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April 17, 2012

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

VIA HAND DELIVERY

RE: Act 129 Energy Efficiency and Conservation Program Phase Two; Docket No. M-2012-2289411

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission are the original and three (3) copies of the Comments of the Industrial Energy Consumers of Pennsylvania ("IECPA"), Duquesne Industrial Intervenors ("DII"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Penn Power Users Group ("PPUG"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customer Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrial Customer Groups") in the above-referenced proceeding.

Please date stamp the extra copy of this transmittal letter and Comments, and kindly return them to our messenger for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By Pamela C. Polacek

Pamela C. Polacek

Counsel to the Industrial Customer Groups

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PA PUC
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PCP/sar
Enclosures
c: Megan Good, Bureau of Technical Utility Services (Via E-mail megagood@pa.gov)
ra-Act129@pa.gov

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Act 129 Energy Efficiency and Conservation Program Phase Two	: :	Docket No. M-2012-2289411

COMMENTS OF THE INDUSTRIAL CUSTOMER GROUPS

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Dated: April 17, 2012

The Pennsylvania Public Utility Commission's ("Commission") has commenced its investigative process to determine whether the Energy Efficiency and Conservation ("EE&C") Plans under Act 129 will be reauthorized. The Commission issued a Secretarial Letter setting forth specific issues for comment by interested parties regarding the reauthorization investigation process. The Industrial Energy Consumers of Pennsylvania ("IECPA") is an association of energy-intensive industrial companies operating facilities across the Commonwealth of Pennsylvania. IECPA's members consume in excess of 25% of the industrial electricity in Pennsylvania and employ approximately 41,000 workers. Also sponsoring these Comments are coalitions of industrial customers receiving service from most of the Commonwealth's electric distribution companies ("EDCs"): Duquesne Industrial Intervenors ("DII"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Penn Power Users Group ("PPUG"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customer Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrial Customer Groups").

The Industrial Customer Groups applaud the Commission's proactive approach to investigating whether to reauthorize the Act 129 plans. The Industrial Customer Groups submit these initial comments in response to the Secretarial Letter, and intend to actively participate in subsequent stages of this investigation to address issues related to Large Commercial & Industrial ("Large C&I") customers.

1. Planning Timeline

The Secretarial Letter includes a proposed timeline for consideration of whether to continue the Act 129 programs and, if the programs are extended, for litigation of the plans. The Commission anticipates that it will release its Tentative Implementation Order and the Statewide Evaluator's studies concurrently on May 10, 2012. The Final Implementation Order will be addressed at the Commission's August 2, 2012, Public Meeting. The timeline will result in all Electric Distribution Companies ("EDCs") submitting plans on November 1, 2012, and the Commission ruling on the plans by February 28, 2013.

The Statewide Evaluator's studies will be very important to the determination of whether to extend the Act 129 plans. The Industrial Customer Groups and other stakeholders will need sufficient time to analyze the studies prior to commenting on whether the studies support continuation of the plans. The June 25, 2012, date for comments appears to provide sufficient time for this analysis. The Industrial Customer Groups request that the Commission schedule a technical conference with the Statewide Evaluator approximately two or three weeks after the studies are issued to discuss any questions regarding the studies.

Finally, in the Tentative Implementation Order, the Industrial Customer Groups suggest that the Commission include a schedule and process for the issuance of the Statewide Evaluator's study regarding demand response. This process also should include a technical conference to discuss questions regarding the study with the Statewide Evaluator.

2. Length of Second EE&C Program

The statute requires the PUC to periodically evaluate whether Energy Efficiency and Demand Reduction goals should be established. The Commission suggests that the next series of plans could be for a period of three, four or five years.

The Secretarial Letter recognizes that there are pros and cons for each of the potential plan lengths. The Industrial Customer Groups believe that it is essential to use the Statewide Evaluator annual reports regarding the individual plans as a basis to refine and modify the programs and measures if the plans are extended. The annual reports are being issued approximately 9 to 10 months after the conclusion of the plan year. To enable the parties to adequately adapt to the findings in those reports, the Industrial Customer Groups suggest that the next series of plans should be three years in length. A shorter duration will ensure that the ratepayers are not locked into longer term plans if subsequent Statewide Evaluator reports identify flaws in the current plans that need to be addressed.

3. Inclusion of a Demand Response Curtailment Program

The Secretarial Letter discusses options to address the decision regarding whether to continue a demand response curtailment program. As the letter recognizes, because the Act 129 goals are based on performance during the summer of 2012, the stakeholders and the Commission will not have an analysis of the cost-effectiveness of the demand response portion of the plans when it issues its Final Implementation Order in August 2012. The Commission has asked the Statewide Evaluator to conduct a study regarding the demand response portion of the programs, which the Commission anticipates being available near the end of 2012.

It is very important to review the Statewide Evaluator's report prior to making a decision regarding the fate of the demand response portion of the plans. For larger customers, demand response options exist through the PJM Interconnection. The PJM demand response programs are purportedly providing customers with market signals regarding the appropriate value of their willingness to curtail usage during peak hours and emergency situations. Act 129 places additional demand reduction requirements on the EDCs and ratepayers are funding the activities needed to meet those additional requirements. The Commission must examine whether the cost paid by the ratepayers justifies the incremental value to ratepayers (if any) that is produced by meeting the additional requirements. This can only be done after the Commission and the stakeholders review the Statewide Evaluator's report. If the report shows that the demand reduction targets are not cost-effective, then the Industrial Customer Groups suggest that the Commission omit a demand reduction component from future EE&C Plans for larger customers and rely instead on the PJM programs. For smaller customers that may not have ready access to the PJM programs, the Commission may decide that the demand reduction component could continue.

The Secretarial Letter outlines three options to address the demand reduction portion of the analysis. The Industrial Customer Groups favor establishing a three year Energy Efficiency plan with targets through May 31, 2016 (assuming that the Energy Efficiency portion of the plans are extended). After the demand reduction report is issued, the Commission and the stakeholders can evaluate whether to continue demand reduction targets beginning in the Summer of 2016, which would correspond with the first year of a potential third EE&C Plan.

4. Aligning EDC Targets and Funding Using Dollars per MWh of Expected Reductions.

As the Commission recognizes, there is a wide range of budgets for the current EE&C Plans, but uniform percentages of energy and demand reduction targets. The Commission questions whether the budgets and reduction targets should be balanced in the next round of EE&C Plans.

The Industrial Customer Groups support balancing the reduction targets and budgets across the state. All EDCs should have funding for the next EE&C Plan based on a uniform dollar per MWh assumption. The disparity in the current budgets results from the historic disparity in bundled electric rates prior to restructuring. Continuing the current structure will perpetuate the historic disparities that existed prior to the expiration of the rate caps. Changing to a uniform dollar per MWh budget will ensure that customers in each EDC service territory are treated equitably and are not unreasonably disadvantaged by having to pay more for the EE&C Plan based on historic conditions that are no longer relevant. In addition, it will provide an incentive for EDCs to operate the plans in the most cost-effective manner.

5. Inclusion of a Reduction Target Carve-Out for the Government, Educational and Non-Profit Sector.

The Industrial Customer Groups have no comments on this issue at this time, but reserve the opportunity to comment further in subsequent phases of this process.

6. Inclusion of a Low-Income Sector Carve-Out.

The Industrial Customer Groups have no comments on this issue at this time, but reserve the opportunity to comment further in subsequent phases of this process.

7. Transition Issues

The Secretarial Letter seeks comments on several "transition" issues involving the transition from the current EE&C Plans to future EE&C Plans, if required. Two of those issues are of particular concern to the Industrial Customer Groups.

First, the Commission questions whether EDCs that exceed their energy reduction targets should receive "credit" in the next EE&C Plan for the excess. Initially, the Industrial Customer Groups respectfully suggest that it is more appropriate to classify the "credit" as accruing to the ratepayers of the EDC, rather than the EDC itself. Although the EDC is managing the EE&C Plan, ratepayers are funding the EE&C Plan. With respect to the substantive question, the Industrial Customer Groups support rolling any over-performance forward into the next plan and reducing the EDC's targets (and budget) correspondingly.

Second, the Commission similarly discusses the disposition of any unused portions of the budget for the original EE&C Plans. The Commission suggests that the funds could be used to continue plans even after the targets are met, or could be used for the second plan. Alternatively, the Commission questions whether the unused funds should be reconciled and returned to ratepayers. The Industrial Customer Groups support a full reconciliation of the EE&C Plan expenditures and budgets, with timely return of any unused amounts to the ratepayers. When the parties litigated the original plans, the surcharges were calculated based on projections of costs that would subsequently be reconciled based on the actual costs for each customer class. The reconciliation should occur as anticipated. If there is a refund that is required, it should be done on class-specific basis and implemented in the first year after the expiration of the current plans.

Finally, the Commission seeks input on the energy forecast that should be used to measure any subsequent demand and energy reduction targets. The Industrial Customer Groups take no position on this issue at this time; however, the Industrial Customer Groups are concerned that the forecast accurately reflect the impact that the economic recession has had on actual demand over the last three to four years.

8. Other Act 129 Program Design Issues.

The Commission notes that the reconciliation processes for the EDCs vary and do not include interest, and requests comments on whether to standardize the procedures. The Industrial Customer Groups support standardizing the reconciliation process. In addition, if the Commission is going to include annual energy reduction targets in the next plan, then it may be advantageous to ensure that the surcharges for each year are based on the projected costs to attain the targets for that year, and are timely reconciled to actual costs, with interest.

9. Other Issues

In addition to the issues raised in the Secretarial Letter, the Industrial Customer Groups have three issues for the Commission to consider in its Tentative Implementation Order.

First, the Industrial Customer Groups recommend that the Commission consider whether it will continue to approve measures that have a TRC value of less than 1.0 (i.e., that are not cost-effective). Although the Commission's initial Implementation Order determined that every customer class required at least one energy efficiency and one demand reduction measure, the Commission also has the authority to terminate any part of a plan if the Commission determines that the measure will not achieve the required reductions in cost-effective manner. See 66 Pa. C.S. § 2806.1(b)(2). Based on the results and experiences of the first plans, the Commission may want to revisit that initial determination if the plans are extended and omit any measures that are not cost-effective.

Second, the Commission should examine the use of the plan funds, including how much of the funds are being provided to ratepayers as incentives, how much is being used for equipment, how much is allocated to utility administrative costs and how much is being used to pay third parties (such as conservation service providers and other consultants). If the plans will continue, then the Commission should continually evaluate how to make the plans more efficient and ensure that ratepayers are getting the maximum return on their investment.

Third, the Commission should consider the addition of a provision that allows larger customers who undertake more substantial projects outside of the plan process to forego payment of the plan surcharges. For some customers and manufacturing processes, a substantial investment may be necessary to achieve efficiency goals. As an incentive for a customer to undertake a more substantial project, the Commission could consider exempting the customer from paying the EE&C surcharge in recognition of the investment that the customer is making in their own project. Other states, such as Ohio, have included similar "self-supply" options for customers who undertake energy efficiency projects outside of the formal plan context.

WHEREFORE, the Industrial Energy Consumers of Pennsylvania, Duquesne Industrial Intervenors, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, the foregoing Comments.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By ____________________

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