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July 2, 2012

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

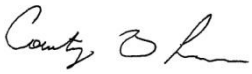
Re: Energy Efficiency and Conservation Program Tentative Implementation Order
Docket No. M-2012-2289411

Dear Secretary Chiavetta:

Enclosed please find one original and three copies of PennFuture's Reply Comments in the above-referenced proceeding.

Please do not hesitate to contact me should you have any questions.

Sincerely,



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Enclosures

cc: Megan Good (via email)
Kriss Brown (via email)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Energy Efficiency and Conservation Program : Docket No. M-2012-2289411

REPLY COMMENTS OF

CITIZENS FOR PENNSYLVANIA'S FUTURE (PENNFUTURE)

I Introduction

PennFuture is a statewide public interest membership organization, working to enhance Pennsylvania's environment and economy, with offices in Harrisburg, Philadelphia, Pittsburgh and Wilkes-Barre. We appreciate the opportunity to provide reply comments on the Energy Efficiency and Conservation Program Tentative Implementation Order, Docket No. M-2012-2289411.

These Reply Comments respond to a number of issues raised in comments previously submitted by other interested parties in relation to the Commission's May 10, 2012 request for comments.

II Reply Comments

A. Reduction Targets

Several parties including PPL (pg. 8-9), The Energy Association of Pennsylvania (EAP, pg. 4-6) and FirstEnergy (pg. 5-7) expressed concern in their comments that the Commission's proposed reduction targets may be difficult to achieve because of various factors including, changes in federal law, economic conditions and changing baseline conditions. However, it is very clear that the statewide evaluator (SWE) already took these factors into account when determining its recommended Phase II savings goals in the Electric Energy Efficiency Potential for Pennsylvania Final Report (Potential Report). Specifically, the SWE states that "Program potential savings are less than currently expected with Phase I implementation. This is largely due to the impacts of federal legislation, changing baseline conditions and increasing saturation of energy efficient equipment."[1] In addition, the SWE increases the average weighted Phase I acquisition cost of

[1] GDS Associates, Inc., *Electric Energy Efficiency Potential for Pennsylvania Final Report*, May 2012, p. 103.

$139.38 to $221.39 for Phase II – an increase of 59%, to account for these changing market conditions. PennFuture continues to believe that the SWE was overly conservative when calculating how these changing conditions will impact Phase II acquisition costs and savings potential. Based on data in our comments (see pgs. 3-8), we believe that Act 129 Phase II savings can be achieved at an acquisition cost closer to $170 to $190 per first-year MWh savings which would shift the SWE's proposed Phase II goals to the highest level of its presented Probable Range.

PennFuture, along with seven other parties commenting in this docket, continues to believe that the Potential Report has overestimated the acquisition costs and therefore underestimated the achievable savings goals for Phase II.[2] We do not believe that the comments of PPL, EAP and FirstEnergy provide enough data to support the claim that the SWE's recommended reduction targets are too high. PennFuture specifically disagrees with these parties on the following assumptions:

i. EISA lighting standards

Contrary to the comments of PPL, EAP and FirstEnergy, the Potential Report already accounts for the impact of the Energy Independence and Security Act of 2007 (EISA) lighting standards by increasing acquisition costs and lowering the reduction targets for Phase II.[3] There is no rational for further lowering the SWE's proposed reduction targets as they already reflect the potential changes to lighting baselines in Phase II.

Secondly, PennFuture believes the Potential Report actually overestimates the impacts that EISA will have on the ability of EDCs to obtain further savings from the lighting sector. Even with the new minimum federal lighting efficiency standards, energy efficiency lighting products will continue to offer a major opportunity for cost-effective energy savings over the next 8 to 9 years.[4] We firmly believe that the Potential Report does not fully account for the remaining low-cost savings from lighting measures. The Potential Report does not include the over 20 lamp categories that are excluded from the EISA standards, including: reflector lamps, globe and candelabra lamps, three-way lamps, and more. The baseline for these lamps will not need to be adjusted upwards for

[2] See comments of: The American Council for an Energy-Efficiency Economy (ACEEE), Keystone Energy Efficiency Alliance (KEEA), Sustainable Energy Fund of Central Eastern Pennsylvania, Northeast Energy Efficiency Partnerships (NEEP), The Sierra Club, The Reinvestment Fund, and Opower, Inc.
[3] GDS Associates, Inc., *Electric Energy Efficiency Potential for Pennsylvania Final Report*, May 2012, p. 44.
[4] Energy Futures Group for Northeast Energy Efficiency Partnerships (NEEP), *Northeast Residential Lighting Strategy*, March 2012. Available at: http://neep.org/uploads/initiatives/NEEP_Residential_Lighting_Strategy_2012.pdf

EISA and will still provide significant amount of savings potential. The exclusion of these lamps arbitrarily lowers the potential savings achievable from lighting in Phase II of Act 129. In addition, if EDCs are concerned about costs, they could move their incentives upstream to manufacturers or retailers in Phase II. A dollar incentive paid to a manufacturer or retailer typically has a greater than a one dollar reduction in the price the consumer (or contractor) pays.

ii. Impacts of lower rates and/or rural service territories

PennFuture does not support the claims by FirstEnergy on pages 5 - 7 in their comments that its EDCs will require acquisition costs of $250 to $300 per first year MWh saved due to the fact its EDCs have lower electric rates and are located rural settings.

As PennFuture cited in its comments, there are rural utilities achieving electricity savings at a much lower first year cost. For the years 2009 and 2010, several Southwestern utilities achieved program savings at an average cost of $160 - $190 per first year MWh. (Xcel - Colorado = $180/MWh; Rocky Mountain Power - Utah = $190/MWh; and Arizona Public Service = $160/MWh).[5] Similarly, there are other rural utilities that have had energy efficiency programs in place for a similar amount of time with comparable retail electric rates that are able to achieve high annual savings goals at a more reasonable acquisition costs, as show in Table 1 below.

Table 1: 2010 Mid-Western EDC Electricity Savings and Costs[6,7]

Utility	Annual Savings (2010)	Levelized Cost $/kWh	2010 Retail Rates Cents/kWh
Columbus S. Power, Ohio	0.94%	$0.008	9.14
Ohio Power	0.61%	$0.008	7.15
MidAmerican, Iowa	1.13%	$0.012	5.99
Interstate Power & Light, Iowa	1.17%	$0.016	9.14

We believe that the SWE's proposed savings goals for FirstEnergy's EDCs are conservative based on our previous comments regarding the overestimation of acquisition costs

[5] ACEEE, 2012
[6] ACEEE, *An Assessment of Utility Program Portfolios*, Prepared for the U.S. Department of Energy, Energy Efficiency and Renewable Energy, Technical Assistance Program, 2011.
[7] U.S. Energy Information Administration (EIA) Average Retail Price by State and Utility: All Sectors, 2010.

in Phase II. This is particularly true for FirstEnergy's service territories where they utilize the same conservation service providers (CSPs) and programs across all EDCs, helping to lower administrative costs and improving programmatic efficiencies through economies of scale.

iii. Impact of Energy Codes

PennFuture disagrees with FirstEnergy's comments on page 6 that codes are changing and therefore Phase II savings will be more expensive to obtain. The Uniform Construction Code Review and Advisory Council (RAC) voted in January 2012 to not update Pennsylvania's building energy code from the 2009 International Energy Conservation Code (IECC) to the new 2012 IECC. Due to the fact the RAC votes to update the code every three years, energy codes will remain the same in Pennsylvania until at least 2015 and therefore will not impact the baseline. PennFuture would argue that the stalled adoption of the latest energy codes provides even more rational for stronger Phase II savings goals.

iv. Technical Reference Manual (TRM) adjustments

PennFuture disagrees with PPL's proposal on page 4 and 10 that the Commission should reduce Phase II consumption reduction targets if changes are made to the TRM. As mentioned previously, the SWE already took into account the effects that changing baseline conditions will have in Phase II when determining proposed reduction targets. In addition, one of the main drivers behind a longer-term program length is to create certainty in the energy efficiency marketplace. If reduction targets can be changed throughout the plan period, this will create uncertainty and confusion among contractors, customers and retailers.

B. Aligning Targets and Funding

PennFuture disagrees with PECO's interpretation (pg. 4-8) that the Commission does not have the authority to vary Phase II consumption reduction targets based on EDCs' 2006 revenues. Act 129 gave the Commission flexibility to design new reduction targets for Phase II by only requiring that "If the Commission determines that the benefits of the program exceed the costs, the Commission shall adopt additional required incremental reductions in consumption."[8] There are no parameters in place for the design of those reduction targets except for the continued inclusion of a 10% carve-out for the government, educational and non-profit sector, continuation of the 2% budget

[8] 66 Pa.C.S. § 2806.1(c)(3)

cap, and the continuation of the existing penalty structure. There is no language in the Act stating that the goals for Phase II must be implemented in the same manner they were in Phase I or that they must be uniform for all EDCs. In addition, Act 129 did not treat all EDCs in a uniform manner in Phase I. The legislation gave each EDC a varying funding amount per megawatt-hour of required savings, by tying funding to 2006 revenues.

PennFuture also disagrees with the comments of the Industrial Customer Groups (pg. 7) and continues to support the Commission's proposal to adopt consumption reduction requirements based on the full 2% of 2006 annual revenue being spent for the energy efficiency programs in each year of Phase II. Allowing each EDC to spend up to its 2% cap creates the most benefit to ratepayers. Investments in energy efficiency drive down overall electricity demand, improving electricity system reliability and reducing wholesale electricity prices, which benefits all ratepayers whether or not they participate in programs. Improved efficiency also reduces the need for investment in transmission and distribution systems, the cost of which is far more expensive than energy efficiency and would be recovered by the ratepayer. Allowing for as much energy efficiency as the law permits in each EDC service territory will provide the most benefit to Pennsylvania.

C. Phase II Planning Timeline

PennFuture disagrees with PPL's request for the Commission to allow EDCs to start implementing Phase II programs and incurring Phase II costs during Phase I (pg. 22-23). While we understand PPL's concern that it would like to prevent certain programs/measures from going dark, this is the exact issue that the Commission's proposal to allow EDCs to accrue savings beyond their 3% target during Phase I and to use towards Phase II reduction targets will address. To allow for both the banking of savings from Phase I into Phase II, while simultaneously allowing for Phase II programs to begin during Phase I, would create accounting confusion and create an unnecessarily cumbersome process. Furthermore, allowing for banking of excess savings for later year compliance provides incentives to exceed required targets, maximizing benefits for ratepayers. We recommend that the Commission only implement one of these two options.

D. Compliance

In its comments on pages 12 and 13, EAP suggests that the Commission may base compliance on whether an EDC has used best efforts to achieve a set percentage of the consumption reduction target in Phase II. PennFuture respectfully submits that Act 129 does not allow for such

discretion but rather strictly requires an EDC to achieve the required reductions in consumption. Act 129 subjects EDCs to certain penalties for failure "to achieve the required reductions in consumption under subsection (C) or (D)" (§ 2806.1(F)(2)). Subsection (C) provides that "If the Commission determines that the benefits of the program exceed the costs, the Commission shall adopt additional required incremental reductions in consumption" (§ 2806.1(C)(3)). Because any such reductions in consumption adopted by the Commission under this provision clearly would constitute "required reductions in consumption under subsection (C) or (D)," failure to achieve such reductions must subject EDCs to penalties under a plain reading of the Act.

In addition, PennFuture believes that such flexibility would incentivize an EDC to only achieve the minimum required percentage of a three-year reduction target. While EAP states this will not harm the incentive for energy efficiency investment in Pennsylvania, it absolutely will. If EDCs are permitted to only achieve a percentage of the goal, why would an EDC go beyond meeting that percentage? Due to the fact there is no revenue decoupling in Pennsylvania and no performance incentives, EDC investments in energy efficiency negatively impacts profits. Therefore the only current incentive for an EDC to achieve a certain goal is the penalty associated with not meeting that goal.

E. Cost Recovery Tariff Mechanism

PennFuture supports the comments of the Office of Consumer Advocate (OCA, pg. 18-20), PECO (pg. 19-20) and EAP (pg. 22-23) urging the Commission to not change the reconciliation mechanism for Phase II. PennFuture agrees that the best approach is to continue the recovery of the costs through a Section 1307 mechanism with the EE&C plan costs and revenues being reconciled only once at the end of the plan period.

EDCs may spend less than their 2% annual budget cap in any given year, yet may plan to use that leftover funding in later years of their plans as was done by many EDCs during Phase I. PennFuture shares the concerns of OCA that the Commission's proposed change could result in either an EDC losing any unspent annual funds, or volatility in customer 129 surcharges. Maintaining the same cost recovery and reconciliation mechanism for Phase II makes the most sense for EDCs and ratepayers.

F. Benefits of Act 129

Many parties, including PECO and FirstEnergy, assume that the Act 129 surcharge is a burden to customers and those customers that do not participate in the programs are not receiving any benefits. This assumption is inaccurate and does not reflect the actual costs and benefits of energy efficiency. First and foremost energy efficiency is the least cost way to meet the electricity needs of Pennsylvania ratepayers and provides benefits to all customers, even those that do not participate in Act 129 programs directly. Investing in energy efficiency can also reduce the need for costly upgrades and investments in distribution and transmission infrastructure, the cost of which would be passed down to ratepayers.

Secondly, even though Act 129 creates a small increase in electric customer's rates, it results in lower net costs by lowering their bills. As the Commission knows, electric customers pay bills not rates. Bills are the product of rates multiplied by consumption. Energy efficiency programs reduce energy consumption and therefore, even if rates go up, bills go down for those customers who participate in Act 129 programs. For example, if a customer reduces their use by 10% but rates go up by 2% then the customer's bill goes down by 8%.[9] As EDCs continue to deliver programs, more and more customers will have an opportunity to experience these bill-reduction benefits.

Lastly, investments in energy efficiency have been proven to lower wholesale electricity prices and those savings are then passed down to all ratepayers – even those not participating in programs. Many states are beginning to recognize Demand Reduction Induced Price Effects (DRIPE) as a quantifiable benefit of energy efficiency and demand response. DRIPE is a measurement of the value of efficiency in terms of the reduction of wholesale energy prices seen by all retail customers. The reduced energy demand due to efficiency programs allows for the shedding of the most expensive resources on the margin and lowering the overall costs of energy. This reduces the wholesale prices of energy and demand, and this reduction in a restructured market, is passed on to retail customers. DRIPE effects in New England are now estimated to last 11 years for peak capacity reductions, and 13 years for energy consumption reductions. The per kWh values of DRIPE vary based on energy period and region, but for New England it ranges from $0.001/kWh to

[9] York, Dan and Martin Kushler, American Council for an Energy-Efficient Economy (ACEE), *The Old Model Isn't Working: Creating the Energy Utility for the 21st Century*, 2011.

$0.032/kWh for energy depending on energy period and region, and from $2.23/kW to $59.07/kW for peak demand, depending on region.[10]

G. Conclusion

PennFuture thanks the Commission for its work in developing the Phase II Energy Efficiency and Conservation Program and for considering our comments in this docket. We urge the Commission to remember that the way in which Phase II is designed and implemented will have lasting effects on whether or not Pennsylvania is able to capture the full energy efficiency potential allowed by Act 129 and whether ratepayers will receive the full benefits related to capturing that potential.

[10] Optimal Energy, Inc., *Pennsylvania 2013 – 2018 Energy Efficiency Goals*, 2011.