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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

June 25, 2012

Pennsylvania Public Utility Commission
Attention: Secretary
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Docket No. M-2012-2289411
Act 129 Energy Efficiency and Conservation Program
Phase II Tentative Implementation Order

Dear Secretary Chiavetta:

Enclosed for filing please find comments of the National Housing Trust and the Pennsylvania Housing Finance Agency in the matter referenced above. Thank you for providing the opportunity to comment.

Sincerely,

Michael Bod

Michael Bodaken
President, National Housing Trust

1101 30th Street, N.W., Suite 400 ▪ Washington, D.C. 20007 ▪ 202-333-8931 ▪ FAX: 202-833-1031

JOINT COMMENTS OF THE NATIONAL HOUSING TRUST AND PENNSYLVANIA HOUSING FINANCE AGENCY

The National Housing Trust ("NHT") and the Pennsylvania Housing Finance Agency ("PHFA") respectfully submit the following comments regarding Docket Number M-2012-2289411 to the Pennsylvania Public Utility Commission ("Commission"). NHT protects and improves existing affordable rental homes so that low income seniors and families can live in quality neighborhoods with access to opportunities. We engage in public policy advocacy that is informed by on the ground real estate development, lending and multifamily ownership. PHFA provides the capital for decent, safe, and affordable homes and apartments for older adults, persons of modest means, and those with special housing needs. We appreciate the opportunity to submit comments on this matter.

A(4)(b). Inclusion of Multifamily Housing

NHT and PHFA appreciate the Commission's inclusion of a recommendation that multifamily rental housing be given special emphasis in electric distribution companies' ("EDC") energy efficiency and conservation programs ("EE&C Program"). As the Commission observed in the Tentative Implementation Order, there are significant barriers to the participation of multifamily housing in EE&C Programs including the need to get most or all of the tenants to participate in the program, the mix of metering and account classification issues, and upfront capital costs borne by property owners.[1] These barriers prevent a significant segment of the low-income population from realizing the multiple benefits of Act 129. According to the Office of Consumer Advocate, these benefits include lower operating costs which limit the need for owners to raise rents.[2]

Setting Funding or Savings Targets. We urge the Commission to require the EDCs to meet specific funding targets in the multifamily housing sector. While we appreciate the

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[1] See Tentative Implementation Order, pgs 20-21.
[2] Ibid, pg. 22

Commission's encouragement of the EDCs to develop strategies to reach this sector, overcoming the challenges of serving this housing stock requires specific mandates from the Commission. Specifically, we recommend that the Commission direct the EDCs to target a portion of their EE&C Program budgets for this sector that is proportionate to the size of the multifamily housing stock in each service territory.

Requiring specific, limited funding targets for multifamily housing is consistent with the intent of Act 129 because it will ensure an equitable distribution of resources. Act 129 statute clearly states that EE&C Programs are to serve <u>all</u> customer sectors and requires programs to include:

> "Standards to ensure that each plan includes a variety of energy efficiency and conservation measures and will provide the measures **equitably to all classes of customers.**" *See 66 Pa. C.S. § 2806.1(a)(4)(our emphasis).*

Increasingly public utility commissions, utilities, and program administrators are taking action to ensure the fair expenditure of energy efficiency funds in the multifamily housing sector. Recently the Board of Directors of the National Association of Regulatory Utility Commissioners passed a resolution supporting this goal, noting that "Energy efficiency programs for owners of, or tenants living in, multifamily affordable housing have in the past not always been well-designed for easy access." The Board of Directors resolved:

> "That public utility commissions, in proceedings in which utility expenditures on energy efficiency are being raised, should use their discretion when appropriate to investigate the extent to which the company's energy efficiency programs are fairly serving all customer sectors, including but not limited to the affordable multifamily sector."[3] (*See resolution enclosed.*)

Several mid-Atlantic and Northeastern states including Rhode Island, Maryland, Massachusetts, and New Jersey have recently implemented multifamily-specific energy

[3] See "Resolution Supporting Fair Expenditure of Energy Efficiency Funds in All Customer Sectors" approved by the National Association of Regulatory Utility Commissioners Board of Directors on July 20, 2011, enclosed.

efficiency programs targeting state and federally financed affordable housing using ratepayer funding. These programs include: dedicated funding and meaningful goals for energy efficiency improvements in multifamily affordable housing, participation of both individually- and master-metered properties, and sufficient means to ensure that the renters benefit from the improvements by requiring an extension of affordability by the owner in exchange for participation in the programs.

In Rhode Island, the State Department of Housing is partnering with National Grid. National Grid is currently analyzing the "gap funds required" to deepen energy efficiency in the Rhode Island Housing Finance Agency's affordable housing pipeline. In Maryland, the public service commission directed the utilities to transfer funding to the Maryland Department of Housing and Community Development (DHCD) for the purpose of implementing low-income energy efficiency programs including $12 million of ratepayer funds for a program targeting affordable multifamily housing.[4] Just this week, Maryland's Governor sought an additional $9 million be transferred to DHCD for similar purposes. Similarly, PSE&G in New Jersey is targeting $39 million over 4 years for affordable multifamily housing that is being implemented through a collaborative arrangement between PSE&G and New Jersey Home Mortgage Finance Agency.[5]

In order to ensure that multifamily housing receives a fair expenditure of funding, we recommend that the Commission direct the EDCs to target a portion of their EE&C Program budgets to multifamily housing that is proportionate to the size of this sector in each service territory. According to an analysis of Census data, the proportion of housing units in each EDC service territory varies from 7% to 15% (See table below).

[4] See Maryland Public Service Commission Order No. 84569 Order. Case Nos. 9153, 9154, 9155, 9156 and 9157
[5] See State of New Jersey Board of Public Utilities Docket Nos. EO09010056 and EO09010058

Electric Utility	Percentage of Housing Stock in the Service Territory that are Multifamily Rentals (5+ units)
Duquesne	15%
Metropolitan Edison	7%
PECO	13%
Penn Electric	7%
Penn Power	7%
PPL Electric	9%
West Penn	8%
Total:	***10%***

Source: NHT analysis of 2010 Census data.

Eligible Multifamily Housing. With respect to the Commission's proposal that multifamily housing be given special emphasis and consideration within the government/educational/nonprofit sector, it was unclear whether the Commission's intention was to allow for-profit owned multifamily affordable housing to qualify under the set aside. We recommend that the Commission allow EE&C funding to be targeted to both nonprofit and for-profit low-income multifamily properties.

There are more than 140,000 affordable apartments in privately-owned properties throughout Pennsylvania that receive government assistance. Both nonprofit and for-profit owners of state and federally financed multifamily properties have a contractual obligation that prohibits them from raising rents to unaffordable levels. A significant portion of the affordable housing stock is owned and managed by the for-profit sector. Regardless of ownership this stock often fails to generate enough revenue to ensure long term viability and requires operational savings to help preserve the quality of the housing. As a condition of receipt of utility funding, we support requiring these owners to commit to an extended period of affordability.

Coordination with PHFA. In order to streamline program administrative costs and develop workable program designs, we recommend that the Commission require the utilities to partner with the Pennsylvania Housing Finance Agency. In other states, utilities and public utility commissions have realized significant administrative efficiencies by partnering with the state housing finance agency. PHFA has extensive experience in multifamily financing and construction and has developed a significant track record administering energy efficiency resources for multifamily housing and is recognized nationally as a leader in this regard.[6] PHFA will be able to use the Act 129 resources to leverage other sources of funding administered by the agency. PHFA can leverage its skills and relationships to help the utilities effectively serve the multifamily affordable housing sector. PHFA's contributions, as part of a partnership with the utilities, could include:

- *Helping utilities connect with owners of the properties in PHFA's portfolio which, by definition, qualify for the 60% of median income test.* PHFA has multiple contacts with multifamily owners, including its annual inspections of these properties, and/or its already existing financing on affordable multifamily housing;
- Applying its experience administering weatherization services in multifamily housing as a subgrantee of the Weatherization Assistance Program and administrator of the Preservation through Smart Rehab program, a multifamily energy and efficiency and housing affordability program, to assist utilities in successfully reaching this housing sector;
- Assistance in marketing and outreach to a pipeline of multifamily new construction and rehabilitation projects;
- Helping to leverage financial resources from existing programs;
- Financial underwriting and loan processing expertise;
- Construction review and administration; and
- Affordable housing expertise and knowledge.

As mentioned above, utilities and public utility commissions in states such as Rhode Island, New Jersey and Maryland are partnering with their respective state housing finance agencies to administer multifamily energy efficient improvement programs with great success.

[6] PHFA's Preservation through Smart Rehab Program (Smart Rehab) is a multifamily affordable rental housing preservation program that provides financing for capital improvements that result in a measurable reduction in energy consumption and utility costs. See http://www.phfa.org/developers/preservation/.

A(4)(b). Inclusion of On-Bill Financing. On-bill financing is a promising approach to reduce barriers to multifamily participation in energy efficiency programs. Owners of multifamily affordable housing do not have access to upfront capital to pay for improvements and often cannot take on additional debt secured by the property. As the Commission continues to investigate on-bill financing opportunities, we recommend that the Commission consider models and financing partnerships specific to the multifamily housing stock. We also urge the Commission to include multifamily stakeholders such as PHFA in any working groups established to pursue on-bill financing opportunities.

C(2)(A). Technical Reference Manual. We support the Commission's position that updating the Technical Resource Manual ("TRM") should continue to occur on an annual basis. Targeting resources most effectively is necessary to maximize energy savings from the multifamily affordable housing stock. Realizing the potential energy savings in this sector requires a new level of investment. The retrofitting of multifamily developments is much more involved than the replacement of mechanical systems. However, the current TRM does not provide any assumptions or information on deemed savings for non-mechanical measures such as air sealing and insulation in multifamily housing.[7] We urge the Commission to consider the leveraging of additional energy savings through non-mechanical measures. This is common practice in multifamily utility incentive programs in other states.

In addition, we urge the Commission to make sure that multifamily stakeholders are represented in the Technical Working Group that has been established to discuss new measure protocols, existing measure protocols and any changes due to standards, codes and regulations for inclusion in the 2013 TRM.

K. EDC Cost Recovery. We urge the Commission to clarify and provide guidance to the EDCs on the appropriate approach to recovering costs of energy efficiency measures in multifamily housing. As observed by the Commission in the Tentative Implementation Order, one significant barrier to the participation of multifamily housing in EE&C Programs is the mix

[7] See the Technical Reference Manual dated June 2012 at page 221. The manual states that "Wall and ceiling insulation is one of the most important aspects of the energy system of a building". However, the manual goes on to state that this ***measure applies only to non-residential buildings*** heated and/or cooled using electricity.

of metering and account classification issues.[8] In many cases, a multifamily property will include a mix of individual (tenant-paid) meters and master (owner-paid) meters.

Currently a multifamily owner would have to apply separately to a residential and commercial EE&C program in order to fully address all of the energy saving opportunities in the property. The lack of access to a single program to address the entire property complicates the process and discourages owners from participating in the program. As a result, low-income tenants are denied an opportunity to benefit from Act 129 and energy consumption reductions are not realized.

To resolve this issue, we recommend that the Commission provide guidance clarifying that EDCs can create a multifamily program that addresses both individually and master metered accounts. This guidance should address how the EDCs can reasonably attribute the program costs across the residential and commercial sectors in a manner that is not administratively burdensome. This approach is consistent with the Tentative Implementation Order. In the Order, the Commissions states that:

> "Those costs that relate to measures that are applicable to more than one class, or that can be shown to provide system-wide benefits, must be allocated using reasonable and generally acceptable cost of service principles as are commonly utilized in base rate proceedings."[9]

Reducing energy consumption in multifamily affordable housing, whether in properties with individual or master metered accounts, will benefit all Pennsylvania ratepayers through reduced demand on the state's energy system and increased economic output.[10] Providing funding to all types of low-income multifamily properties is necessary to achieve an equitable treatment of

[8] See Tentative Implementation Order at pg. 21

[9] See pg. 67 of the Tentative Implementation Order

[10] This was the determination made in New Jersey. When approving PSE&G's multifamily residential program, the Board of Public Utilities ordered that the costs be recovered equally across all rate classes. The Board noted that the benefits of the program were not specific to one rate class. The Board concluded:

> "Energy efficiency programs, even though there is initial cost, are projected to decrease customers' bills as much as 9% over the next ten years, save all customers the construction costs for new infrastructure which would otherwise be needed to serve avoidable demand, and put downward pressure on market rates by reducing demand." See State of New Jersey Board of Public Utilities Docket Nos. EO09010056 and EO09010058.

low-income renters. Residents of master-metered properties receive numerous benefits from energy efficiency investments including stable affordable housing and lower rents due to more efficient property operations and improved health and comfort due to better air sealing and insulation.

CONCLUSION

The multifamily affordable housing stock is largely an untapped sector with significant potential for energy consumption savings. We commend the Commission for encouraging EDCs to develop strategies to better serve this sector. However, in order to ensure energy savings are realized and that multifamily renters benefit from Act 129, we recommend that the Commission include the following in its Final Order for Phase II of Act 129:

- Require EDCs to meet certain budget targets for energy efficiency improvements in both for-profit and nonprofit owned multifamily affordable housing;
- Require EDCs to coordinate with PHFA in administering programs for multifamily affordable housing;
- Ensure that any discussions about on-bill financing include multifamily-specific models and stakeholders such as PHFA;
- Ensure that the Technical Reference Manual addresses non-mechanical measures such as air sealing and insulation for multifamily housing; and
- Provide clear guidance to EDCs regarding appropriate cost recovery approaches for investments in multifamily housing in order to ensure that EDCs are able to overcome the barrier of account classification and meter issues and can establish one-stop shop programs for this underserved sector.

Resolution Supporting Fair Expenditure of Energy Efficiency Funds in All Customer Sectors

WHEREAS, Natural gas and electric companies, along with other energy efficiency program administrators, expended more than $5 billion on energy efficiency programs in 2009, as estimated by the Consortium for Energy Efficiency; *and*

WHEREAS, Some States, in cooperation with their utilities, have already committed to substantially increasing their energy efficiency expenditures, with some States planning to double or triple those expenditures in the near future; *and*

WHEREAS, Energy efficiency programs for owners of, or tenants living in, multifamily affordable housing have in the past not always been well-designed for easy access; *and*

WHEREAS, It is important for all consumers to benefit from energy efficiency programs including low-income households, the elderly, those living on fixed incomes, and owners and tenants in multifamily affordable housing; *and*

WHEREAS, Multifamily affordable housing, including housing assisted by the federal Department of Housing and Urban Development and state housing finance agencies, or receiving assistance via the Low-Income Housing Tax Credit, provides critically needed housing for some of the poorest families in America; *and*

WHEREAS, This same multifamily affordable housing stock is, on average, older than the entire U.S. housing stock; contains older appliances; and is generally less energy efficient than other housing; *and*

WHEREAS, Energy efficiency programs result in more affordable utility services for low-income consumers in multifamily buildings and, therefore, reduce the number of customers disconnected for non-payment; *and*

WHEREAS, Utility companies could achieve significant cost-effective energy savings by investing more of their energy efficiency programs funds in affordable multifamily housing, while also helping to preserve that energy costs are as affordable for the tenants; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, finds that utilities and other program administrators which expend energy efficiency funds collected via utility bills should consider spending a fair share of those funds in each of the customer sectors served, including, but not limited to, the affordable, multifamily housing sector; *and be it further*

RESOLVED, That utilities and other energy efficiency program administrators that deliver energy efficiency programs to affordable multifamily buildings should consider ensuring that such programs improve awareness of energy costs and the importance of energy efficiency among tenants and owners in rental properties, reasonably meet the needs of those owners and tenants, and offer the opportunity for "one-stop shopping" --- that is, offer the owner of multifamily housing a simple, single point of entry to apply for utility-funded energy efficiency services, even if the owner's property includes a mix of individual (tenant-paid) meters and master meters, and/or a mix of building size and types (e.g., low-rise, high-rise, duplex, townhouse); *and be it further*

RESOLVED, That public utility commissions, in proceedings in which utility expenditures on energy efficiency are being raised, should use their discretion when appropriate to investigate the extent to which the company's energy efficiency programs are fairly serving all customer sectors, including but not limited to the affordable multifamily sector.

Sponsored by the Committees on Energy Resources and the Environment and Consumer Affairs
Adopted by the NARUC Board of Directors July 20, 2011

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