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June 22, 2012

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

RE: Act 129 Energy Efficiency and Conservation Program Phase Two
Docket Nos. M-2023-2298411

Dear Secretary Chiavetta:

Enclosed for filing please find the comments in the above-captioned proceedings. They are being submitted on behalf of the following organizations and individuals:

1. SEDA-Council of Governments
2. Southern Alleghenies Planning and Development Commission
3. Southwestern Pennsylvania Commission
4. Amy Glasmeier, Professor and Head of the Department of Urban Studies and Planning MIT
   Faculty Co-Director of Education Initiative, the MIT Energy Initiative

Sincerely,

Stacy Richards

Stacy Richards, Director
Energy Resource Center

Attachment

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SEDA Council of Governments

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

SEDA-COUNCIL OF GOVERNMENT'S (SEDA-COG) ENERGY RESOURCE CENTER
COMMENTS TO
SECRETARIAL LETTER REGARDING THE TENTATIVE IMPLEMENTATION ORDER
FOR
ENERGY EFFICIENCY & CONSERVATION PROGRAMS UNDER ACT 129 PHASE TWO

Introduction

This is in response to the Pennsylvania Public Utility Commission ("Commission") Secretarial Letter seeking comments on the Tentative Implementation Order issued May 10, 2012 for the continuation of energy efficiency and conservation ("EE&C") planning issues under Act 129 of 2008. Under Act 129, the PUC is required to set new incremental consumption and peak demand reductions for the electric distribution companies ("EDCs") subject to the law if the PUC finds that Phase One of Act 129 was cost-effective.

The SEDA-COG Energy Resource Center ("ERC") provides education to create energy demand reduction across all sectors, workforce training to locally meet that demand, and energy management development assistance to institutional clients within the SEDA-Council of Government ("SEDA-COG") 11-county service area in central Pennsylvania. SEDA-COG is also a member of the Pennsylvania Energy Partnership ("PEP") comprised of energy programs within the seven PA Local Development District offering similar programs within 52 of the Commonwealth's 67 counties. PEP, an initiative of the Local Development District Network of Pennsylvania[1], provides free technical assistance, underwritten by federal and state grants, on energy efficiency and demand reduction to local governments, schools, hospitals and nonprofits located within the 52-county region of Appalachian Pennsylvania. The Local Development District Network of Pennsylvania (LDDAP) is comprised of seven regional planning districts: North Central Pennsylvania Regional Planning and Development Commission, Northeastern Pennsylvania Alliance, Northern Tier Regional Planning and Development Commission, Northwest Pennsylvania Regional Planning and Development Commission, Southern Alleghenies Planning and Development Commission, SEDA-Council of Governments, and the Southwestern Pennsylvania Commission.

Of the more than 2,500 municipalities located in the Commonwealth, 1,919 are located in PEP's service area. Since 2007, nearly 1,000 individual public and private sector clients were served by PEP, with many obtaining energy efficiency and renewable energy education and training through workshops and seminars provided by PEP. Our efforts and activities have been directly or indirectly responsible for over $25,000,000 in capital investments primarily by municipalities, educational and non-profit customer base for energy efficiency or renewable energy projects, over $3,000,000 in avoided energy costs, and an estimated 14,000,000 kWh saved. These investments and savings figures are under-reported due to resource constraints and difficulties inherent in the dynamic nature of energy measurement and verification. These investments and savings could be far greater, but our largely rural clients continue to face substantial hurdles in addressing energy reduction potential within their operations.

A. Evaluation of the EE&C Program and Additional Targets

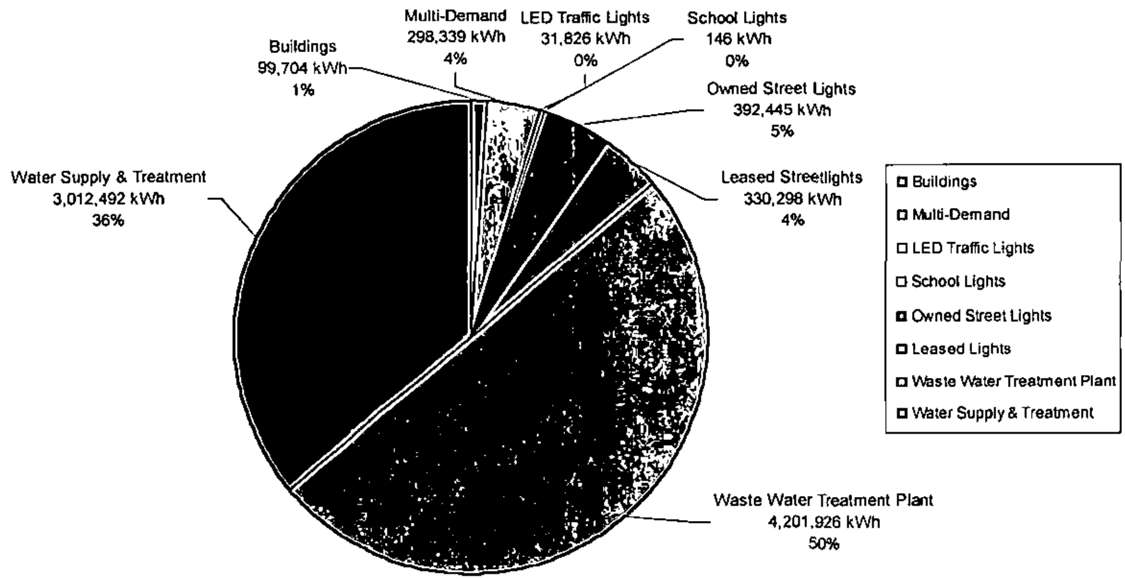
1. Evaluation of the EE&C Program

We agree with the PUC that continuing electric energy efficiency programs in a Phase II of Act 129 will continue to be cost-effective for PA ratepayers. We are particularly keen *on the opportunity presented by a Phase II that enables EDC EE&C programs to be* responsive to the harder to reach sectors, including the government, education and non-profit sectors (GENP.) However, we are concerned that the SWE baseline studies underreported the energy use of the governmental subsector. Given that these baseline studies are to inform the development of EDC EE&C plans in Phase II, there is the potential to underestimate the energy efficiency potential, and therefore miss opportunities for significant savings in this subsector.

One example of potential under reporting in the baseline studies is the energy used by municipal authorities in the delivery and treatment of waste and the treatment of wastewater, all generally classified as industrial processes. During the question and answer portion of the June 5th meeting regarding the SWE studies, study authors acknowledged that the energy embodied in the industrial sector was difficult to quantify and therefore likely underreported in the SWE studies.

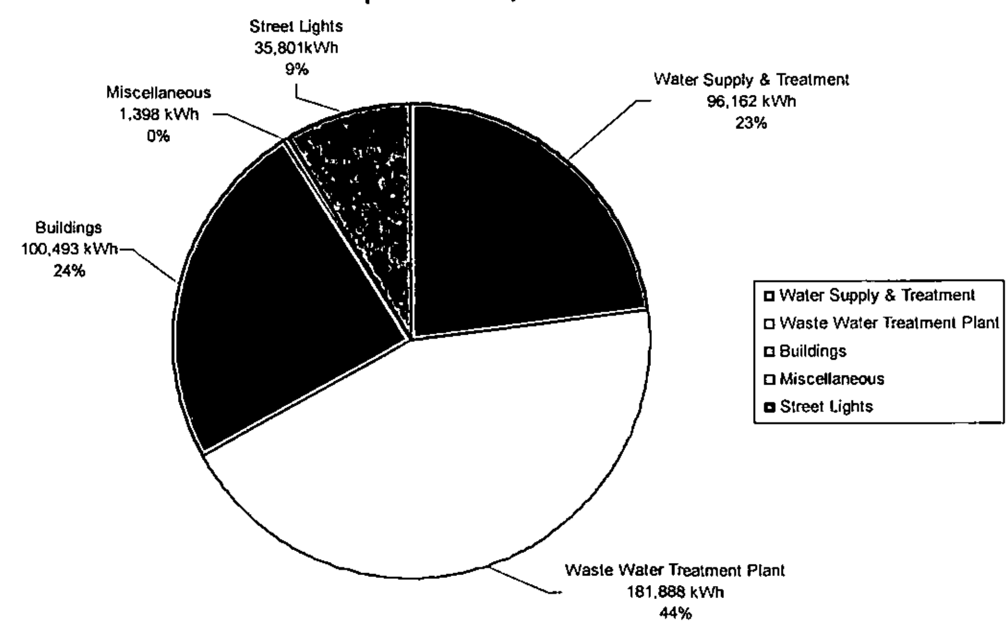
Notwithstanding that the energy used by the more than 1,000 municipal authorities throughout the Commonwealth is only a modest percentage of the energy used in all industrial processes, this energy represents a significant cost to municipalities and their taxpayers and presents opportunities for capturing energy savings. Below are examples of the energy consumption distribution of two representative municipalities that demonstrate that energy use by municipalities represents a majority of their energy usage and cost. *These pie charts were the product of utility bill analyses conducted by* SEDA-COG for these municipalities. This breakdown of energy use by types of services is generally consistent across all municipalities in at least the non-urban areas of the 52 counties that SEDA-COG and its PEP colleagues service. "Town A" has a population of 6,187 and "Town B" has a population of 1,394 per the 2010 census.

Town A. Total Electricity Consumption (kWh)
Population 6,200



*Total Annual Electricity Consumption -- 8,015,471 kWh

Town B. Total Electricity Consumption (kWh)
Population 1,000



*Total Annual Electricity Consumption -- 415,743 kWh

Note that industrial processes and buildings are large energy consumers for these municipalities, but also are street lights. We are not suggesting that the energy efficiencies of municipal buildings be ignored in Phase II EE&C program. Rather, we are suggesting that more energy reduction potential is available among local governments presently accounted for, offering greater opportunities for the GENP sector to meet or exceed the 10% carve-out threshold even without including multi-family housing in this subgroup carve-out.

2. Proposed Additional Incremental Reductions in Consumption

a. Length of Program.

Recognizing from others' previous comments that advances in technology and changes in federal regulations and the market place may diminish the value of a 5 year length for Phase II, we encourage the PUC to embrace a 4 year length for Phase II primarily to accommodate the longer timetable required for the government and education subsectors to implement electricity efficiencies. Local governments require program certainty to accommodate their longer investment timeline. In Phase I at least one EDC projected to meet met its GNEP carve out goals well within the three year timeframe, thereby placing less emphasis on marketing or providing energy reduction programs to the GNEP sector.

Should the PUC continue to carry the 3 year timeline for Phase II, we encourage the PUC to allow the EDCs to include any GENP energy reductions beyond their threshold kWh requirements in the appropriate commercial or industrial sectors. Doing so will accommodate the multiplier affect for energy reductions achieved by local governments for their taxpayers, which are comprised of all ratepayers.

b. Baseline for Targets

We concur with the PUC's proposal to continue to use the 2009/10 energy year forecasts in Phase II. Theoretically, the third option of deriving target energy and capacity savings would be the optimal approach if the market potential study had provided sufficient detailed data.

c. Reduction Targets.

While we recognize the administrative cost-efficiencies to the EDCs and PUC in extending the annual reduction targets in Phase I to 3 year reduction targets in Phase II, we are concerned that stakeholder input that could contribute to increased EE&C program effectiveness and cost savings may be diminished. We encourage continued EDC stakeholder meetings that are scheduled in a timeframe and are structured in a manner to effectively obtain guidance from stakeholders prior to any EDC program adjustments being forwarded to PUC.

d. Aligning Targets and Funding. We have no comment.

3. Peak Demand Reductions

a. Exclusion of Peak Demand Reduction Obligations for Phase II.

Our experience in working with municipalities is that municipalities that understand how much energy they use and when they use it are most apt to participate in peak demand program due to greater certainty that they can accommodate the peak demand requirements. This number could increase in Phase II if EDC's EE&C programs facilitated ratepayer acquisition of this knowledge through the provision of utility bill analyses that capture all of a municipality's energy uses.

b. Interim demand response programs . We have no comment.

c. Amending the Top 100 Hours Methodology for Future Phases. We have no comment.

4. Carve-out for Government, Educational and Nonprofit Entities

a. Prescription of a Government/Ed/Non-profit Carve-Out.

We applaud the PUC's proposal to continue the 10% carve out for this sector. As noted previously, our work with municipal clients, schools and nonprofits to reduce their energy consumption indicates that significantly more energy reduction potential opportunities exist for this sector. Also, assisting the ratepayers in this subsector assists all rate payers as tax payers or otherwise contributors to the operating costs of these primarily public service organizations.

However, we are very concerned that several proposed changes affecting this sector will negate the value of this carve-out. We disagree with the PUC's interpretation that 66 Pa. C.S. Section 2806.1(b)(1)(i)(B) is separate and apart from 66 PA. C.S. Section 2806.1(c), thereby giving the PUC discretion to make modifications and/or remove the GENP sector carve-out from the if no cost-effective savings can be obtained from that sector as described in Pa. C.S. Section 2806.1(f.) And that, as a result of this separation, only penalties contained in Chapter 33 of the PA Public Utility Code, 66 Pa. C.S. Section 3301(a) would apply.

Our interpretation of the Act is that Section 2806.1 subsection (b)(1)(B) establishes that the institutional carve out is a requirement of the EDC plan. Section 2806.1 subsection (c) describes the reductions to be achieved by the EDC plans. Therefore, section (c) is inclusive of the institutional sector carve out which is a requirement of the EDC plan. In other words, Section 2806.1 subsection (b)(1)(B) defines the membership of the carve out and requires this carve out to be incorporated into the EDCs' EE&C plans. Section 2806.1 subsection (c) describes the reductions to be *achieved through the EDC plans, which includes the GENP carve out.* Section 2806.1 subsection (f)(2) describes the penalties to be applied if the reductions in the EDC plans are not met.

The above interpretation make intuitive sense, given that the law signaled the value of the carve-out through its deliberate inclusion of certain ratepayer classes within the Act's defining clauses for EDC plan requirements. Furthermore, applying only the penalties of Chapter 33 of the PA Public Utility Code, 66 Pa. C.S. Section 3301(a) should an EDC fail to meet the GENP 10% reduction carve-out threshold does not make sense. These penalties amount to only $1,000, which are well below the cost to design, implement and provide financial incentives for the GENP sector. Should Section 2806.1 subsection (f)(2) continue to be interpreted by the PUC as not applying to the GNEP carve-out, the EDCs would have little incentive to design programs to meet this carve out percentage requirement. In fact, the case could be made that, under the TLC, no GENP program would be less than the Chapter 33 of the PA Public Utility Code, 66 Pa. C.S. Section 3301(a) penalty. Therefore, no program for this subsector should be provided. While this may be an extreme interpretation, it is not extreme to assume that a strong incentive to design programs for this sector that will meet the 10% overall reduction threshold requirements will be largely negated in Phase II if this carve out for a hard-to-reach sector is no longer subject to the significant monetary penalty established in Section 2806.1 subsection (f)(2)(i.)

Given the potential under-reporting of energy efficiency capacity in the market baseline studies, the difficulty of energy reduction programs in other states to both quantify and address the energy reduction potential of the government sector, and a presumed assumption by the PUC to continue to meet to 10% carve out for the GENP sector, it seems prudent to more fully describe the characteristics of the government sector that results in its being a hard to reach sector relative to achieving energy efficiencies. In its April 17th comments regarding Docket No. M-2012-2289411, the Office of Consumer Advocate eloquently described many of the characteristics that cause the government, educational and nonprofit sector to be uniquely different from the conventional commercial and industrial customer base. The characteristics described include, the organizational structure and decision-making process of these entities, the extended use and life of their facilities, the hardship for these entities to capitalize energy efficiencies, and the opportunities presented within this sector to reduce EDC marketing costs by serving as public examples for ratepayers of all classes within their communities of the value of energy efficiency investments.

To design cost-effective EE&C programs for the GENP sector, each of the unique characteristics of this sector described by the Office of Consumer Advocacy require not just acknowledgement, but deep understanding. Schools, municipalities and many nonprofits are governed by part-time, volunteer elected officials that must answer to their constituents. Most elected officials don't know how their facilities use energy or how much they use. Their budget process, mandated by law, requires detailed annual budgets that dictate spending down to the penny, resulting in focus being placed on short-term expenditures, not on investments that result in long-term, cumulative savings. "Local sparkplugs" make a difference, but actions are taken by plurality vote, requiring elected officials to grasp the energy costs, recognize that their costs could be less, then agree to make investments and when to make them. Perhaps most importantly, the elected officials must understand the payback in a manner that they can explain to their constituents. Furthermore, per the PA Municipal Code, municipalities are required to competitively bid for services and products over certain dollar thresholds. Many municipalities lack both the staff resources and the technical capacity to procure these services via RFQ or RFP processes. It is our observation that Energy Service Companies (ESCOs) and GESA are most appropriate for larger institutions that have the staff resource capacity and technical acumen to work with ESCOs to ensure optimal cost-savings for their municipality. ESCOs are much less appropriate for smaller municipalities, schools and nonprofits that lack these staff resources and capacity.

As noted above, municipalities are required by law to develop their detailed budget prior to the following year, taking several months to develop a budget that must be adhered to almost to the penny in the following year. Therefore, the timing of decisions to invest in energy reduction can be prolonged. Offering merely a prescriptive rebate for equipment other than lighting, or requiring a municipality to self-finance the procurement of a utility bill analysis or energy assessment in order to identify and prioritize investment is inadequate to bust through these many decision-making, timeframe, financial and staff capacity barriers. Rather, an incentive program and the provision of technical assistance through EDC program delivery that acknowledge the technical information necessary to reach critical decision points toward energy efficiency investment is needed in Phase II to capture the energy saving potential of smaller municipalities that would not qualify as "low-hanging fruit." Yes, this will add costs to kWh saved, but that cost could be reduced if the EDCs design programs that use the energy efficiency technical assistance services of organizations that already have deep connections with GENP entities within their service areas.

Lastly relative to cost of achieving energy reductions within this carve out, it is important to note that the GENP customer base have been ignored. Energy prices were very low when energy efficiency educational, financial and technical assistance programs were introduced in the mid-1980s in the Commonwealth within the context of pollution prevention and environmental management systems. It was difficult to get the attention of local government officials to focus on the long-term value of investing in energy efficiency equipment and conservation; both the short- and long-term payback were marginal relative to other municipal costs. It is therefore reasonable to assume that investment in programs to provide education, financial and technical assistance targeted to this sector is now necessary to provide parity to smaller institutional customers for whom previous programs weren't offered. Enabling EDC s to make this investment now, using ratepayer money, is a smart investment. The GENP sector, funded primarily through local and charitable tax dollars, have been paying into Act 129 throughout Phase I. They deserve programs tailored to meet their unique needs and characteristics in Act 129's Phase II.

b. Inclusion of Multifamily Housing.

While important to capture, to include multi-family housing in the GENP carve-out reduces the need for EDCs to design and implement effective programs for the hard-to-reach GENP. To include multi-family in order for this subgroup to "provide significant potential for the EDC's attainment of the proposed GENP carve-out" suggests that the PUC is predisposed to believe that effective E2 programs for GENP is not possible. We recommend that multi-family incentives be included in the commercial or residential rate base rather than the GENP carve-out. Should the PUC place multi-family housing within the GENP carve-out, we suggest that the 10% threshold for this sector be increased.

c. Inclusion of On-Bill Financing.

We continue to encourage the inclusion of an option for on-bill financing in Phase II. On-bill financing can provide a "pay as you go" scenario, and enable ratepayers to pay capital costs through their savings achieved. Stretching out capital costs via on-line billing through EDCs is a viable way for cash-strapped ratepayers to invest in activities that will provide cumulative savings going forward.

5. Low-Income Measures

a. Prescription of a Low-Income Carve-Out. We concur with the PUC's proposal to continue with this carve-out.

b. 250% of the Federal Poverty Level. We concur with the pilot program approach proposed by the PUC.

6. Accumulated Savings in Excess of Reduction Requirements.

We concur with PUC's recommendation that EDCs are permitted to continue operating its EE&C program and account for any additional savings as part of its Phase II EE&C program.

B. Plan Approval Process

1. **Phase II EE&C Plan approval process.** We concur with the PUC's plan approval process.

2. **Phase II Planning Timeline.**

   While we generally concur with the planning timelines, we are dismayed that comments on, and potential revisions to, the SWE baseline studies are not possible given that the baseline studies are to be used by the EDCs in developing Phase II EE&C plans.

3. **Additional Phase II Orders .** While tightly scheduled, we concur with the TLC and TRM timelines for the purpose of providing seamless Act 129 programs beyond May, 2013.

C. Plan effectiveness Evaluation Process

1. **Statewide Evaluator**. We concur with the PUC's procurement approach.

2. **<u>Technical Reference Manual.</u>** We concur with the updating frequency. Relative to the 2013 TRM Update Timelines, we concur with the proposed annual update schedule. We suggest that the SWE-initiated working group should be expanded to include interested representatives of or service providers to the ratepayer sectors. Relative to the EDC Annual and Quarterly Reporting, we concur with PUC proposal to maintain the annual and quarterly

reporting schedule and suggest that the PUC encourage EDCs to use stakeholder meetings to adjust existing programs prior to any program change submittal.

D. Cost-Benefit Analysis Approval Process

1. **2013 TRC Test** . We have no comment given that the PUC has requested parties to submit comments on Test in a separate docket.
2. **Net-to-Gross Adjustment**. We have no comment.

E. Process to Analyze How the Program and Each Plan will Enhance EDCs to Meet Reduction Requirements

We concur with the PUC's proposal to continue its process for measuring annual consumption reductions.

F. **Standards to Ensure that a Variety of Measures are Applied Equitably to All Customer Classes**.

SEDA-COG requests that GENP programs receive additional review by the PUC to ensure that EDC programs offered accommodate the different characteristics of this subsector beyond potential financial challenges to investing in E2 measures.

G. **Process to Make Recommendations for Further Measures.**

SEDA-COG again recommends that the PUC encourage EDCs to time and structure their stakeholder meetings to facilitate meaningful input from stakeholders prior to filing proposed changes.

H. **Procedures to Require Competitive Bidding and Approval of CSP Contracts**.

Competitively re-bidding program design and management CSP contract would be a significant cost to ratepayers should the CSPs selected lack experience in designing, implementing and managing programs that go beyond "low hanging fruit" in Phase II. While economic conditions and potentially lower CSP contract costs are cited by the PUC as primary rationale for requiring CSP competitive bidding in Phase II, savings achieved through competitive bidding could be negated if the EDCs do not procure CSPs that have the technical capacity and knowledge to design, implement and manage programs that go beyond "low hanging fruit" in Phase II. We suggest that the PUC include in its minimum CSP selection criteria for CSP procurement "Encourage CSPs to have experience and success in achieving energy reductions from harder-to-reach ratepayer sectors, including, where appropriate, the GENP sector.

I. **Procedures to Ensure Compliance with Consumption Reduction Requirements.** We have no comment.

J. **Participation of Conservation Service Providers.** See comments in H. above.

K. **EDC Cost Recovery**

b. Application of Excess Phase I Budget.

We generally concur with the PUC's proposal, but recommend attention to the program design for EE&C programs targeted to carve out sectors and any ratepayer class for which the EDC struggled to meet reduction thresholds in Phase I.

2. Allocation of Costs to Customer Classes.

We have no comment regarding bidding energy efficiency resources into the PJM capacity market. We approve of the Other Allocation of Cost Issues approach utilized in Phase I and support its continuation in Phase II. Energy efficiencies achieved by municipalities benefit local ratepayers through downward pressure on taxes used to operate municipal facilities and services. Therefore, well-designed

GENP programs have a multiplier effect resulting in an indirect economic benefit to all ratepayer classes.

We have no comment regarding the PUC's proposed Cost Recovery Tariff Mechanism.

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