, while Small C&I customers paid 13.01%.[75] By these measures, Large C&I customers are either paying less than Small C&I customer groups or roughly the same amount.

Individually, the Industrial Witnesses claim that their respective employers have done all that they can with regard to energy efficiency and allegedly will not benefit in the future from the

[73] *See also*, Order at p. 29, entered in this docket on October 28, 2009 ("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.")
[74] Implementation Order at 22-23.
[75] Tr. 44-45.

programs being offered to Large C&I Customers through the Amended EE&C Plans.[76] Yet, both qualify for the Companies' demand response program that is worth approximately $ 9.50 per kW per quarter,[77] a program in which the employers of both Industrial Witnesses participated in the past, and as admitted by Witness Hammaker, participation was not beyond the realm of possibilities in the future.[78] The value of this program is approximately $380,000 for both Appleton and East Penn, based on past load reduction commitments.[79] Moreover, Witness Chasse acknowledged on cross examination that East Penn had received a grant for a grid scale energy storage demonstration project that is under construction. The information submitted in support of the project noted that it will provide demand management services to Met-Ed. The project will allow East Penn to contribute toward Met-Ed meeting the requirements of Act 129, again providing additional MWs that would qualify for the demand response program.[80] And to the extent Met-Ed's Act 129 demand response program aided East Penn in receiving its multi-million dollar demonstration project grant, its EE&C plan provided a further financial benefit to this customer.[81]

Both Industrial Witnesses also believe that because of their perceived lack of ability to benefit in the future from the programs being offered through the Amended EE&C Plans, paying the EE&C rider equates to their employers subsidizing other Large C&I customers' efficiency and conservation projects, as well as subsidizing Small C&I customers who have not pursued

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[76] MEIUG/PICA/PPUG Statement No. 1, pp. 7-8; MEIUG/PICA/PPUG Statement No. 2, pp. 4-5.
[77] Tr. 163-164; Met-Ed/Penelec/Penn Power St. No. 2, p. 5
[78] Tr., pp. 164-165.
[79] Both Appleton and East Penn have committed in the past curtailment of approximately 10,000 kW which, based on a $9.50/kW/Qtr incentive payment, equates to approximately $380,000. (Tr., pp. 163-164, 202.)
[80] Tr. 204-206.
[81] East Penn also received lighting incentives from Penelec that provided a financial benefit to East Penn from this lighting project that exceeded $1.1 million during the three year EE&C plan. Further, based on the Pennsylvania TRM and its assumption of a 15 year lifespan for commercial lighting, the benefits to East Penn, including the rebate amount, exceed $4.3 million. Met-Ed/Penelec/Penn Power St. No. 2-R, pp. 6-7.

energy efficiency programs.[82] However, Mr. Hammaker conceded that *any* Large C&I customer that did not participate in the EE&C plan could be viewed as subsidizing other customers that did participate,[83] and the cost recovery mechanism is designed to recover program costs from the customer sectors that receive the benefit from the programs.[84] Furthermore, all customers must pay a portion of the EE&C plan costs, but obviously not all customers are in a position to actually participate in a program to the same degree. This is not unlawful or unfair "subsidization", but rather a practical consequence of the Act 129 process of all customers pooling funds so that some customers can receive financial incentives to pursue conservation and efficiency measures.[85] It is mathematically impossible for all customers to collectively receive more dollars in rebates and incentives than they collectively pay the electric distribution company through the EE&C rider.[86] Therefore the Industrial Witnesses' complaint that the Large C&I customer sector will pay more through the EE&C rider than they will receive in rebates and incentives rings hollow.

In sum, the Industrial Witnesses' position that the current and proposed EE&C Plan does not hold opportunity for their companies to participate is contrary to the facts. Both companies represented by the Industrial Witnesses possibly benefit in the future. Further, based on the above-referenced program participation statistics, a significant number of Large C&I customers already have, and intend in the future, to enjoy the benefits of the large customer programs. Appleton and East Penn may be atypical Large C&I customers that may not be able to participate

[82] MEIUG/PICA/PPUG Statement No. 1, pp. 10-11; MEIUG/PICA/PPUG Statement No. 2, pp. 7-8.
[83] Tr. 174.
[84] Tr., p. 174.
[85] The definition of an energy efficiency and conservation measure states that the "cost of the measure is directly incurred in whole or in part by the electric distribution company". 66 Pa.C.S. §2806.1(m). It is contemplated that customers will contribute toward the cost of implementing a measure, and obviously not all customers will be in a position to make that contribution.
[86] It cannot even be a break even proposition given that the Companies are responsible for marketing, administration and evaluation expenses that draw on EE&C rider revenues.

or cannot see future benefits arising from their participation in the Companies' Amended EE&C Plans. However, policy should not be based on the needs of the few (or the two), but rather on the needs of the many. And in this case, the many clearly desire the ability to take advantage of the Large C&I programs.

iii. The Additional Funds to be Applied Towards the Large C&I Equipment Program are Cost Effective.

Mr. Chasse noted a concern that Met-Ed might not be optimizing its EE&C plan expenditures because he calculated a $96 cost per megawatt-hour for the Company's Large C&I programs.[87] However the $96 cost per megawatt-hour for Met-Ed Large C&I programs is exceeded by the overall average cost of $241 per megawatt-hour for all Met-Ed programs, the $172 cost per megawatt-hour for Small C&I programs and the $288 cost per megawatt-hour for Residential programs.[88] Met-Ed's Large C&I programs are the Company's most cost effective programs when measuring customer group costs against savings. As Mr. Fitzpatrick stated, the Large C&I programs provide the "best bang for the buck".[89]

iv. Summary

The core of the Industrial Witnesses' opposition to the Companies' proposed EE&C plan amendments is the increase in budget amounts for Large C&I customer programs. The necessity to augment these customers' budgets was specifically identified in the Companies' Original Plans. Each Company included in their Original Plan a contingency that would allow them to "[s]hift resources to higher performing programs that may have been under funded." This contingency was based on an assumption that there might be low participation from industrial

[87]MEIUG/PICA/PPUG Statement No. 2-S, p. 7.
[88] Tr. 48.
[89] Tr. 45.

customers due to then current economic conditions.[90] Thus the Original Plans indicated that Large C&I customer programs "may have to be rebalanced if there is a higher than expected response from the industrial sector."[91] These have proved to be prophetic words.

MEIUG et al seeks to deny numerous other Large C&I customers the opportunity to achieve energy and peak load reductions with financial assistance from the Companies through utilization of EE&C programs. These programs have been successful and are putting the Companies on the path to fulfill their Act 129 post-2011 reductions. However additional funding must be made available to the Companies so as to allow financial commitments to be made to the many Large C&I customers that seek efficiency and conservation savings. The proposed Large C&I program amendments are reasonable, appropriate and beneficial to many Large C&I customers. No arguments have been made that warrant denying the Companies' request to modify the large C&I customers' programs and increasing the funding as proposed. The ALJ and the Commission should approve the Companies' proposed modifications to the Large C&I program budgets without modification.

b. The Proposed Change to the Lighting Incentive Structure and the Resetting of the Incentive Amount is Reasonable and Supported by the Evidentiary Record.

On March 1, 2011, the Companies changed the incentive structures and incentive levels for the Large and Small C&I lighting component of their respective equipment programs. Specifically, the Companies changed the lighting incentive being paid from a \$/Watt basis to \$/kWh basis. As Company Witness Fitzpatrick explained, changing to a \$/kWh incentive structure provides more consistency and a better correlation between the incentive paid and the

[90] To the extent the Large C&I customer costs were therefore lower in the Original Plan than under the current proposal, those customers have benefited from the Companies' consideration of economic conditions. However adverse economic conditions affect all customers and the Act 129 mandates require the Companies to fulfill their reduction responsibilities by reinforcing programs that are performing well.
[91] Met-Ed/Penelec/Penn Power St. No. 2-R, p. 5.

energy savings contributed by the customer, and offers more predictability for purposes of managing the program budgets.[92]

The Companies also set the initial $/kWh incentive level to $0.05/kWh. Mr. Fitzpatrick testified that setting the incentive level to $0.05/kWh should be done for the following reasons: (i) it's not unusual to reduce an incentive level once a program is launched, especially when the measure has proven effective, as is the case with lighting; (ii) the Companies are relying on the expertise of their program implementation contractor, SAIC Energy Environment & Infrastructure, LLC, who believes the incentive levels currently being paid are higher than necessary; and (iii) the Companies can adjust the incentive payout within $0.05/kWh to $0.09/kWh should market conditions warrant.[93]

The Companies had to implement the changes to the incentive level and structures before Commission approval because based on the current projections, if these changes were not made, the funding for the Large C&I Equipment Programs would have been prematurely exhausted and a significant portion of the approved funding for the Small C&I Equipment Programs will be committed at incentive levels that if sustained, would have jeopardized the Companies' ability to achieve their post-2011 Act 129 targets within their 2% spending cap.[94] However, because the Companies recognize the Commission's need to review the lighting incentive changes, the Companies are making these changes contingent upon Commission approval and are fully prepared to issue additional rebates should the Commission not agree with these changes.[95]

[92] Met-Ed/Penelec/Penn Power Statement No. 1, p. 14.
[93] *Id.*
[94] Met-Ed/Penelec/Penn Power Statement No. 1, p. 15.
[95] *Id.*

No party challenged these proposed changes either through direct testimony or during the evidentiary hearing. Accordingly, the changes to the lighting incentive levels and structures should be approved as described above.

B. The Companies' Amended EE&C Plans Comply With the Law.

Like the Current EE&C Plans, the Amended EE&C Plans meet the requirements of Act 129. Specifically, the Amended EE&C Plans:

- Continue to include a variety of EE&C measures and will provide the measures equitably to all customer sectors pursuant to 66 Pa.C.S. §2806.1(a)(5).

- Continue to include well-reasoned and balance test of measures that are tailored to usage and to the potential for savings and reductions for each customer sector.

- Continue to be cost-effective, passing the Total Resource Cost Test on both an individual program and total portfolio basis, and will provide a diverse cross-section of alternatives and reasonable mix of programs that should benefit consumers of all rate sectors as required by 66 Pa.C.S. §2806.1(b)(1)(i)(I).

- Are designed to enable the Companies to meet and exceed the post-2011 Act 129 consumption and peak demand reduction targets based on currently available information, including current TRM savings values, although delays in approving the Companies' Main Petition place compliance in jeopardy.

- Are designed in such a way that the estimated costs of implementing the Amended EE&C Plans are prudent and reasonable, are being reasonably allocated, and will be recovered from the customer sector receiving the direct benefit of such measures.[96]

No party to this proceeding has proposed specific alternative modifications to the Companies' Current EE&C Plans. Although MEIUG et al has contended generally that the proposed augmentation of Large C&I customer programs should be rejected and instead more focus be placed on Residential and Small C&I customer programs, no specific alternative

[96] Met-Ed/Penelec/Penn Power Statement No. 1, p. 23.

programs and budgets for smaller customers have been proposed; nor has any analysis been performed that would indicate compliance with TRC and spending cap requirements, should the Industrial Witnesses' recommendation be adopted. Indeed, the only proposed amended plans before the Commission that demonstrate such compliance are those presented by the Companies. Accordingly, the ALJ and Commission should approve the Companies' proposed amendments to the Current EE&C Plans without modification.

C. The Proposed Revisions to the EEC-C Riders Are Consistent with Commission Directives, Past Commission Orders and Act 129 and Should be Approved as Proposed by the Companies.

The Companies are proposing two revisions to the Companies EEC-C Rider. First, the Companies are proposing that the text for the Penn Power Energy Efficiency and Conservation Charge ("EEC-C") Rider be updated to reflect Penn Power's entrance into PJM.[97] Specifically, beginning on June 1, 2011, Penn Power's EEC-C for the Industrial Sector would be charged based on a customer's PJM PLC as is currently being done at Met-Ed and Penelec.[98] This change is consistent with the Commission's Order entered on October 28, 2009 in this docket.

Second, the Companies are requesting that the Commission approve the changes to Met-Ed, Penelec, and Penn Power's EEC-C charges effective October 1, 2011. The changes to Met-Ed, Penelec, and Penn Power's EEC-C charges are in accordance with the updated revenue requirements associated with each Company's Amended EE&C Plan. The specific calculations of the proposed EEC-C charges are set forth in Supplemental Exhibit CVF-1.[99]

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[97] The Companies are not proposing any changes to the structure or language of Met-Ed and Penelec EEC-C Riders. *See* Met-Ed/Penelec/Penn Power Statement No. 2, pp. 7-8.
[98] Met-Ed/Penelec/Penn Power Statement No. 2, pp. 7-8.
[99] Met-Ed/Penelec/Penn Power Statement No. 2, p. 8; Tr. 123-125.

Under the Companies Current EE&C Plan, the EEC-C Riders were designed to be in effect through May 31, 2013.[100] However, as Company witness Charles V. Fullem testified:

> The Companies included a provision in their approved EEC-C Riders that would allow these charges to be changed if it was determined that the EEC-C charges would result in material over- or under-collections of recoverable costs incurred or expected to be incurred during the EEC Computational Period (March 1, 2010 through May 31, 2013), with these changes becoming effective thirty days after the filing. In such an instance, the EEC-C Riders allow the Companies to ask the Commission to approve interim revisions to the EEC-C charges. In addition, the EEC-C Riders provide that interim changes in the EEC-C charges may also address a re-allocation of program expenses for cost recovery among customer sectors. Given the current sales and revenue collection levels, as well as the changes being proposed in this filing, the Companies believe that it is appropriate to modify the rider charges...[101]

When he testified, Mr. Fullem, in Supplemental Exhibit CVF-1, recalculated the EEC-C Riders to assume an effective date of October 1, 2011. The Commission expressly stated that the Companies could modify their Current EE&C Plans and increase spending with Commission approval.[102] Act 129 also requires that the total cost of these plans not exceed 2% of the EDC's total annual revenue as of December 31, 2006.[103] The changes that Met-Ed, Penelec, and Penn Power propose to their EEC-C charges are below the mandated 2% cap limit.[104] No party to this proceeding has presented testimony that challenges the calculation of the proposed EEC-C

[100] *Id.*
[101] Met-Ed/Penelec/Penn Power Statement No. 2, pp. 6-7.
[102] *See 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 (Order entered January 28, 2010) at 42-44 and *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 (Order entered February 26, 2010) at 13-14.
[103] 66 Pa.C.S. §2806.1(g).
[104] Met-Ed/Penelec/Penn Power Statement No. 2, pp. 9.

charges.[105] Therefore, the Companies' proposed revisions to the EEC-C charge should be approved in order for the EEC-Rider language to be consistent among the Companies and in order for the Company to meet their post-2011 Act 129 targets.

IV. CONCLUSION

Wherefore, for the reasons set forth above, the Companies' request that the Administrative Law Judge adopt the Findings of Fact and Conclusions of Law as set forth in the Appendix to this brief, approve the Joint Petition for Consolidation of Proceedings Approval of Energy Efficiency and Conservation Plans, without modification, and deny the relief sought by MEIUG et al.

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Dated: July 12, 2011

[105] By implication, MEIUG et al. are arguing for the Large C&I rider to be lower than proposed and the Residential and Small C&I riders to be higher.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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	:	**Docket Nos. M-2009-2092222 M-2009-2112952 M-2009-2112956**

CERTIFICATE OF SERVICE

I hereby certify that I have on this 12th day of July, 2011, served a true copy of the Main Brief and related appendices of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company upon the parties set forth below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), both by electronic mail and U. S. First Class Mail, postage prepaid.

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APPENDIX I

PROPOSED FINDINGS OF FACT

1. The saving projections included in the Companies' Current Plans are overstated by approximately 11%. Met-Ed/Penelec/Penn Power Statement No. 1, p. 7.

2. The 11% shortfall has occurred because after the Current Plans were approved by the Commission, the Statewide Evaluator and Commission Bureau of CEEP clarified how EE&C savings projections should be calculated at the retail level for Act 129 compliance purpose and at the system generation level for TRC test purposes. Met-Ed/Penelec/Penn Power Statement No. 1, p. 7.

3. Certain programs are performing at energy or demand savings levels below projections due to the downturn in the economy, updates to the TRM, and customer participation levels. Met-Ed/Penelec/Penn Power Statement No. 1, p. 8.

4. The Large Commercial & Industrial Programs are exceeding participation level expectations. Met-Ed/Penelec/Penn Power Statement No. 1, p. 8.

5. Because Met-Ed and Penelec's approved funding is already fully committed their Large C&I Equipment Programs have been suspended until further funding can be approved. Met-Ed/Penelec/Penn Power Statement No. 1, p. 11.

6. Penn Power's approved funding for its Large C&I Equipment Program will be fully subscribed in Program Year 3. Met-Ed/Penelec/Penn Power Statement No. 1, p. 11.

7. An additional $4.5 million in funding for Met-Ed, $4 million for Penelec, and $400,000 for Penn Power is necessary in order to continue the Large C&I Programs and for the Companies to meet their post-2011 Act 129 EE&C targets. Met-Ed/Penelec/Penn Power Statement No. 1, pps. 9 and11.

8. The Companies had to change the lighting incentive being paid on a $/Watt basis to a $/kWh basis for the Large and Small C&I lighting component of their respective equipment programs and had to set the initial $/kWh incentive level to $0.05/kWh before Commission approval because based on the current projections, if these changes were not made the funding for the Large C&I Equipment Program would have been prematurely exhausted and a significant portion of the approved funding for the Small C&I Equipment Program will be committed at incentive levels that if sustained, would have jeopardized the Companies' ability to achieve their post-2011 Act 129 targets within their 2% spending cap. Met-Ed/Penelec/Penn Power Statement No. 1, p. 15.

9. Many of the residential and Small C&I EE&C programs are under-performing. Met-Ed/Penelec/Penn Power Statement No. 1, p. 13.

10. The existing funds for the residential and Small C&I EE&C programs must be shifted from various under-performing programs within a customer sector either (1) to program and measures within that sector that have proven to be more effective, (ii) to new programs or measures within that sector; or (iii) to programs and measures within that sector to increase incentives. Met-Ed/Penelec/Penn Power Statement No. 1, pps. 8-9.

11. No overall budget increase is needed for the residential, government, and Small C&I programs. Met-Ed/Penelec/Penn Power Statement No. 1, pps. 12-13.

12. The consolidation of measures within programs, the use of ranges for all applicable incentives, and the inclusion of additional measures that have been added to the Technical Resource Manual without further approval from the Commission will improve the administration of the various programs. Met-Ed/Penelec/Penn Power Statement No. 1, pps. 17-20.

13. The changes to Met-Ed, Penelec, and Penn Power's EEC-C charges are in accordance with the updated revenue requirements associated with each Company's First Amended Plan. Met-Ed/Penelec/Penn Power Statement No. 2, p. 8.

APPENDIX II

PROPOSED CONCLUSIONS OF LAW

1. The First Amended Plans include a variety of EE&C measures and will provide the measures equitably to all customer classes pursuant to 66 Pa. C.S. §2806.1(a)(5).

2. The First Amended Plans are cost-effective, passing the Total Resource Cost Test on both an individual program and total portfolio basis, and will provide a diverse cross-section of alternatives and reasonable mix of programs that should benefit consumers of all rate classes as required by 66 Pa. C.S. §2806.1(b)(1)(i)(I).

3. The First Amended Plans achieve the most energy savings per expenditure through the most cost effective use of resources as required by the Commission's Order in *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order entered January 16, 2009), pps. 22-23.

4. Penn Power's Industrial Class EEC-C should be based on the customer's PJM Peak Load Contribution consistent with the Commission's Order in *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 (Order entered October 28, 2009).

5. The Company's proposal to modify their current EE&C Plans and increase spending is consistent with the Commission's Orders in *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 (Order entered January 28, 2010) at 42-

44 and *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 (Order entered February 26, 2010), pps. 13-14.

6. The changes that Met-Ed, Penelec, and Penn Power propose to their EEC-C charges are below the mandated 2% cap limit as required by 66 Pa. C.S. § 2806.1(g).

7. The First Amended Plans submitted by Penn Power, Met-Ed, and Penelec meet the requirements of Section 2806.1(a), (b) and (c) of the Pennsylvania Public Utility Code.

APPENDIX III

PROPOSED ORDERING PARAGRAPHS

1. That 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 is hereby granted and approved.

2. That Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company's proposed EEC-C charges, as amended by Supplemental Exhibit CVF-1 attached to the direct testimony of Charles V. Fullem, will become effective on October 1, 2011.

3. That Penn Power's EEC-C for the Industrial Class shall be charged based on a customer's PJM PLC as is currently being done with respect to Met-Ed and Penelec.

4. That Docket Nos. M-2009-2092222, M-2009-2112952 and M-2009-2112956 shall be marked closed.

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KATHY GRANT
FIRSTENERGY CORP
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