COMMONWEALTH OF PENNSYLVANIA

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December 21, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

Re: Petition of Pennsylvania Electric Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan
Docket No. M-2012-2334392

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Sincerely,

Christy M. Appleby

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824

Enclosures
cc: Hon. Elizabeth H. Barnes, ALJ
Certificate of Service
163359

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Pennsylvania Electric Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	: : :	Docket No. M-2012-2334392

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: December 21, 2012

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I. INTRODUCTION

The Office of Consumer Advocate (OCA) is filing these Comments in accordance with the Notice in the *Pennsylvania Bulletin* published December 1, 2012. 42 Pa.B. 7372. These Comments are in response to the Petition of Pennsylvania Electric Company (Penelec or Company) for Approval of Energy Efficiency and Conservation Plan Phase II (Plan). On January 8, 2013, the OCA will serve the written testimony of its witness David Hill[1] on Administrative Law Judge Elizabeth H. Barnes (ALJ) and the parties to the evidentiary portion of this proceeding. Hearings are scheduled for January 17, 2013, where this testimony will be moved into the record. The OCA requests that these Comments be read and considered in conjunction with the testimony of Dr. Hill.

A. Background

On November 14, 2008, Act 129 of 2008 (Act 129) became effective. Act 129 contained a requirement for the Pennsylvania Public Utility Commission (Commission) to implement an Energy Efficiency and Conservation Program for Electric Distribution Companies (EDCs) with more than 100,000 customers. See 66 Pa.C.S. § 2806.1 *et seq*. The seven largest EDCs—PECO Energy Company (PECO), PPL Electric Utilities, Inc. (PPL), the FirstEnergy Companies (Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company)[2], and Duquesne Light Company filed their Phase I EE&C Plans in the summer of 2009. These Phase I Plans expire on May 31, 2013.

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[1] Dr. Hill is the manager of Vermont Energy Investment Corporation's (VEIC) renewable energy consulting division. He has a Masters Degree in Appropriate Technology and a Ph.D. in Energy Management and Policy Planning, both from the University of Pennsylvania. Dr. Hill has over 17 years of experience in planning, evaluation and implementation of energy efficiency and renewable energy programs.

[2] West Penn Power Company was not part of the FirstEnergy Companies in 2009 and therefore, filed its own independent Phase I EE&C Plan with the Commission in 2009. The FirstEnergy Companies acquired West Penn Power Company in 2011.

On August 3, 2012, the Commission entered its Phase II Implementation Order, tentatively adopting EDC-specific targets for reducing energy consumption for the next EE&C Program term (June 1, 2013-May 31, 2016). See Docket Nos. M-2012-2289411 and M-2008-2069887. As part of that Order, each EDC was given an EDC-specific Phase II consumption reduction target. Penelec's Phase II target was set at 2.2% of its expected sales for the June 1, 2009 through May 31, 2010 period.[3] Phase II Implementation Order at 24. The Commission also directed that: (1) 10% of overall consumption reductions come from the Government/ Educational/Non-Profit sector; (2) a plan's portfolio of measures includes a proportionate number of low-income measures; and (3) EDCs obtain a minimum of 4.5% of their consumption reductions from the low-income sector. Id. at 45-57. As in Phase I, the total resource cost (TRC) test will be used to evaluate each EDC's Plan. Id. at 78-83.

Act 129 caps annual spending on the Plan at 2% of the EDC's total revenues for calendar year 2006. 66 Pa.C.S. § 2806.1(g); see gen'ly Phase II Implementation Order at 100-119. The Act provides for full and current cost recovery of the Plan costs through an automatic adjustment rider, but prohibits the recovery of lost revenues by the EDC. 66 Pa.C.S. § 2806.1(b)(1)(H). The costs incurred are to be allocated to the classes that directly benefit from the measures implemented, unless a system wide benefit can be shown. 66 Pa. C.S. § 2806.1(a)(11).

The Phase II Implementation Order also details the Plan approval process. According to the Order, the EDCs were to file their proposed Plans by November 1, 2012, and the

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[3] As was its right under the Phase II Implementation Order, Penelec filed a Petition for Evidentiary Hearing regarding the Company's Phase II consumption reduction target. See Docket Nos. 2012-2320450 *et al.* Direct and rebuttal testimony, evidentiary hearings, and briefing occurred and the record was certified to the Commission on November 2, 2012. The Commission entered an Order on December 5, 2012 denying the Company's Petition and upholding the standards and requirements set forth in the August 3, 2012 Phase II Implementation Order.

Commission was to publish the Plans in the *Pennsylvania Bulletin* within 20 days of filing.[4] An answer along with comments and recommendations is to be filed within 20 days of publication. The Plans would be referred to the Office of Administrative Law Judge and be scheduled for hearings to be completed no later than the 65th day after the Plan is filed. The Commission will approve or reject all or part of the Plan at Public Meeting within 120 days of the EDC's filing of its Plan. Phase II Implementation Order at 61-62. Penelec filed its Plan on November 15th, and the Commission Order is due in this matter by March 14, 2013. The OCA filed its Notice of Intervention and Public Statement on December 7, 2012. A prehearing conference was held in this matter on December 19, 2012. In her Prehearing Conference Order dated November 29, 2012, ALJ Barnes set forth a proposed litigation schedule. At the prehearing conference, a litigation schedule was adopted.

The OCA provides the following preliminary Comments on Penelec's Plan in accordance with the Commission's Phase II Implementation Order.

B. The Stakeholder Process

The FirstEnergy Companies have held several meetings with stakeholders (all of which the OCA attended) regarding the winding down of Phase I and its proposals for Phase II. The OCA has found the stakeholder process to be well attended by a diverse group of stakeholders. In the OCA's view, the stakeholder process allows for a better informed process for both stakeholders and the Companies. As was the case in Phase I, there will be much work to be done once the Companies' Phase II Plans are approved, and the FirstEnergy Companies' stakeholder process will be a valuable tool to assist in the continued improvement of the Companies' Phase II

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4 Due to Hurricane Sandy, the Commission issued a Secretarial Letter extending the Plan submission filing date to November 15, 2012, and the Commission Order date to March 15, 2012. Penelec filed its Plan on November 15, 2012. The Plan was published in the *Pennsylvania Bulletin* on December 1, 2012. 42 Pa.B. 7372.

Plans. The OCA recommends that the Commission again direct the FirstEnergy Companies to engage in a robust stakeholder process during Phase II.

C. Legal Standards

A number of standards are considered by the Commission in determining whether the EDC's EE&C Plan should be approved. See 66 Pa.C.S. § 2806.1(a). Most of these standards deal with the evaluation and modification of the Plan and were previously implemented as part of Phase I. See 66 Pa.C.S. §§ 2806.1(a)(2) (monitoring and verifying data collection); 2806.1(a)(4) (evaluating how Plans will meet or achieve consumption reduction goals); 2806.1(a)(6) (amending and modifying Plans); 2806.1(a)(7). Other, more general standards, must also be achieved as part of each EDC's Plan. For example, Act 129 states that each Plan must include a variety of energy efficiency and conservation measures and that such measures must be provided equitably to all classes of customers. 66 Pa.C.S. § 2806.1(a)(5). Further, cost recovery must be structured in such a manner to ensure that approved measures are financed by the same customer class that will receive the direct benefits of those measures. Id. at § 2806.1(a)(11).

Act 129 also specifically requires each EDC to demonstrate, *inter alia*, that its Plan is both cost effective using the TRC test and provides a diverse cross section of alternatives for customers of all rate classes. See 66 Pa.C.S. § 2806.1(b)(1)(i)(I). In the Act, a TRC test is defined as:

> [A] standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures.

66 Pa.C.S. § 2806.1(m). The TRC will continue to be used to evaluate each EDC's Phase II Plan. Phase II Implementation Order at 78-83. The revised TRC test for the Phase II Plans was

adopted by the Commission at its August 30, 2012 Public Meeting. 2012 PA Total Resource Cost (TRC) Test, Docket No. M-2012-2300653, Order (Aug. 30, 2012).

Finally, as was discussed above, in its Phase II Implementation Order, the Commission directed that each company's Plan be developed to include a series of specific carve-outs. The carve-outs are as follows: (1) 10% of overall consumption reductions must come from the Government/Educational/Non-Profit sector; (2) a Plan's portfolio of measures must include a proportionate number of low-income measures; and (3) EDCs must obtain a minimum of 4.5% of their consumption reductions from the low-income sector. Id. at 45-57.

The OCA submits that, in addition to reviewing the Company's proposed Plan for its potential to achieve the 2.2% consumption reduction target, Penelec's Plan must also be reviewed to ensure that it is designed to meet all of aforementioned goals and targets in a cost-effective manner.

D. Summary of Penelec's Plan

On November 15, 2012, in compliance with the requirements of Act 129 and the Commission's Phase II Implementation Order, Penelec filed its Petition, Direct Testimony and EE&C Plan with the Commission. Penelec is a wholly owned subsidiary of FirstEnergy. Penelec provides electric service to approximately 590,000 customers in central and western Pennsylvania. Penelec St. 1 at 4. The Company's Phase II Plan is designed to reduce total energy consumption between June 1, 2013 and May 31, 2016, by 2.2% of Penelec's sales for the June 1, 2009 through May 31, 2010 period. Petition at 8. To achieve this goal, the Company proposes a Plan consisting of nine energy efficiency programs, all of which are an expansion of the successful elements of the Company's Phase I Plan. Petition at 13-14. Specifically, the Company has proposed the following four programs for its residential class: (1) Appliance Turn-

In Program; (2) Energy Efficient Products Program; (3) Home Performance Program; and (4) Low Income Program. Petition at 13. The proposed small commercial and industrial (SC&I) programs include: (1) C&I Energy Efficient Equipment Program and (2) C&I Efficient Buildings Program. Petition at 13. The proposed large commercial and industrial (LC&I) programs also include: (1) C&I Energy Efficient Equipment Program and (2) C&I Efficient Buildings Program. Petition at 14. The Company also includes a Governmental & Institutional Program.[5] Petition at 14.

Penelec has also proposed three multi-family programs pursuant to the Phase II Implementation Order. Phase II Implementation Order at 51. The residential low income multi-family program will be directed towards single-metered residential customers in multi-family properties. The measures applicable for the low income program will be expanded to include these single-metered, multi-family properties. These will include: (1) the WARM Plus (Comprehensive) program for additional energy education; (2) Low Income Low Use kits for those customers who do not meet the minimum usage requirements for the WARM Plus (Comprehensive) program; and (3) WARM Extra Measures to provide additional electricity savings measures above those provided to customers participating in the WARM or WARM Plus programs. In addition, Penelec has proposed two specific multi-family residential low income programs, including an appliance replacement program and a no cost in-home audit. Penelec Plan at 45. The savings for these programs would be directed towards meeting the low income

[5] The OCA notes that the Companies' Joint Petition and Joint Testimonies use the term Government and Non-Profit sector programs, which include the government and higher education institutional sector programs. Petition at 14. The Phase II Implementation Order refers to the same entities as the Government/Educational/Non-Profit sector programs. Phase II Implementation Order at 45-57. The OCA uses these terms interchangeably throughout the document.

customer consumption reduction target, and the costs would be paid for by residential customers. Penelec Plan at App. E, Table 4, 6A.

Penelec has also proposed two programs for multi-family, master-metered commercial and government properties. The Small C&I Efficient Buildings Program would provide multi-family, master-metered properties with financial incentives for implementing building shell or system improvements and would also include incentives towards energy efficiency audits, kits, and audits with direct installation of measures. Penelec Plan at 59. The Government & Institutional Program would be targeted towards multi-family facilities with federal financing in accordance with the Pennsylvania Housing Finance Authority's (PHFA) customer database. Penelec Plan at 82. The Government & Institutional multi-family programs would include a comprehensive audit with simple direct installed measures; energy efficiency measures including, but not limited to, educational materials, CFLs, Smart Strips, Faucet Aerators, low flow shower heads, and furnace whistles, and other standard electric efficiency measures. Penelec Plan at 82-83. Both of these programs would be paid for by the customers within the SC&I class. Penelec Plan at App. E, Table 6A, Page 2. However, Penelec proposes that "[i]n coordination with PHFA, the Company will support and track participation by low-income multi-family customers toward the Low Income goal as described in Section 9.1.2 and multi-family family customers financed through federal aid toward the Government Goal in the program." Penelec Plan at 61.

Penelec's portfolio of programs is designed to provide customer benefits while also meeting the energy saving goals set forth in the Act within the designated expenditure cap of two percent of 2006 annual revenues (nearly $22.9 million) for each year of the three-year plan. Petition at 9. The Plan has budgeted expenditures totaling $68,919,366, which are broken down by class as follows: Residential- $42,860,580; SC&I- $14,838,827; LC&I- $9,624,405; and Government/Educational/Non-Profit (GOV)- $1,595,555. See Penelec Plan at App. E, Table 6C.

Penelec will recover its costs through an Energy Efficiency and Conservation Rider (EE&C-C) that will be imposed under Section 1307 and will be both reconcilable and non-bypassable.[6] Penelec St. 3 at 7, 12. A separate recovery charge will be established for each customer class, corresponding to the costs of the programs that target that class, and will include the costs of the EE&C Plan programs, the Statewide Evaluator (SWE) costs and administrative expenses. Id. at 6. Initially, the EE&C-C rates for each class are projected to be as follows:

Class	**Projected Rate***
Residential	$0.00370/kWh
Commercial	$0.00151/kWh
Industrial	$0.32/KW PLC
Street Lighting	$0.00077/kWh

*Rate Information taken from Penelec St. 3, Exh. KMS-5

Phase II costs will be tracked and reconciled separately from Phase I costs and revenues. Penelec St. 3 at 6.

Additionally, Penelec proposes to extend its Phase I EE&C-C Rider by six months from May 31, 2013 to December 31, 2013. Petition at 8. According to Company witness Siedt, Penelec will continue to accrue Phase I costs up to and through December 31, 2013, and therefore, the termination date for the EE&C-C Rider for collection of Phase I costs should be extended until December 31, 2013. Penelec St. 3 at 4. Penelec proposed to conduct a final reconciliation of Phase I costs incurred and revenues collected as of December 31, 2013, and refund any over-collection or recoup any under-collection over six months beginning on February 1, 2014. Id.

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[6] Penelec's EE&C-C charge will not be charged to the Company's Borderline Service customers, which are rate schedules only available to public utility companies for resale in adjacent service territories under reciprocal agreements with Penelec and other public utilities. These public utilities are not eligible for any of the Company's Phase II programs. Penelec St. 3 at 10, 12.

II. PRELIMINARY COMMENTS ON THE PLAN AND PROGRAMS

A. Phase II Residential Customer Programs

Penelec's proposed Phase II residential programs include: (1) Appliance Turn-In Program; (2) Energy Efficient Products Program; and (3) Home Performance Program. Penelec also has a residential Low Income Program and a residential multi-family program which will be discussed below in Section II.B. Petition at 13.

1. Appliance Turn-In Program

As part of its Appliance Turn-In Program, Penelec will remove and dispose of older operational inefficient appliances from residential customers' homes and provide a rebate or incentive to customers for allowing such removal and disposal. Penelec Plan at 33. Additionally, the Company may hold periodic events so that residential customers may drop off smaller inefficient appliances at a central location for a rebate. Id. Eligible appliances include refrigerators, freezers and room air conditioners. Rebate/incentive levels differ per appliance type. Id. at 34. Rebates are cash, and incentives include coupons toward the purchase of a new high efficiency unit. Id. The Company intends to track or survey low-income customer participation in the program to support reporting and evaluation. Id. at 33, 34. This program is a continuation of Penelec's Phase I Appliance Turn-In Program. Id. at 33. The OCA will review issues including, but not limited to,: (1) whether the appropriate appliances have been included in the Appliance Turn-In Program; (2) whether the proposed incentive rebate levels are reasonable and appropriate; (3) whether the proposed measure is reasonably calculated to achieve the proposed savings levels; and (4) whether the proposed measure is cost-effective.

2. Energy Efficient Products Program

Penelec's residential Energy Efficient Products Program is a consolidation of the Company's existing residential Energy Efficient Products Program and residential Energy Efficient HVAC Program. It also includes additional measures. Penelec Plan at 36. The Program has four sub-programs: (1) HVAC and Water Heating; (2) Appliances; (3) Consumer Electronics; and (4) Lighting. Id. Additional measures in the HVAC and Water Heating sub-program include whole house fans and ductless mini splits. Penelec Plan at Table 8. Additional measures in the Consumer Electronics sub-program include EE office equipment and televisions. Id. This program will provide rebates to residential customers that install certain qualifying energy efficient products and/or provide upstream incentives and support to manufacturers, distributors, and retailers that sell such products. Penelec Plan at 36. Program strategies include using, *inter alia*, dealer incentives, give-aways and/or special promotional events to encourage sales of high efficiency products. Id. at 37. The program will be marketed, when practicable, in conjunction with the Company's online audit and residential audit programs. Id. Participation by low-income residential customers will be surveyed to support reporting and evaluation. Id. at 38. The OCA will review issues including, but not limited to, (1) whether the appropriate appliances and technologies have been included in the Energy Efficient Products Program; (2) whether the proposed measures are reasonably calculated to achieve the proposed savings; (3) whether the proposed measures are cost-effective; and (4) whether the Plan reflects changing lighting baselines and strategies for transitioning to new lighting technologies and/or other strategies.

3. Home Performance Program

Penelec's residential Home Performance Program will provide energy efficiency education and awareness for residential customers to conserve energy. Penelec Plan at 40. The Phase II program is a consolidation of the existing Phase I Behavioral Modification & Education Program, Residential Home Energy Audits & Outreach Program, Whole Building Program, Residential Multifamily Building Program and Residential New Construction Program. Id. The Phase II program has four sub-programs: (1) Audits; (2) Kits; (3) New Homes; and (4) Behavioral. Id. The Audits sub-program will offer residential customers a comprehensive home energy audit at a discounted fee, which will examine building shell integrity, appliance efficiency, lighting, and HVAC systems. Penelec Plan at 40. At the conclusion of the audit, customers will be provided a list of energy saving projects and receive rebates from the Company for completed projects from the list. Id. The Audits sub-program also includes the Online Home Energy Audit Tool, which can be completed by customers online or with a customer service representative over the telephone. Id. at 41. The Tool converts customers' input of their energy usage into information that customers can act upon, which includes the cost of heating and cooling their homes. Customers are sent an energy efficiency kit after successful completion of the Tool at no additional cost. Id. at 41, 42.

The Kits sub-program includes a variety of items intended to introduce customers to energy efficient technologies that can be easily installed in homes. Penelec Plan at 41. The technologies may include CFLs, low flow shower heads and faucet aerators. Id. The New Homes sub-program provides a rebate to local builders for achieving energy efficiency targets in building shell and installed measures in newly built homes. Penelec Plan at 42. In order to qualify for this program, the homes must exceed the standard building code by 15% consistent with energy efficiency standards published by the U.S. Department of Energy (DOE) under the Energy Star® program. Id. Homes must also qualify at the current Energy Star® level as determined by the U.S. Environmental Protection Agency (EPA). Id. The Behavioral sub-program provides periodic energy usage reports, along with specific information and analysis about a customer's energy usage over time and specific tips for conserving energy. Id. This sub-program will be offered at no cost to customers. Id.

The OCA will review issues including, but not limited to,: (1) whether the proposed measures are reasonably calculated to achieve the proposed savings; (2) whether the proposed measures are cost-effective; (3) whether the proposed savings can be maintained over a period of time; and (4) whether there is any potential double-counting of savings as a result of overlapping behavioral modification measures.

B. Special Plan Requirements

1. Low Income Program Requirements

In its Phase II Implementation Order, the Commission required that EDCs' Phase II Plans, *inter alia*, contain a proportionate number of low income measures and that EDCs obtain a minimum of 4.5% of their consumption reductions from the low income sector. Phase II Implementation Order at 45-57. According to Penelec's Phase II Plan, the Company intends to consolidate its Low-Income Usage Reduction Program (WARM) and Multi-Family-Tenants Program with the addition of new measures, including an appliance replacement program and an audit program for multi-family, single-metered homes into a Human Services program and a Home Performance Program. Penelec Plan at 32, 45-47.

The Human Services program would include the following measures: (1) WARM Plus (Comprehensive), (2) Low Income Low Use Kits, and (3) WARM Extra Measures. Penelec Plan at 45-47. The WARM Plus is an expansion of the existing WARM program and would add energy education and comprehensive weatherization services in single and multi-family homes. WARM Plus will be coordinated with local natural gas distribution companies and the Department of Community and Economic Development (DCED) Weatherization Assistance Program, where available. Id. at 46. The Low Income Low Use Kits would include a kit with energy savings measures and energy education information. Id. The Low Income Low Use Kits would target customers whose energy use does not meet the minimum to qualify for WARM; who do not accept in-home services; whose landlord does not accept services; and who are not eligible for other low income program services. Penelec Plan at 46. WARM Extra Measures would be an expansion of the existing WARM program and would provide additional savings above those in individually metered properties participating in WARM and WARM Plus. Generally, the Human Services sub-programs are to leverage existing low income programs outside of Act 129. Id.

The Home Performance Program would include an appliance replacement program and an audit program for multi-family properties. Penelec Plan at 46. The Home Performance sub-program provides additional energy efficiency measures primarily in multi-family buildings. Id. More specifically, with regard to the Home Performance sub-programs, the Appliance Replacement sub-program will replace older, inefficient appliances with Energy Star® appliances for income qualified customers. Id. at 46. The Audit – Multi-Family sub-program will provide a no-cost in-home audit to low income multi-family customers. Id. at 46-47. Major end uses will be examined including appliance efficiency, lighting and HVAC systems. Id. at 47. The sub-program will include comprehensive measures to provide whole building energy savings opportunities. Id. A list of energy savings projects and measures will be provided to customers. Id.

The target customers for the Low Income Program are customers whose income is at or below 150% of the Federal Poverty Income Guideline (FPIG). Penelec Plan at 46. Penelec's low income residential programs only have a TRC of 0.4 and are estimated to only achieve 3.0% of the portfolio MWh savings. Penelec Plan at App. E, Table 1, 4. Penelec has stated that it may be difficult to reach its low income savings targets based on the market potential in its service territory. Penelec St. 2 at 39.

Penelec has also proposed additional measures to achieve low income program savings outside of the residential low income customer programs. Penelec has proposed to attain a portion of the low income customer savings by deriving a proportion of the low income customer sector participation in the non-low income residential sector programs. Petition at 12. However, as described below, Penelec's Phase II Plan also obtains some low income consumption reduction through SC&I programs directed towards multi-family master-metered customers. Penelec Plan at 61.

The OCA will review whether the proposed low income expenditures and savings are consistent with the Phase II Implementation Order consumption reduction targets; whether the low income programs are reasonably designed to be cost-effective and to meet the consumption reduction targets; and whether additional opportunities for coordination and best practices exist to improve upon the Company's proposed low income programs. The OCA will also examine the Company's proposal to count the low income savings achieved from the participation of the low income customer population in other non-low income residential programs towards the 4.5% low income consumption reduction target and whether that proposal is reasonably designed to measure actual low income customer involvement in non-low income residential programs. Further, the OCA will review whether it is in accordance with Act 129 and the Commission's Phase II Implementation Order to meet the 4.5% low income consumption reduction target through the use of savings achieved through the multi-family, master-metered SC&I program.

2. Multi-family Buildings

During the stakeholder process, the Company discussed program concepts directed at multi-family buildings with the PHFA and other stakeholders. Penelec St. 2 at 20. As discussed above, Penelec intends to provide additional energy efficiency measures in residential, single-metered multi-family buildings through its residential Low Income Program. Penelec Plan at 45. Additionally, Penelec intends to provide measures for master-metered multi-family customers through the Company's SC&I and Government & Institutional Program. Penelec Plan at 52-65.

The SC&I Energy Efficient Equipment Program and Government & Institutional Programs include financial support for implementing qualifying high efficiency measures such as HVAC, water heating, appliances and lighting. Id. at 53-55, 79-83. The SC&I Energy Efficient Buildings and Government & Institutional Program would provide an Audit with Direct Install Measures to low income multi-family customers. Id. at 60-61, 82-83. In coordination with PFHA, Penelec will support and track participation by low income multi-family customers toward the Low Income consumption reduction goal. Id. For the Government & Institutional Program, Penelec will support and track participation for multi-family facilities with federal financing in accordance with the PHFA customer database. Id. at 82-83. Both of these programs would be paid for by the customers within the SC&I class. Penelec Plan at App. E, Table 6A, Page 2.

The OCA will examine the proposed design of the multi-family programs and whether the costs of the multi-family, master-metered programs have been appropriately allocated. Further, the OCA will review whether it is in accordance with Act 129 and the Commission's Phase II Implementation Order to meet the 4.5% low income consumption reduction target through the use of savings achieved through the multi-family, master-metered Small C&I program.

C. Cost Recovery

1. Phase II Cost Recovery

Pursuant to Act 129 and the Phase II Implementation Order, Penelec's total budget for its Phase II Plan is limited to 2% of the Company's total annual revenue as of December 31, 2006. See 66 Pa. C.S. § 2806.1(g); Phase II Implementation Order at 101-102. Each EDC must provide a careful estimate of the costs of its Phase II Plan including capital expenditures and administrative costs. Phase II Implementation Order at 102. Penelec proposes to collect allowable costs of its Phase II Plan through an EE&C-C Rider. Penelec calculated its annual Phase II budget at approximately $22,974,742. Penelec St. 2 at 9. Overall, Penelec projects it will spend $68,919,366 over the course of Phase II. Penelec Plan at App. E, Table 6C. That figure is broken down as follows:

Customer Class	Total Phase II Budget (2013-2015)
Residential	$32,115,550[7]
Low Income	$8,420,816[8]
SC&I	$14,365,387
LC&I	$9,438,291
Government/Non-Profit	$1,534,124

Source: Penelec at App. E, Table6A.

The Company proposed to apportion approximately 62% of the Phase II budget to residential non-low-income programs and residential low-income programs. Penelec Plan at App. E, Table 3. Specifically, Penelec's Phase II Plan summary of costs for residential customers is as follows:

	Program Year 2013		Program Year 2014		Program Year 2015	
	Annual Budget	% of Budget	Annual Budget	% of Budget	Annual Budget	% of Budget
Residential Customers	$10,588,844	48%	$11,257,245	50%	$11,544,467	48%
Low Income Customers	$3,488,550	16%	$2,428,623	11%	$3,552,850	15%

Source: Penelec Plan at App. E, Table 3.

The Phase II Implementation Order requires that Phase II EE&C measures be financed by the customer class that receives the direct benefit from the programs. Phase II Implementation Order at 110.

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7 This amount does not equal the combined amounts in Appendix E, Table 3 of Penelec's Phase II Plan, which totals $33,390,556. The OCA is examining this discrepancy.

8 This amount does not equal the combined amounts in Appendix E, Table 3 of Penelec's Phase II Plan, which totals $9,470,023. The OCA is examining this discrepancy.

Penelec calculated its Phase II EE&C-C Rider amount by utilizing the entire Phase II plan period budget plus administrative expenses and SWE expenses and dividing that amount by the forecasted billing units (kWh for residential customers) to arrive at each class's rate. Penelec St. 3 at 6. The OCA submits that Penelec may have miscalculated its Phase II EE&C-C Rider by failing to include administrative expenses within the 2% of 2006 revenues cap. The Commission was clear in its Phase II Implementation Order that administrative costs were to be included within the 2% of 2006 revenues cap. Phase II Implementation Order at 102. The only costs that are permitted to be recovered outside of the 2% cap are the costs for the Statewide Evaluator (SWE).

The OCA will review the Company's proposed costs included within the EE&C-C Rider and whether those costs are permissible to be recovered under Act 129 and the Phase II Implementation Order. The OCA will also review whether the administrative costs are properly accounted for within the 2% spending cap. The OCA will examine the Company's proposed cost allocation to determine whether the costs are appropriately allocated to the customer classes that will benefit from the programs.

2. Proposed Extension of Phase I Recovery

As part of their Phase I Plans, the FirstEnergy Companies proposed to recover the same levelized amount each year of the Phase I Plan from customers in order to provide more stability for customer rates through its EE&C-C Rider. The Commission directed that the costs be collected from residential customers in distribution rates, not as a separate line item. October

2009 Order at 88.[9] Further, the Commission directed that no interest could be collected on over/under-collections of the Rider. Id. at 90.

In its Phase II Petition, Penelec seeks to extend its Phase I EE&C-C Rider for six months, until December 31, 2013, in order to collect all allowable costs for Phase I. Petition at 8; Penelec St. 3 at 4. Company witness Siedt testified that the Company will continue to accrue Phase I costs until December 31, 2013. Mr. Siedt proposed that Phase I EE&C-C Rider should be reset to zero on June 1, 2013. Then, according to Mr. Siedt, as of December 31, 2013, "a final reconciliation of all actual costs incurred and revenue collected will be performed, resulting in a refund of any over-collection by class or recovery of any under-collection by class for an estimated recovery period of six months beginning on February 1, 2014." Penelec St. 3 at 4. The Phase II Implementation Order provided that "the Commission will allow EDCs to utilize their Phase I budgets past May 31, 2013, solely to account for those program measures installed and commercially operable on or before May 31, 2013, and to finalize the CSP and administrative fees related to Phase I." Phase II Implementation Order at 107.

The Commission directed that final reconciliations of Phase I costs and revenues for those EDCs without an established final reconciliation procedure would be addressed in a separate proceeding. Phase II Implementation Order at 119. Penelec does not have a final reconciliation procedure established for Phase I costs and revenues. The Commission must thoroughly review Penelec's proposed Phase I EE&C-C Rider, including its proposed six-month extension, to determine if the proposed cost recovery mechanism is in accordance with Act 129, the Commission Orders, the Company's tariff and otherwise applicable law.

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[9] Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company for Approval of Energy Efficiency and Conservation Plans, Docket Nos. M-2009-2092222 *et al.*, Order (Oct. 22, 2009) (October 2009 Order).

III. CONCLUSION

The OCA appreciates this opportunity to provide Comments and the testimony of its expert witness, Dr. David Hill, on this important topic.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

Petition of Pennsylvania Electric Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	: : :	Docket No. M-2012-2334392

I hereby certify that I have this day served a true copy of the foregoing, the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

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