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January 28, 2013

**VIA E-FILING**

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

Re: Petition for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plans of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company; Docket Nos. M-2012-2334392, M-2012-2334387, M-2012-2334395 and M-2012-2334398

Dear Secretary Chiavetta:

On behalf of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (the "Companies"), I have enclosed for electronic filing the Joint Petition for Full Settlement of Non-Reserved Issues with respect to the above-captioned consolidated proceeding. Please note that the signature page and the State in Support for Settlement for The Pennsylvania State University will be filed under separate cover on or before Wednesday, January 30, 2013.

Please contact me if you have any questions regarding the forgoing matters. Copies have been served as indicated in the attached certificate of service.

Very truly yours,



John F. Povilaitis

JFP/kra  
Enclosure

cc: The Honorable Elizabeth H. Barnes (via email and first class mail)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Metropolitan Edison Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	:	
	:	M-2012-2334387
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Petition of Pennsylvania Electric Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	:	
	:	M-2012-2334392
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Petition of Pennsylvania Power Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	:	
	:	M-2012-2334395
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Petition of West Penn Power Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	:	
	:	M-2012-2334398
	:	

**JOINT PETITION FOR FULL SETTLEMENT OF  
NON-RESERVED ISSUES**

Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), and West Penn Power Company (West Penn) (collectively “the Companies”), the Office of Consumer Advocate (“OCA”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), PennFuture, Community Action Association of PA (“CAAP”), the Office of Small Business Advocate (“OSBA”), The Pennsylvania State University (“PSU”) and Comverge Inc. (“Comverge”)(collectively the “Joint Petitioners”) by their respective counsel, respectively submit to Pennsylvania Public Utility Commission (“Commission”) this Joint Petition for Full Settlement of Non-Reserved Issues (“Joint Petition”).<sup>1</sup> Statements in Support of the Joint

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<sup>1</sup> The Met-Ed Industrial Users Group (“MEIUG”), Penelec Industrial Customer Alliance (“PICA”), Penn Power Users Group (“PPUG”) and West Penn Power Industrial Intervenors (“WPPII”)(collectively the “Industrial Customers’ Groups”), Wal-Mart Stores East (“Wal-Mart”) and Sam’s East, Inc.(collectively “Wal-Mart”), active Parties in this proceeding, wish to be identified as not objecting to the Joint Petition and not participating in the Joint Petition. The “Reserved Issues” are the issues litigated by UGI Utilities, Inc.-Gas Division, UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. (“UGI”), which will be addressed in Main and Reply Briefs.

Petition are either attached as Appendices to this Joint Petition or submitted under separate cover by the Joint Petitioners.

The terms and conditions of this Joint Petition represent a comprehensive settlement of all Non-Reserved issues presently pending in this proceeding. The Joint Petitioners represent that this comprehensive settlement is in the public interest and, therefore, request that the Commission approve, without modification, the proposed settlement as set forth in the Joint Petition. In support of their request, the Joint Petitioners state as follows:

## **I. BACKGROUND**

1. The Companies are electric distribution companies operating as certificated public utilities in the Commonwealth of Pennsylvania.

2. The Commission entered an Implementation Order on August 3, 2012<sup>2</sup>, directing the Companies to submit energy efficiency and conservation plans (“EE&C Plans”) for the reduction of energy consumption for the period June 1, 2013 through May 31, 2016, consistent with Act 129 of 2008 (“Act 129”). The Companies timely filed Petitions for approval of their respective EE&C Plans which were separately docketed by the Commission. Notice of the filing of the Petitions was published in the *Pennsylvania Bulletin* of December 1, 2013 and a due date of December 21, 2012 was established for comments, answers to the Petitions and Petitions to Intervene. The Petitions were assigned to Administrative Law Judge (“ALJ”) Elizabeth H. Barnes for compilation of and certification of an evidentiary record to the Commission.

3. At a Prehearing Conference held on December 19, 2012, ALJ Barnes granted the Companies’ request to consolidate the four Petitions for hearing and disposition. The

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<sup>2</sup> *Energy Efficiency and Conservation Program*, Docket Nos. M-2012-2289411, M-2008-2069887 (Order Entered August 3, 2012).

ALJ also granted the interventions of UGI, PSU, Wal-Mart, CAAP, CAUSE-PA, MEIUG, PICA, PPUG, WPPII and PennFuture. By Order dated December 28, 2012 (“Scheduling Order”) the ALJ also granted the timely Petition to Intervene of Comverge. The ALJ’s Scheduling Order set due dates for Intervenor Direct Testimony (January 8, 2013), the exchange of Oral Rebuttal Testimony outlines (January 16, 2013), evidentiary hearing (January 17, 2013), Main Briefs (January 28, 2013), Reply Briefs, reply comments and revised plans (February 6, 2013), certification of the evidentiary record (February 7, 2013) and a Commission decision (March 14, 2013). On December 28, 2012, a Protective Order governing the use of confidential discovery information was entered by the ALJ at the request of the Companies.

4. At hearing on January 17, 2013, the Companies introduced into evidence an exhibit marked as FE-Term Sheet (attached to this Joint Petition as Appendix A). Appendix A represents the terms of a settlement reached among the Settling Parties on all of their issues. All issues in this consolidated proceeding were resolved by the FE-Term Sheet with the exception of issues raised by UGI that were reserved for litigation. Comverge withdrew at this hearing its previously filed Petition for Admission *Nunc Pro Tunc* of Direct Testimony, based on a stipulation it reached with the Companies. This withdrawal was granted by the ALJ. Issues raised in the Direct Testimony of UGI were the subject of cross examination and rebuttal testimony at the January 17, 2013 hearing. At the hearing, the ALJ admitted the Direct Testimony of the Companies as well as the Direct Testimony of CAAP, CAUSE-PA, OCA, PennFuture and UGI. The ALJ also accepted into evidence, without objection from any Party, two stipulations between the Companies and Comverge and the Companies and the Industrial Customers’ Groups (attached to this Joint Petition as Appendix B and Appendix C respectively). UGI’s witness Raab and the Companies’ witness Fullem were the only witnesses cross-examined

on January 17, 2013. The ALJ set the deadline of January 28, 2013 as the due date for a fully executed and filed Joint Petition for Settlement, as well as individual statements in support of the Joint Petition for Settlement. The ALJ also modified the previously set procedural schedule to provide for the submission by February 6, 2013, of revised red-lined versions of the EE&C Plans consistent with the Joint Petition and the FE-Term Sheet exhibit. The other previously set procedural dates were maintained for submission of Main and Reply Briefs, as well as certification of the evidentiary record.

5. The terms of the settlement reached by the Joint Petitioners are listed below. The Joint Petitioners respectfully request that the Commission approve these terms without modification and grant this Joint Petition.

## **II. TERMS AND CONDITIONS OF SETTLEMENT**

The terms and conditions of the settlement, for which the Joint Petitioners seek Commission approval, are set forth below.

### **A. Specific Settlement Provisions**

1. The Companies offer to increase the number of stakeholder meetings held annually from 2 to 4, and offer to hold additional ad hoc meetings, via telephone conference, upon stakeholder request. Further, the Companies will continue to meet with community based organizations on a quarterly basis as is currently done and will provide written materials distributed for such meetings to parties entering into this settlement who request such information.

2. Within 90 days of approval of the Companies' EE&C plans, the Companies will agree to contact major natural gas distributors in their service territories for the purpose of trying to find ways to better coordinate the Companies' whole home retrofit program

with like programs provided by the natural gas distributors, and will report the results of such meeting(s) at a subsequent stakeholder meeting.

3. The Companies will allow customers to submit a single application for multiple measures installed under Phase II as a result of a comprehensive audit, provided that the multiple measures are all proposed and completed at the same time. The Companies will also discuss with their implementation vendor(s) the possibility of offering a tiered incentive structure for customers who meet certain audit retrofit performance specifications and will report their findings at their then next stakeholder meeting. Assuming that such an offering does not significantly decrease the cost-effectiveness and tracking and verifying results, and there is no significant opposition from stakeholders, the Companies will seek to modify their EE&C plans through the Commission's standard processes, if necessary, with express support for such modifications being provided by the Joint Petitioners.

4. The Companies will target evaluation funds for annual evaluation of the energy savings associated with the Home Energy Reports (aka Energy Usage Reports) and will share the results of such evaluations and any recommendations being proposed based on such results with interested parties during the Companies' next applicable stakeholder meeting.

5. In the event the Companies' Residential New Construction Program becomes fully subscribed during the term of the plans, the Companies will discuss the issue with its stakeholder group. Assuming that there is no significant opposition from such group, the Companies will seek approval to transfer additional funding from anticipated available funds allocated to other residential programs to the extent such transfer does not hinder the Companies' goal attainment and adheres to the Companies' budget caps and the Commission's cost-effectiveness requirements. Assuming such change meets these requirements, the Companies

will seek expedited approval through the Commission's plan modification procedures, with such proposed change being affirmatively supported by the Joint Petitioners.

6. Within 60 days of the approval of the Companies' EE&C Plans, the Companies will meet in a collaborative with interested stakeholders to discuss recommendations for the reallocation of residential customer dollars from the Energy Efficiency Kits and the Home Energy Reports (HER) Programs to: (1) the Residential Energy Efficient Products Program to include HVAC, water heating, and ENERGY STAR appliances measures and (2) the Residential Home Performance Program for building shell measures and weatherization measures recommended through the Audit program to obtain more of the potential savings for these measures identified in the Statewide Evaluator's (SWE) Electric Energy Efficiency Potential for Pennsylvania Study. While the Companies will entertain suggestions for the reallocation of such funding, it is within the discretion of the Companies to accept or reject any such recommendations made by any party, with such acceptance not being unreasonably withheld. It is expressly acknowledged and agreed that rejection of any recommendation that causes the Companies to exceed their 2% spending cap or places at risk the Companies' ability to achieve their statutory Phase II energy efficiency targets shall be deemed a reasonable rejection. The Companies will share their rationale for any such rejections. The Joint Petitioners agree that any agreed-upon changes to the programs will be requested through the Commission's "Minor Changes" process, if necessary. Nothing contained herein restricts any Joint Petitioner's rights in the "Minor Changes" process.

7. The Companies will revise their Low Income Programs to target increased energy savings by at least 10% over the plan targets as currently proposed for low income programs. To the extent that additional funding is required to support the targeted increase in

energy savings, the Companies will shift up to \$1 million in funds currently included in the general residential programs to specific low income programs, with the understanding that within 60 days of the Companies' EE&C plans being approved, the Companies will meet with Joint Petitioners who are interested in low income programs to discuss the results of its evaluation to increase the energy savings achieved through the dedicated low income programs and any requirement that additional funds should be allocated to its low income programs. While the Companies will entertain suggestions for the use of such funding, it is within the discretion of the Companies to accept or reject any such recommendations made by any party, with such acceptance not being unreasonably withheld. It is expressly acknowledged and agreed that rejection of any recommendation that causes the Companies to exceed their 2% spending cap or places at risk the Companies' ability to achieve their statutory Phase II energy efficiency targets shall be deemed a reasonable rejection. Further, within 9 months of the Companies' EE&C plans being approved, the Companies will meet with these same parties and will review the results of the implemented recommendations. It is further acknowledged and agreed that the Companies may reallocate funds agreed to be dedicated to the specific low income programs through this paragraph to general residential programs, should it be determined that the actual results are not meeting expectations as established during the initial meeting, or the Companies, in their discretion, cannot achieve their statutory Phase II energy efficiency targets if such funding continues. The Companies agree to share with the affected parties their rationale should any such conclusions be drawn. The Companies will file such changes through the Commission's "Minor Changes" process, if necessary. Nothing contained herein restricts any party's rights in the "Minor Changes" process.



8. The Companies will work to develop a dedicated marketing plan for low income customers to target their participation in all residential programs. Within 90 days of approval of the Companies' EE&C plans, the Companies will meet with Joint Petitioners interested in low income programs and review all marketing materials for all low income and general residential programs. The Companies will consider all suggested improvements made by the low income advocates, but adoption of any such changes is within the discretion of the Companies, with such adoption not being unreasonable rejected by the Companies. The Companies will share their rationale for any such rejection.

9. During 2013, the Companies will investigate the market for heat pump water heaters within their respective service territories. The Companies will share the results of the pilot developed under the LIURP program in Penn Power's service territory and will study and share the results no later than their first stakeholder meeting in 2014. Maria Frederick will provide details surrounding this program in her rebuttal testimony during the evidentiary hearing.<sup>3</sup> Should the results of the pilot demonstrate the feasibility of installing more heat pump water heaters within the available low income budget, the Companies will discuss during its stakeholder meeting the possibility of expanding the budget for such installations. Further, the Companies will use reasonable efforts to target and install up to an additional 20 heat pump water heaters for low income customers annually across the Companies' combined service territories. Further the Companies will investigate the feasibility of adding an add-on heat pump to existing water heaters and will report their findings during an upcoming stakeholder meeting.

10. The Companies will continue to cross market all low income programs offered by the Companies to confirmed low income customers. They will also continue to direct

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<sup>3</sup> Ms. Frederick provided this testimony at the January 17, 2013 hearing in the form of oral Rebuttal Testimony. NT 88-96.

confirmed low income customers to other federal and state agency sponsored low income programs for which the customer qualifies. Ms. Frederick will provide details on how this is accomplished in her rebuttal testimony during the evidentiary hearing.<sup>4</sup>

11. The Companies will continue to meet with Community Based Organizations (CBOs) on a quarterly basis to discuss, among other things, issues involving the Companies' low income EE&C program offerings. The Companies will provide meeting notes/results to Joint Petitioners upon request. Ms. Frederick will provide details during her rebuttal testimony explaining how the Companies work with CBOs.<sup>5</sup>

12. The Companies will work with the Statewide Evaluator (SWE) to develop a survey methodology that is acceptable to the SWE that assesses low income customer participation in non-low income programs. Prior to conducting the survey, the Companies will discuss the survey methodology agreed-upon by the SWE. The Companies will share the results of any such survey during an upcoming stakeholder meeting.

13. The Companies will continue to require its vendors and contractors who implement low income programs and install low income energy efficiency measures to use commercially reasonable efforts to coordinate any such installations and implementations with natural gas providers located within the applicable Company's service territory. Ms. Frederick will explain during her rebuttal testimony how such coordination is done.<sup>6</sup>

14. The educational materials included within the energy efficiency kits will include the following information for customers: (i) information on kit contents; (ii) installation instructions; (iii) household energy savings tips; (iv) CFL disposal instructions; and (v) marketing materials for other residential programs. The Companies further agree to include low

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<sup>4</sup> Supra.

<sup>5</sup> Supra.

<sup>6</sup> Supra.

income education as an agenda item in the meeting contemplated in Paragraph 8 for the purpose of seeking suggested improvements in said materials; however, the adoption of any such suggested improvements shall be within the discretion of the Companies, with such adoption not being unreasonably rejected. The Companies will explain their rationale for any such rejection.

15. The Companies will withdraw their request for an extension of their reconciliation period for Phase I costs in this proceeding and will, instead, make such a request in a separate proceeding as suggested by OCA.

16. The Companies will add the following stipulated facts into the evidentiary record in this proceeding and their respective Phase II Plans shall be amended to include:

Combined Heat and Power (“CHP”) projects may be approved as eligible custom measure projects, if found to be cost effective as indicated by a Total Resource Cost (“TRC”) score above 1.0, as calculated in accordance with the Technical Reference Manual (“TRM”) standards or other Commission guidelines or directives. In addition, each eligible project must not be above 10 MW in size, are intended solely for customer on-site use (not wholesale merchant projects), produce retail energy savings to a FirstEnergy operating company (“Company”) (i.e., the reduction of electricity consumption), are installed and operational during Phase II and comply with all Company interconnection and standby service rules and requirements.<sup>7</sup>

17. The Companies will add the following stipulated into the evidentiary record in this proceeding and their respective Phase II Plans shall be amended to include:

Large Commercial and Industrial Phase I applications with respect to projects that have not been completed prior to the conclusion of Phase I will be processed as part of the same

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<sup>7</sup> This Stipulation was admitted into the evidentiary record at the January 17, 2013 hearing. NT 47.

Phase II Programs without re-application, consistent with the Companies' EE&C Plan review and eligibility requirements.<sup>8</sup>

18. In exchange for the above concessions by the Companies, the Joint Petitioners agree to support the Companies' EE&C Plans as modified above, and as described by Maria Frederick during her rebuttal testimony<sup>9</sup>, and will not pursue any other issues not addressed herein that are included in any Joint Petitioner's testimony.

**B. General Settlement Provisions**

19. The Joint Petitioners acknowledge and agree that this settlement shall have the same force and effect as if this proceeding were fully litigated.

20. This settlement reflects significant compromises between and among the Joint Petitioners and: (a) is proposed solely for the purpose of settling the present proceeding; (b) is made without any admission by any party hereto as to any matter of fact or law, other than as may be expressly stated in this Joint Petition; and (c) is without prejudice to any position advanced by the Joint Petitioners in these proceedings or that might be adopted by any Party during subsequent litigation. Notwithstanding the foregoing, however, if this settlement is approved and implemented, the Joint Petitioners shall not in any subsequent proceeding take any action or advocate any position which would disrupt the spirit or the letter of the Joint Petition or the settlement.

21. The Parties acknowledge that their actions pursuant to this Joint Petition are undertaken to resolve disputed matters and, except as may be expressly stated herein, this Joint Petition and settlement are made without admission against or prejudice to any factual or legal position which any Joint Petitioner has asserted previously in connection with this

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<sup>8</sup> Supra.

<sup>9</sup> Provided at hearing on January 17, 2013.

consolidated proceeding or otherwise. No Joint Petitioner may cite, refer to, or rely on this Joint Petition as precedent, an admission, or by way of estoppel in any proceeding or future negotiation between them, other than a proceeding to enforce this Joint Petition or any final order from the Commission approving the Joint Petition.

22. This Joint Petition and the settlement are conditioned upon the Commission's approval of all of the terms outlined herein. If the Commission modifies or fails to approve any of the settlement terms, then any Joint Petitioner may elect to withdraw from the settlement and proceed to complete the litigation of these proceedings, in which event: (a) the Joint Petitioners reserve their respective rights to, among other things, request rulings on all preliminary motions that may have been filed previously, participate in a prehearing conference, conduct discovery, file testimony, confront opposing witnesses and generally participate in evidentiary hearings, submit briefs and reply briefs supporting their respective positions, etc.; (b) the Joint Petitioners claim the privilege reserved in 52 Pa. Code § 5.231 that no part of the unaccepted settlement shall be admissible in evidence at any time against any Joint Petitioner; and (c) no adverse inference shall be drawn against any Joint Petitioner as a result of any matter set forth herein.

23. Joint Petitioners shall not, in any subsequent proceeding before the Commission or any other forum, take any action, file any pleadings, or otherwise advocate any position inconsistent with or otherwise challenge or seek to overturn the terms and conditions of this Joint Petition and settlement.

24. The terms and conditions of this Joint Petition shall be implemented at all times by the Settling Parties in good faith and fair dealing. Each Joint Petitioner shall execute

such other documents as may be reasonably requested by the other Joint Petitioner to implement the intent and purpose of this Joint Petition and settlement.

25. The Joint Petitioners may enforce this Joint Petition through any appropriate action before the Commission or through any other available remedy in law, equity or otherwise.

26. This Joint Petition constitutes the entire agreement among the Joint Petitioners hereto with respect to the matters contained herein and all prior agreements with respect to the matters covered herein are superseded, and each Joint Petitioner confirms that it is not relying upon any representations or warranties of the other Joint Petitioner, except as specifically set forth herein or incorporated by reference hereto.

27. This Joint Petition shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, irrespective of the application of any conflict of laws provisions.

28. The Joint Petitioners agree that this settlement may be executed in one or more counterparts each of which shall be deemed an original and all of which taken together constitute one and the same agreement be binding upon the Joint Petitioners as if they executed a single petition.

29. It is expressly understood and agreed among the Joint Petitioners that this Joint Petition and settlement constitutes a negotiated resolution solely of the non-reserved issues in the above-captioned proceedings.

30. The Joint Petitioners shall utilize their best efforts to support this Joint Petition and settlement and to secure its approval by the Commission.

### III. PUBLIC INTEREST CONSIDERATIONS

31. The Joint Petitioners submit that this settlement is in the public interest and should be approved in full for the following reasons:

(a) Substantial litigation and associated costs will be avoided by this settlement. This settlement resolves a number of important issues fairly, by balancing the interests of the Joint Petitioners and the public. If approved, the settlement will eliminate the possibility of further Commission litigation and appeals, along with their attendant costs;

(b) The Joint Petitioners arrived at this settlement after a number of meetings, discussions, discovery and extensive negotiations. The settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (*see* 52 Pa. Code §§ 5.231, 69.391, and 69.401).

### IV. CONCLUSION

WHEREFORE, the Joint Petitioners intending to be legally bound, respectfully request that the Commission:

1. approve the settlement set forth herein in its entirety without modification;
- and
2. after approval of this settlement and adjudication of the reserved issues, terminate this proceeding and mark the record closed.

IN WITNESS WHEREOF, the Joint Petitioners bind themselves to the terms and conditions set forth herein, as evidenced by the signature of their attorneys, each of whom has authority to execute this Joint Petition.

**Metropolitan Edison Company,  
Pennsylvania Electric Company,  
Pennsylvania Power Company, and  
West Penn Power Company**

  
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**Coalition for Affordable Utility Services and  
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**Coalition for Affordable Utility Services and  
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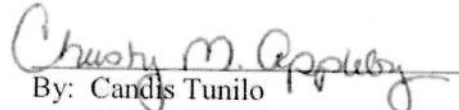
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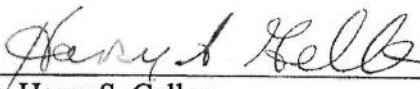
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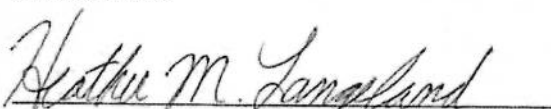
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IN WITNESS WHEREOF, the Joint Petitioners bind themselves to the terms and conditions set forth herein, as evidenced by the signature of their attorneys, each of whom has authority to execute this Joint Petition.

**Metropolitan Edison Company,  
Pennsylvania Electric Company,  
Pennsylvania Power Company, and  
West Penn Power Company**

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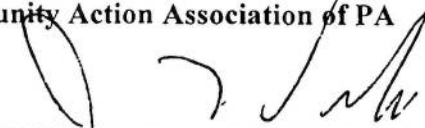
**Coalition for Affordable Utility Services and  
Energy Efficiency in Pennsylvania**

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**Coalition for Affordable Utility Services and  
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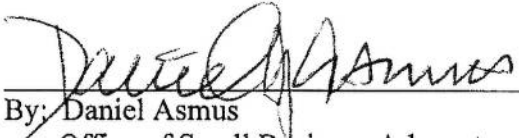
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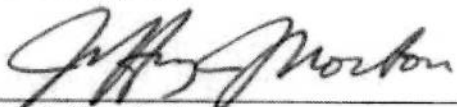
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Metropolitan Edison Company	:	
for Approval of its Act 129 Phase II	:	M-2012-2334387
Energy Efficiency and Conservation Plan	:	
	:	
Petition of Pennsylvania Electric Company	:	
For Approval of its Act 129 Phase II	:	M-2012-2334392
Energy Efficiency and Conservation Plan	:	
	:	
Petition of Pennsylvania Power Company	:	
For Approval of its Act 129 Phase II	:	M-2012-2334395
Energy Efficiency and Conservation Plan	:	
	:	
Petition of West Penn Power Company	:	
For Approval of its Act 129 Phase II	:	M-2012-2334398
Energy Efficiency and Conservation Plan	:	

**STATEMENT IN SUPPORT OF JOINT PETITION FOR FULL SETTLEMENT OF  
NON RESERVED ISSUES**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), and West Penn Power Company (West Penn) (collectively “the Companies”) hereby files this Statement in Support of the Joint Petition of Full Settlement of Non Reserved Issues (“Joint Petition” or “Settlement”) entered into by the Companies, the Office of Consumer Advocate (“OCA”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), PennFuture, Community Action Association of PA (“CAAP”), the Office of Small Business Advocate (“OSBA”), The Pennsylvania State University (“PSU”) and Comverge Inc. (“Comverge”) (collectively the “Settling Parties”) by their respective counsel.<sup>1</sup>

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<sup>1</sup> The Met-Ed Industrial Users Group (“MEIUG”), Penelec Industrial Customer Alliance (“PICA”), Penn Power Users Group (“PPUG”) and West Penn Power Industrial Intervenors (“WPPII”)(collectively the “Industrial Customers’ Groups”), Wal-Mart Stores East (“Wal-Mart”) and Sam’s East, Inc.(collectively “Wal-Mart”), active Parties in this proceeding, have indicated they wish to be identified as not objecting to the Joint Petition and not participating in the Joint Petition. The “Reserved Issues” are the issues litigated by UGI Utilities, Inc.-Gas Division, UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. (“UGI”) and the Companies, which will be addressed in Main and Reply Briefs.

## **I. INTRODUCTION**

### **A. BACKGROUND**

The background of this proceeding is set forth in Paragraphs 1-5 of the Joint Petition and is incorporated by reference herein.

## **II. COMMISSION POLICY FAVORS SETTLEMENTS**

Commission policy promotes settlements.<sup>2</sup> Settlements reduce the time and expense the parties must expend in litigating a case while simultaneously conserving important administrative resources. Settlement results are more predictable than those achieved in full litigation and are therefore preferable. The terms of the Settlement in combination with the Companies' underlying proposed Phase II Plans provide a lawful fulfillment of Act 129 and the Commission's requirements for EE&C Plans. In addition, the Plans, as revised, the direct and rebuttal testimony submitted by certain Joint Petitioners and the Stipulations submitted into evidence, provide a sound evidentiary basis for the Settlement<sup>3</sup>.

## **III. THE SETTLEMENT IS IN THE PUBLIC INTEREST**

The Companies will increase the number of stakeholder meetings held annually from 2 to 4, and offer to hold additional ad hoc meetings, via telephone conference, upon stakeholder request. Further, the Companies will continue to meet with community based organizations ("CBOs") on a quarterly basis as is currently done and will provide written materials distributed for such meetings to parties entering into this Settlement who request such information.

Within 90 days of approval of the Companies' EE&C Plans, the Companies will agree to contact major natural gas distributors in their service territories for the purpose of trying to find ways to better coordinate the Companies' whole home retrofit program with like programs

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<sup>2</sup> See 52 Pa. Code § 5.231.

<sup>3</sup> Although the Settlement does not include issues raised by UGI, those reserved issues are to be decided by litigation based on evidence of record and briefing.



provided by the natural gas distributors, and will report the results of such meeting(s) at a subsequent stakeholder meeting.

The Companies will allow customers to submit a single application for multiple measures installed under Phase II as a result of a comprehensive audit, provided that the multiple measures are all proposed and completed at the same time. The Companies will also discuss with their implementation vendor(s) the possibility of offering a tiered incentive structure for customers who meet certain audit retrofit performance specifications and will report their findings at their then next stakeholder meeting. Assuming that such an offering does not significantly decrease the cost-effectiveness and tracking and verifying results, and there is no significant opposition from stakeholders, the Companies will seek to modify their EE&C plans through the Commission's standard processes, if necessary, with express support for such modifications being provided by the Joint Petitioners.

The Companies will target evaluation funds for annual evaluation of the energy savings associated with the Home Energy Reports (aka Energy Usage Reports) and will share the results of such evaluations and any recommendations being proposed based on such results with interested parties during the Companies' next applicable stakeholder meeting.

In the event the Companies' Residential New Construction Program becomes fully subscribed during the term of the plans, the Companies will discuss the issue with its stakeholder group. Assuming that there is no significant opposition from such group, the Companies will seek approval to transfer additional funding from anticipated available funds allocated to other residential programs to the extent such transfer does not hinder the Companies' goal attainment and adheres to the Companies' budget caps and the Commission's cost-effectiveness requirements. Assuming such change meets these requirements, the Companies will seek

expedited approval through the Commission's plan modification procedures, with such proposed change being affirmatively supported by the Joint Petitioners.

Within 60 days of the approval of the Companies' EE&C Plans, the Companies will meet in a collaborative with interested stakeholders to discuss recommendations for the reallocation of residential customer dollars from the Energy Efficiency Kits and the Home Energy Reports (HER) Programs to: (1) the Residential Energy Efficient Products Program to include HVAC, water heating, and ENERGY STAR appliances measures and (2) the Residential Home Performance Program for building shell measures and weatherization measures recommended through the Audit program to obtain more of the potential savings for these measures identified in the Statewide Evaluator's (SWE) Electric Energy Efficiency Potential for Pennsylvania Study. While the Companies will entertain suggestions for the reallocation of such funding, it is within the discretion of the Companies to accept or reject any such recommendations made by any party, with such acceptance not being unreasonably withheld. It is expressly acknowledged and agreed that rejection of any recommendation that causes the Companies to exceed their 2% spending cap or places at risk the Companies' ability to achieve their statutory Phase II energy efficiency targets shall be deemed a reasonable rejection. The Companies will share their rationale for any such rejections. The Joint Petitioners agree that any agreed-upon changes to the programs will be requested through the Commission's "Minor Changes" process, if necessary. Nothing contained herein restricts any Joint Petitioner's rights in the "Minor Changes" process.

The Companies will revise their Low Income Programs to target increased energy savings by at least 10% over the plan targets as currently proposed for low income programs. To the extent that additional funding is required to support the targeted increase in energy savings, the Companies will shift up to \$1 million in funds currently included in the general residential programs to specific low income programs, with the understanding that within 60 days of the

Companies' EE&C plans being approved, the Companies will meet with Joint Petitioners who are interested in low income programs to discuss the results of its evaluation to increase the energy savings achieved through the dedicated low income programs and any requirement that additional funds should be allocated to its low income programs. While the Companies will entertain suggestions for the use of such funding, it is within the discretion of the Companies to accept or reject any such recommendations made by any party, with such acceptance not being unreasonably withheld. It is expressly acknowledged and agreed that rejection of any recommendation that causes the Companies to exceed their 2% spending cap or places at risk the Companies' ability to achieve their statutory Phase II energy efficiency targets shall be deemed a reasonable rejection. Further, within 9 months of the Companies' EE&C plans being approved, the Companies will meet with these same parties and will review the results of the implemented recommendations. It is further acknowledged and agreed that the Companies may reallocate funds agreed to be dedicated to the specific low income programs through this paragraph to general residential programs, should it be determined that the actual results are not meeting expectations as established during the initial meeting, or the Companies, in their discretion, cannot achieve their statutory Phase II energy efficiency targets if such funding continues. The Companies agree to share with the affected parties their rationale should any such conclusions be drawn. The Companies will file such changes through the Commission's "Minor Changes" process, if necessary. Nothing contained herein restricts any party's rights in the "Minor Changes" process.

The Companies will work to develop a dedicated marketing plan for low income customers to target their participation in all residential programs. Within 90 days of approval of the Companies' EE&C plans, the Companies will meet with Joint Petitioners interested in low income programs and review all marketing materials for all low income and general residential

programs. The Companies will consider all suggested improvements made by the low income advocates, but adoption of any such changes is within the discretion of the Companies, with such adoption not being unreasonable rejected by the Companies. The Companies will share their rationale for any such rejection.

During 2013, the Companies will investigate the market for heat pump water heaters within their respective service territories. The Companies will share the results of the pilot developed under the LIURP program in Penn Power's service territory and will study and share the results no later than their first stakeholder meeting in 2014. Maria Frederick will provide details surrounding this program in her rebuttal testimony during the evidentiary hearing.<sup>4</sup> Should the results of the pilot demonstrate the feasibility of installing more heat pump water heaters within the available low income budget, the Companies will discuss during its stakeholder meeting the possibility of expanding the budget for such installations. Further, the Companies will use reasonable efforts to target and install up to an additional 20 heat pump water heaters for low income customers annually across the Companies' combined service territories. Further the Companies will investigate the feasibility of adding an add-on heat pump to existing water heaters and will report their findings during an upcoming stakeholder meeting.

The Companies will continue to cross market all low income programs offered by the Companies to confirmed low income customers. They will also continue to direct confirmed low income customers to other federal and state agency sponsored low income programs for which the customer qualifies. Ms. Frederick will provide details on how this is accomplished in her rebuttal testimony during the evidentiary hearing.<sup>5</sup>

The Companies will continue to meet with CBOs on a quarterly basis to discuss, among other things, issues involving the Companies' low income EE&C program offerings. The

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<sup>4</sup> Ms. Frederick provided this testimony at the January 17, 2013 hearing in the form of oral Rebuttal Testimony. NT 88-96.

<sup>5</sup> Supra.

Companies will provide meeting notes/results to Joint Petitioners upon request. Ms. Frederick will provide details during her rebuttal testimony explaining how the Companies work with CBOs.<sup>6</sup>

The Companies will work with the Statewide Evaluator (SWE) to develop a survey methodology that is acceptable to the SWE that assesses low income customer participation in non-low income programs. Prior to conducting the survey, the Companies will discuss the survey methodology agreed-upon by the SWE. The Companies will share the results of any such survey during an upcoming stakeholder meeting.

The Companies will continue to require its vendors and contractors who implement low income programs and install low income energy efficiency measures to use commercially reasonable efforts to coordinate any such installations and implementations with natural gas providers located within the applicable Company's service territory. Ms. Frederick will explain during her rebuttal testimony how such coordination is done.<sup>7</sup>

The educational materials included within the energy efficiency kits will include the following information for customers: (i) information on kit contents; (ii) installation instructions; (iii) household energy savings tips; (iv) CFL disposal instructions; and (v) marketing materials for other residential programs. The Companies further agree to include low income education as an agenda item in the meeting contemplated in Paragraph 8 for the purpose of seeking suggested improvements in said materials; however, the adoption of any such suggested improvements shall be within the discretion of the Companies, with such adoption not being unreasonably rejected. The Companies will explain their rationale for any such rejection.

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<sup>6</sup> Supra.

<sup>7</sup> Supra.

The Companies will withdraw their request for an extension of their reconciliation period for Phase I costs in this proceeding and will, instead, make such a request in a separate proceeding as suggested by OCA.

The Companies will add the following stipulated facts into the evidentiary record in this proceeding:

Combined Heat and Power (“CHP”) projects may be approved as eligible custom measure projects, if found to be cost effective as indicated by a Total Resource Cost (“TRC”) score above 1.0, as calculated in accordance with the Technical Reference Manual (“TRM”) standards or other Commission guidelines or directives. In addition, each eligible project must not be above 10 MW in size, are intended solely for customer on-site use (not wholesale merchant projects), produce retail energy savings to a FirstEnergy operating company (“Company”) (i.e., the reduction of electricity consumption), are installed and operational during Phase II and comply with all Company interconnection and standby service rules and requirements.<sup>8</sup>

The Companies will add the following stipulated into the evidentiary record in this proceeding:

Large Commercial and Industrial Phase I applications with respect to projects that have not been completed prior to the conclusion of Phase I will be processed as part of the same Phase II Programs without re-application, consistent with the Companies’ EE&C Plan review and eligibility requirements.<sup>9</sup>

In exchange for the above concessions by the Companies, the Joint Petitioners agree to support the Companies’ EE&C Plans as modified above, and as described by Maria Frederick

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<sup>8</sup> This Stipulation was admitted into the evidentiary record at the January 17, 2013 hearing. NT 47 .

<sup>9</sup> Supra.

during her rebuttal testimony<sup>10</sup>, and will not pursue any other issues not addressed herein that are included in any Joint Petitioner's testimony.

#### **IV. THE PLANS AS MODIFIED BY SETTLEMENT MEET THE REQUIREMENTS OF ACT 129 AND THE COMMISSION**

The Companies' Joint Company Exhibit No. 1, the Joint Petition for consolidation and approval of the Phase II Plans, admitted into evidence at the January 17, 2013 hearing, provides the background to the Phase II filings and overviews of the Direct Testimony offered in support and the Plans. The Companies prepared and admitted into evidence three Direct Testimony Statements. Met-Ed/Penelec/PennPower/West Penn Statement No. 1, the direct testimony of John C. Dargie, provided an overview of the Companies and their Phase II EE&C Plans. Met-Ed/Penelec/PennPower/West Penn Statement No. 2, the direct testimony of Edward C. Miller, provided a detailed description of the Plans, an explanation of the Proposed Plans' development and compliance, the Plans' risks and the Program Goals. Met-Ed/Penelec/PennPower/West Penn Statement No. 3, the direct testimony of Kevin M. Siedt, provided support for the Companies' proposed cost recovery and reconciliation of Program costs. In addition, the Plans themselves, which will be submitted with revisions consistent with the Settlement, were admitted into evidence as ME Exhibit No. 1, PE Exhibit No. 1, WPP Exhibit No. 1 and PP Exhibit No. 1. Finally, the Companies/Comverge Stipulation, the Companies/Industrial Customers Groups Stipulation and the FE Term Sheet Exhibit were also admitted into evidence.<sup>11</sup>

Consistent with the Commission's Phase II Implementation Order ("Implementation Order"), the Companies filed EE&C Plans that will operate from June 1, 2013, through May 31, 2016. The Plans include Programs and measures that are targeted at meeting the Implementation

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<sup>10</sup> Provided at hearing on January 17, 2013.

<sup>11</sup> Mr. Siedt supported a modification to the Phase I riders reconciliation of Phase I costs and revenues, as well as support for the Phase II riders and reconciliation process. Pursuant to the Settlement reached in this case, the Companies have agreed to submit their proposed changes to the Phase I reconciliation process in a separate proceeding. However the Settlement authorizes Commission adoption of Mr. Siedt's recommendations with respect to the Phase II riders.

Order's energy reduction goals at an annualized cost not to exceed 2 percent of the Companies' total annual revenue as of December 31, 2006.<sup>12</sup>

Consistent with the Act's requirements, the Companies' Proposed Plans (i) provide a Section 1307 cost recovery mechanism ; (ii) assign and allocate the costs associated with the EE&C measures to the same customer class that will receive the direct energy and conservation benefits from these measures ; (iii) bifurcate all Phase I EE&C costs from Phase II EE&C costs ; (iv) provide that a minimum of ten percent of all consumption reduction requirements will come from units of federal, state and local governments, including municipalities, school districts, institutions of higher education and non-profit entities ; (v) include specific energy efficiency measures for households at or below 150% of the federal poverty income guidelines, in proportion to that sector's share of the total energy usage in the EDC's service territory ; (vi) obtain a minimum of 4.5% of their total consumption reduction requirements from the low-income sector ; and (vii) contain at least one comprehensive measure for residential and small commercial rate classes.

Although not required, consistent with the Commission's suggestion in its Implementation Order, the Plans give special emphasis and consideration to multifamily housing within the government/educational/nonprofit sector in the Companies' EE&C plans.

In developing the Proposed Plans, the Companies relied on their experience in managing the existing suite of programs already approved by the Commission for Phase I. The Companies also: (i) identified potential measures through peer review and benchmarking of other utilities and affiliates; (ii) received input from stakeholders, consultants and vendors; (iii) reviewed the Commission's Tentative Order regarding the 2013 proposed technical resource manual ("TRM"), the Commission's Order regarding the 2013 total resource cost ("TRC") test, the 2012

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<sup>12</sup> The Companies challenged the goal levels in a separate proceeding. In that proceeding the Commission rejected the Companies' request to reduce the goals, but confirmed the Companies' legal option to request goal reductions in the future.



TRM, and the SWE's Market Potential Study; and (iv) performed the 2013 TRC Test. Based on these reviews, analyses and evaluation, the Companies established their Proposed Plans within the mandated spending limitations of Act 129. The Proposed Plans were designed to achieve a balance of costs and end results, keeping in mind each Company's Implementation Order targets, while developing a portfolio that provides implementation flexibility.

The Companies' Proposed Plans describe how the Companies will achieve the required reductions in consumption, within the cost limitations and assumptions prescribed by the Commission's 2012 Implementation Order, and explain how quality assurance and performance will be measured, verified and evaluated. The Proposed Plans include cost estimates to develop and implement programs and measures, and, pursuant to 66 Pa.C.S. §1307, a tariff rider cost recovery mechanism is proposed to ensure full and current recovery of the costs of the plans. A budget showing total planned expenditures by program and customer class is also included in each of the Companies' Proposed Plans.

The savings generated and evaluated through the Companies' Proposed Plans are based upon the requirements and guidance set forth in the *2012 PA Total Resource Cost (TRC) Test*, *2009 PA Total Resource Cost Test*, Docket Nos. M-2012-2300653 and M-2009-2108601 (Order entered August 30, 2012). The results of the TRC test, as applied to the Proposed Plans, are presented in Appendices D1 and D2 of the Companies' respective Plans and are expressed as both a net present value and a benefit-cost ratio. Each of the Plans passes the TRC test.

The Companies have designed a suite of programs for all major customer segments. The programs offered by the Companies in Phase II are an expansion of the successful elements currently included in the Existing Plans, which were approved by the Commission. These programs (which are described in greater detail in each Company's Proposed Plan and summarized in Companies' Witness Miller's testimony) are as follows:

Residential programs:

- Appliance Turn-In Program
- Energy Efficient Products Program
- Home Performance Program
- Low Income Program

Small Commercial and Industrial programs:

- C&I Energy Efficient Equipment Program
- C&I Energy Efficient Buildings Program

Large Commercial and Industrial programs:

- C&I Energy Efficient Equipment Program
- C&I Energy Efficient Buildings Program

Government and Non-Profit Program:

- Governmental & Institutional Program

The specific program designs listed above cover each of the five market segments: (i) residential (including low income); (ii) small commercial and industrial; (iii) large commercial and industrial; (iv) street lighting; and (v) government (including federal, state, and local government or municipalities/school districts/institutions of higher learning and non-profit entities). The Proposed Plans leverage the existing programs and include a mix of expanded and new services that take maximum advantage of current opportunities, volume cost efficiencies and a variety of delivery channels that are anticipated to result in significant levels of customer participation. All of the program designs are presented in detail in Section 3 of the Companies' Proposed Plans.

The Settlement terms provide additions to the Plans details, including specific administration and implementation activities, that accommodates the Joint Petitioners' concerns regarding specific Programs in a manner that does not increase the Companies' risk of not achieving their energy reduction goals or exceeding their budgets. The Stipulation the Companies reached with Comverge clarifies the requirements for eligible Combined Heat and Power projects submitted to the Custom Applications program. These significant projects (up to

10 MW, are likely to utilize natural gas as their fuel source. The Stipulation the Companies reached with the Industrial Customers Groups clarifies that customers with applications pending in Phase I will not be disadvantaged by the commencement of Phase II programs at the end of May 31, 2013. The Settlement terms address a number of concern Joint Petitioners raised with respect to low income and residential customer programs. The Settlement also addresses Joint Petitioner concerns regarding coordination with natural gas providers and requires the Companies to coordinate with natural gas distribution companies on whole home retrofit projects, as well as continuing the Companies' obligation to require its contractors and vendors to coordinate installations with gas companies.

An overarching theme of the Settlement terms is that the Companies will continue to study issues and communicate with stakeholder representatives regularly on numerous issues as we move through Phase II and make adjustments to the Plans that are meritorious. This positive, public interest oriented attitude should be reinforced by the Commission through full adoption of the Settlement.

#### **V. REASONS THE SETTLEMENT SHOULD BE APPROVED**

The Settlement should be approved because the terms satisfy the concerns and needs of a diverse group of Intervenors and the Companies themselves. Resolution of the non-reserved issues by settlement also reduces the Joint Petitioners costs of further litigation. In addition, the Proposed Plans meet all the requirements of Act 129 and the specific Phase II requirements, based in Act 129, that the Commission has articulated in its Implementation Order.

## VI. CONCLUSION

For the foregoing reasons, the Commission should approve the Joint Petition, without modification, on or before the March 14, 2013 Public Meeting.

Respectfully submitted,

Dated: January 28, 2013



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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Metropolitan Edison Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	: : :	Docket No. M-2012-2334387
Petition of Pennsylvania Electric Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	: : :	Docket No. M-2012-2334392
Petition of Pennsylvania Power Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	: : :	Docket No. M-2012-2334395
Petition of West Penn Power Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	: : :	Docket No. M-2012-2334398

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STATEMENT  
OF THE OFFICE OF CONSUMER ADVOCATE  
IN SUPPORT OF THE JOINT PETITION FOR  
FULL SETTLEMENT OF NON-RESERVED ISSUES

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The Office of Consumer Advocate (OCA), one of the signatory parties to the proposed Joint Petition for Full Settlement of Non-Reserved Issues (Joint Petition) resolving all issues among the FirstEnergy Companies, OCA, the Office of Small Business Advocate (OSBA), Citizens for Pennsylvania’s Future (PennFuture), The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the Community Action Association of Pennsylvania (CAAP), the Pennsylvania State University (PSU) and Comverge, Inc. (Comverge)

in the above-captioned proceeding (collectively the Settling Parties),<sup>1</sup> finds the terms and conditions of the Joint Petition to be in the public interest for the following reasons:

## I. INTRODUCTION

On November 15, 2012, in compliance with the requirements of Act 129, 66 Pa. C.S. § 2806.1 *et seq.* and the Commission's Phase II Implementation Order,<sup>2</sup> the FirstEnergy Companies filed their Joint Petition, Direct Testimony and EE&C Plans with the Commission. The FirstEnergy Companies include Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power) and West Penn Power Company (West Penn Power). Met-Ed is a wholly owned subsidiary of FirstEnergy that provides electric service to approximately 553,000 customers in eastern Pennsylvania. Met-Ed St. 1 at 4. Met-Ed's Phase II Plan is designed to reduce total energy consumption between June 1, 2013 and May 31, 2016, by 2.3% of Met-Ed's sales for the June 1, 2009 through May 31, 2010 period. Petition at 8.

Penelec is a wholly owned subsidiary of FirstEnergy that provides electric service to approximately 590,000 customers in central and western Pennsylvania. Penelec St. 1 at 4. Penelec'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.

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<sup>1</sup> The Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group and West Penn Power Industrial Intervenors (collectively the Industrials), Wal-Mart Stores East (Wal-Mart) and Sam's East, Inc. (collectively Wal-Mart), active parties in this proceeding, do not object to the Joint Petition and do not participate in the Joint Petition. Joint Petition at 1. UGI Utilities, Inc. – Gas Division, UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. (collectively the UGI Distribution Companies) are the only other party in these proceedings. The issues of the UGI Distribution Companies in this proceeding were the only issues carved out by any party for litigation. The UGI Distribution Companies do not oppose the Joint Petition.

<sup>2</sup> RE: Energy Efficiency and Conservation Program, Docket Nos. M-2012-2289411 and M-2008-2069887, Implementation Order (Aug. 3, 2012) (Phase II Implementation Order).

Penn Power is a wholly owned subsidiary of FirstEnergy that provides electric service to approximately 161,000 customers in western Pennsylvania. Penn Power St. 1 at 4. Penn Power's Phase II Plan is designed to reduce total energy consumption between June 1, 2013 and May 31, 2016, by 2.0% of Penn Power's sales for the June 1, 2009 through May 31, 2010 period. Petition at 8.

West Penn Power is a wholly owned subsidiary of FirstEnergy that provides electric service to approximately 718,000 customers in western Pennsylvania. West Penn Power St. 1 at 4. West Penn Power's Phase II Plan is designed to reduce total energy consumption between June 1, 2013 and May 31, 2016, by 1.6% of West Penn Power's sales for the June 1, 2009 through May 31, 2010 period. Petition at 8.

To achieve these goals, the Companies' Plans propose nine energy efficiency programs, all of which are an expansion of the successful elements of the Companies' Phase I Plans. Petition at 13-14. Specifically, the Companies have proposed the following four programs for their residential classes: (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 Companies also include a Governmental & Institutional Program in each of their Plans.<sup>3</sup> Petition at 14.

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<sup>3</sup> 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 this document.

On December 7, 2012, the OCA filed Notices of Intervention and Public Statements in each of the respective dockets for the FirstEnergy Companies. The FirstEnergy Companies' filings were assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judge Elizabeth H. Barnes for investigation. On December 19, 2012, the Prehearing Conference was held, and a litigation schedule was adopted. At the Prehearing Conference, upon request of the Companies, ALJ Barnes consolidated the FirstEnergy Companies' Joint Petition and Plans for review.

On December 21, 2012, the OCA filed Comments to the Companies' Plans in accordance with the Notice in the *Pennsylvania Bulletin* published December 1, 2012.<sup>4</sup> 42 Pa.B. 7372. On January 8, 2013, the OCA served the Direct Testimony of David Hill<sup>5</sup> on the parties and ALJ Barnes. A hearing was held on January 17, 2013, wherein the OCA submitted Dr. Hill's testimony into the record.

Prior to the hearing, the Companies, OCA, PennFuture, CAUSE-PA, CAAP and the Industrials reached a settlement agreement. The terms of the settlement agreement were entered into the record at the hearing on January 17, 2013. For the reasons set forth below, the OCA submits that the Joint Petition for Settlement is in the public interest.

## **II. TERMS AND CONDITIONS OF THE SETTLEMENT**

The terms and conditions in the Joint Petition are in the public interest and satisfactorily address issues raised in the OCA's analysis of the FirstEnergy Companies' Phase II EE&C

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<sup>4</sup> On December 21, 2012, the Industrials and Comverge also filed Comments.

<sup>5</sup> 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.



Plans. The OCA submits that the Joint Petition, taken as a whole, is a reasonable compromise in consideration of likely litigation outcomes. Therefore, the OCA submits that the Joint Petition is in the public interest and supports Commission approval of the Joint Petition without modification.

A. Residential Portfolio Measures (Joint Petition at II, ¶ 6)

The FirstEnergy Companies propose to achieve a significant portion of the residential portfolio savings through the use of Energy Efficiency kits and the behavior-based Opower Home Energy Reports (HER) program. The Companies propose that the free Energy Efficiency kits will be offered to residential customers and will include low cost measures that the customers can install themselves, such as CFLs, faucet aerators, smart strips, low flow showerheads and furnace whistles. OCA St. 1 at 25. The Energy Efficiency kits will also contain educational materials that are intended to raise customer awareness of the energy efficiency opportunities in the home and will be distributed upon customer request, by on-line energy audit, and through the schools' program. Id. at 25. The residential HER Program will be administered by Opower and is designed to encourage behavior change by informing customers about their energy usage and about operating their homes more efficiently. The HER Program is also designed to encourage customer understanding of other utility energy efficiency programs. Id. at 27.

In his Direct Testimony, OCA witness Dr. Hill recommended changes to the Companies' proposed residential portfolio measures, including, (1) to shift emphasis away from behavior-based HER Program and Energy Efficiency Kits Program; (2) to track the effectiveness of the programs and (3) to shift to non-lighting measure savings and increase the focus of lighting measures to non-CFL (Compact Fluorescent Light) programs. OCA St. 1 at 4-5. He proposed

that the Companies achieve residential sector savings by shifting towards market-based energy efficiency products and services rather than the heavy reliance on lighting. Id. at 4, 25-28. Dr. Hill also recommended that the Companies track and report on the effectiveness of the HER Programs and Energy Efficiency Kits Programs in driving customer participation towards additional energy efficiency opportunities in the Companies' residential portfolios. Id. at 4, 27-28. PennFuture witness, Glenn Reed, also discussed similar concerns with the emphasis of the program on behavioral measures and lighting. PennFuture St. 1 at 6-12, 27.

The Joint Petition provides a mechanism to address these issues. Joint Petition at II, ¶ 6. The Joint Petition provides that within sixty (60) days of the approval of the FirstEnergy Companies' EE&C Plans, the Companies will meet in a collaborative with interested stakeholders to discuss the potential reallocation of residential customer dollars from the Energy Efficiency Kits and Home Energy Reports (HER) Programs towards other residential customer measures, including towards (1) the Residential Energy Efficiency Program to include HVAC, water heating, and ENERGY STAR appliances measures and (2) the Residential Home Performance Program for building shell measures and weatherization measures recommended through the Audit program and savings measures identified in the Statewide Evaluator's (SWE) Electric Energy Efficiency Potential for Pennsylvania Study. Id. The Joint Petition also provides that the Companies will target evaluation funds for an annual evaluation of the savings achieved through the HER Programs. Id. The results of the evaluation and recommendations proposed will be shared with the interested parties at the next applicable stakeholder meeting. Id.

The OCA submits that this collaborative will provide the opportunity for the parties to explore the inclusion of other more comprehensive and longer-lasting opportunities to achieve

savings within the 2% spending cap. Dr. Hill recommended achieving additional residential portfolio savings through such programs as the Companies' Residential Energy Efficiency and the Residential Home Performance programs. OCA St. 1 at 4-5. Dr. Hill stated in his Direct Testimony that while the HER Reports may have promising potential, he had concerns about the degree to which the program has been emphasized and with the short, one year measure life of the HER Reports. Id. at 27. The proposed evaluation report on the HER program will provide a mechanism to better understand the effectiveness of the program and whether it does in fact drive customer participation to deeper, more comprehensive measures. Similarly, the OCA had expressed concerns regarding the fact that the Energy Efficiency Kits accounted for over twenty percent (20%) of the residential portfolio savings achieved for three of the four FirstEnergy Companies and was the second largest contributor to total residential portfolio savings. Id. at 25.

The collaborative addresses the concerns raised by the OCA in its Comments and Direct Testimony and should be approved. It will allow the Companies to begin to implement their proposed Plans and also give the stakeholders both the necessary time and the forum to address potential opportunities for changes that could maximize the long-term energy efficiency effectiveness of the residential dollars expended.

B. Increase Market Penetration for New Homes Program (Joint Petition at II, ¶ 5)

In his Direct Testimony, Dr. Hill recommended that the Companies:

Increase the market penetration of the New Homes program, from just under 16% to at least the current market penetration reported for Pennsylvania by the EPA, which is 20-25%, and plan for growth in this program during Phase II as the new home construction market improves.

OCA St. 1 at 4, 28-30. The New Homes Program is a sub-program under the Home Performance Program. The purpose of the program is to incentivize builders to incorporate building shell and appliance upgrades to make homes more efficient than the current energy code. The New

Homes program provides that to qualify, homes must exceed the current energy code by 15% and must meet the current ENERGY STAR level, as determined by the Environmental Protection Agency (EPA). Id. at 28-29.

The Joint Petition provides:

In the event the Companies' Residential New Construction Program becomes fully subscribed during the term of the plans, the Companies will discuss the issue with its stakeholder group. Assuming that there is no significant opposition from such group, the Companies will seek approval to transfer additional funding from anticipated available funds allocated to other residential programs to the extent such transfer does not hinder the Companies' goal attainment and adheres to the Companies' budget caps and the Commission's cost-effectiveness requirements. Assuming such change meets these requirements, the Companies will seek expedited approval through the Commission's plan modification procedures, with such proposed change being affirmatively supported by the Joint Petitioners.

Joint Petition at II, ¶ 5.

The OCA submits that this will provide the opportunity to maximize any opportunities and to account for potential growth of the new construction market in the New Homes Program. As Dr. Hill discussed in his Direct Testimony,

New home construction and renovation projects are an important lost opportunity market that can yield long-term cost effective savings relative to retrofit programs. Lost opportunities refer to measures or programs that seek to encourage the selection of high efficiency equipment or building practices at times when they are the most cost effective. If high efficiency design and measures are not introduced when a home is being designed and constructed, significant opportunities can be lost because those improvements become much more expensive (and often not cost effective) after the home is built.

OCA St. 1 at 29. In the event that the New Homes program becomes fully subscribed, the Joint Petition proposal to address this issue at the next applicable stakeholder meeting will allow the Companies to promptly address and to incorporate additional opportunities for savings through the New Homes program.

The Settlement provides a forum to implement any necessary changes and to avoid lost opportunities in the New Homes market. The OCA submits that this is in the public interest.

C. Increased Number of Stakeholder Meetings (Joint Petition at II, ¶ 1)

In his Direct Testimony, OCA witness, Dr. Hill, recommended that the Companies:

Engage in more regular and proactive stakeholder engagement to identify issues and opportunities and to adaptively manage the programs to address the specific concerns on an on-going basis.

OCA St. No. 1 at 5; see, OCA Comments at 3-4. The Joint Petition provides that the Companies will increase the number of annual stakeholder meetings from 2 to 4 and will hold ad hoc meetings, via telephone conference, upon stakeholder request. Joint Petition at II, ¶ 1. The Companies will also continue to meet with Community Based Organizations on a quarterly basis and will provide the written materials for the meetings to interested Settling Parties. Id.

The OCA recommended the additional stakeholder meetings in order to better facilitate discussions amongst the stakeholders. The OCA has found the prior stakeholder meetings to be well attended by a diverse group of stakeholders. Additional meetings will allow for the stakeholder process to be a more well-informed process for both the stakeholders and the Companies. As with the Phase I process, the OCA anticipates that the real work of the Phase II programs will begin once the Commission approves the FirstEnergy Companies' respective Plans and as the modifications of the Phase II Plans begin to be implemented. The OCA anticipates that the FirstEnergy Companies' stakeholder process will be a valuable tool to assist in the continued improvement of the Companies' Phase II Plans.

Further, the Companies have agreed to provide the written materials from the meetings with CBOs to Settling Parties who request the information. Id. This information from the

meetings of CBOs will help to inform the process as to the successes and the challenges that are on-going at the CBO level.

D. Low Income Savings Mandate (Joint Petition at II, ¶¶ 7-8, 12)

In their Plans, the Companies indicated that they will meet the Commission's 4.5% savings target from the low income sector through programs directed to low income customers and by counting low income participation in the Companies' non-low income residential programs. Petition at 12. In his Direct Testimony, OCA witness Hill indicated that he was concerned that the Companies' Plans do not meet the required 4.5% low income savings target primarily through direct services to low income eligible customers. Dr. Hill recommended that the Companies focus on providing additional dedicated low income program services to meet the 4.5% savings target. OCA St. 1 at 31, 33-34. Dr. Hill also noted his concern that it was unclear how the Companies had calculated the estimated participation of low income customers in non-low income programs. *Id.* at 33.

The OCA submits that low income customers should have meaningful opportunities to lower their energy bills through implementation of EE&C measures provided specifically to them. Low income customers pay the costs of these programs and should receive the direct benefits from programs appropriate to their needs. As discussed by OCA witness Hill, low income customers' budgets often prohibit their participation in many EE&C programs because programs require an initial outlay of funds in order to purchase and install energy efficient equipment or treatments. OCA St. 1 at 33. The dedicated low income programs address this barrier.

In the Joint Petition, the Settling Parties agreed that the FirstEnergy Companies would revise their low income programs to increase the projected energy savings from dedicated low

income programs by 10% and provide additional funding to the low income programs if needed. See Joint Petition at II, ¶ 7. The Settling Parties also agreed to convene a stakeholder meeting within 60 days of approval of the Companies' Plans to discuss the low income programs and convene another meeting within nine months of Plan approval to review the results of the revisions to the low income programs. Id.

In addition, the Settling Parties agreed that the Companies would develop a dedicated marketing plan for low income customers to target their participation in all residential programs. Joint Petition at II, ¶ 8. Along these lines, the Companies will meet with the Settling Parties within 90 days of Plan approval to review all marketing materials for all low income and general residential programs and consider suggestions for improvements thereto. Id. Further, the Settling Parties agreed that the Companies would work with the Statewide Evaluator (SWE) to develop a survey methodology that assesses low income customer participation in non-low income residential programs and share the results of any such survey in a stakeholder meeting. Joint Petition at II, ¶ 12.

These provisions of the Joint Petition address the OCA's concerns by increasing the amount of savings the Companies seek to obtain from low income customers through dedicated low income programs and tracking low income customers' participation in non-low income residential programs. The dedicated low income programs in the Companies' Plans will provide, *inter alia*, appliance replacements and comprehensive weatherization services to low income customers at no cost. See FE Plans at 45-47. The OCA submits that these types of programs provide the most meaningful and sustained energy savings to low income customers.

The Companies have also agreed to convene stakeholder meetings within 60 days of approval of their Plans to specifically address the low income programs. Joint Petition at II, ¶ 7.

The OCA submits that such exchange of ideas and information is essential to the success of these programs on the part of the Companies, who have a statutory obligation to meet reduction targets, and customers, who are paying for these programs.

E. Coordination with NGDCs (Joint Petition at II, ¶ 2)

In his Direct Testimony, OCA witness Hill recommended that the Companies coordinate with local Natural Gas Distribution Companies (NGDCs) in weatherization projects. OCA St. 1 at 36. Dr. Hill testified that benefits of such coordination include market consistency, collaboration and information sharing, which lead to improvements in program design, development, lower implementation costs and improved reporting and evaluation. Id. at 37.

In the Joint Petition, the Settling Parties agreed that the Companies would contact major NGDCs in their service territories for the purpose of trying to find ways to better coordinate the Companies' whole home retrofit program with similar programs provided by the NGDCs. Joint Petition at II, ¶ 2. The Companies will report the results of such meetings at a stakeholder meeting. Id. The Settling Parties also agreed that the Companies would continue to require their vendors and contractors who implement low income programs and install low income energy efficiency measures to use commercially reasonable efforts to coordinate any such installations and implementations with local NGDCs. Joint Petition at II, ¶ 13.

The OCA submits that these provisions will result in better program design and efficiency, which will assist the Companies in reaching their statutory reduction requirements and benefit customers who are paying for these programs. Further, customers will endure less inconvenience and disruption by having these services coordinated between their electric and natural gas providers.



F. Single Application Process and Tiered Incentive Structure (Joint Petition at II, ¶ 3)

In his Direct Testimony, Dr. Hill recommended that the Companies streamline the application process for the Audits Program. OCA St. 1 at 20. In the FirstEnergy Companies' Audits Program, residential customers who receive the comprehensive audit are provided with a list of energy savings measures applicable to their home. FE Plans at 40. The energy savings measures are targeted to provide whole house energy efficiency opportunities for residential customers. Residential customers who implement the proposed energy efficiency measures can receive rebates from the Companies on the measures implemented. Id. Dr. Hill proposed that the Companies allow customers to submit one application for multiple measures to encourage comprehensive energy efficiency investments. OCA St. 1 at 20. The Joint Petition adopts this recommendation and also provides that customers will be allowed to submit a single application for multiple measures under Phase II as recommended by the comprehensive audit, provided that the multiple measures are proposed and completed at the same time. Joint Petition at II, ¶ 3. Further, under the Joint Petition, the Companies will discuss with vendors the possibility of providing tiered incentive rebate structures for those customers that meet the required "audit retrofit performance specifications." Id. The findings of these discussions will be addressed at the next applicable stakeholder meeting, and if it will not decrease the "cost-effectiveness and tracking and verifying results" and there is not significant opposition, the Companies will propose modifications to the incentive tier structure through the applicable Commission process. Id.

The OCA submits that these proposed changes will simplify the application process when there has been a comprehensive audit. This simplification of the application process will allow customers a "one-stop shop" opportunity for energy efficiency measures. It is important for the

success of energy efficiency programs to remove as many barriers to customer and contractor participation as possible, and multiple application processes for individual rebates will unnecessarily delay the process, potentially frustrate customers and contractors, and if too burdensome, may prevent customers from implementing important and effective energy efficiency measures. Further, so long as it is cost-effective, the OCA agrees that a tiered-incentive structure may also encourage customers to implement additional energy efficiency measures and to maximize opportunities for savings.

G. Phase I EE&C-C Rider Reconciliation (Joint Petition at II, ¶ 15)

The Commission directed that final reconciliation of Phase I costs and revenues for companies without a final reconciliation procedure be addressed in a separate proceeding. See Phase II Implementation Order at 119. In its Comments to the Met-Ed, Penelec and Penn Power Plans, the OCA expressed about the Companies' proposal establishing a reconciliation procedure for their Phase I EE&C-C Rider in this proceeding. See OCA Met-Ed, Penelec and Penn Power Plan Comments at 19. OCA witness Hill recommended that the final Phase I reconciliation procedures of Met-Ed, Penelec and Penn Power be addressed in another proceeding. OCA St. 1 at 37.

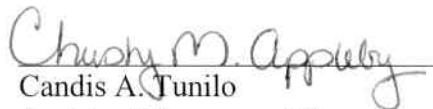
In the Joint Petition, the Settling Parties agreed that the Companies would withdraw their request for an extension of their reconciliation period for Phase I costs and instead, would make such a request in a separate proceeding. Joint Petition at II, ¶ 15. The OCA submits that the Commission must thoroughly review the Companies' Phase I EE&C-C rider and reconciliation proposal to determine if it is in accordance with Act 129, the Commission's Orders, the Companies' tariffs and otherwise applicable law. Such a review would be better addressed in a docket separate from the Companies' Phase II Plans, such as in the Companies' Phase I docket.

As such, the OCA submits this provision is in accordance with the Commission's Phase II Implementation Order and should be adopted.

### III. CONCLUSION

For the foregoing reasons, the Office of Consumer Advocate submits that the terms and conditions of the Joint Petition for Settlement are in the public interest and therefore, should be approved.

Respectfully Submitted,



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Dated: January 28, 2013  
165106

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Metropolitan Edison Company	:	
for Approval of its Act 129 Phase II	:	M-2012-2334387
Energy Efficiency and Conservation Plan	:	
	:	
Petition of Pennsylvania Electric Company	:	
For Approval of its Act 129 Phase II	:	M-2012-2334392
Energy Efficiency and Conservation Plan	:	
	:	
Petition of Pennsylvania Power Company	:	
For Approval of its Act 129 Phase II	:	M-2012-2334395
Energy Efficiency and Conservation Plan	:	
	:	
Petition of West Penn Power Company	:	
For Approval of its Act 129 Phase II	:	M-2012-2334398
Energy Efficiency and Conservation Plan	:	

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**STATEMENT OF THE COALITION FOR AFFORDABLE UTILITY SERVICES  
AND ENERGY EFFICIENCY IN PENNSYLVANIA IN SUPPORT OF  
PETITION FOR FULL SETTLEMENT OF NON-RESERVED ISSUES**

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The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), one of the signatory parties to the Joint Petition for Full Settlement of Non-Reserved Issues (“Joint Petition” or “Settlement”), finds the terms and conditions of the Settlement to be in the public interest and, through its counsel at the Pennsylvania Utility Law Project, submits this statement in support.

**INTRODUCTION**

CAUSE-PA intervened in this proceeding to address, among other issues, whether the proposed Phase II EE&C Plans ensure that the low income population, as defined in the Act, is correctly targeted; whether those low income customers obtain a share of the total energy savings

that is in accord with the Commission's August 3, 2012 Order; and whether the measures employed, and methods of coordination and education are appropriate and comport with and satisfy the requirements of Act 129 and Commission Orders. Although not all of CAUSE-PA's positions have been fully adopted, it is a settlement arrived at through good faith negotiation. The Joint Petition is in the public interest in that it addresses the issues of concern to CAUSE-PA, balances the interests of the parties and resolves a number of important issues fairly. Substantial litigation and associated costs will be avoided; and if approved, the Settlement will eliminate the possibility of further Commission litigation and appeals, along with their attendant costs.

## **BACKGROUND**

CAUSE-PA accepts and adopts the Background statement as it appears in the Joint Petition.

## **REASONS FOR CAUSE- PA SUPPORT OF THE JOINT PETITION**

Section II A of the Petition sets out the specific settlement provisions. Many of these provisions address issues presented in testimony and negotiated by the parties concerning aspects of the First Energy Companies' Act 129 Phase II Plan ("the Plan") affecting low income customers. The resolution of these issues, through this settlement, furthers the goals of Act 129 and Commission Orders regarding the energy efficiency and conservation services and measures to be provided to low- income households within First Energy Companies service territory and is in the public interest.

1. Section II A Paragraph 1 of the Joint Petition provides a mechanism for regularly scheduled and good faith communications and meetings between the company, the parties, community based organizations, and other interested stakeholders. Specifically, the number of stakeholder meetings held annually will increase from 2 to 4, and additional ad hoc meetings, via telephone conference, will be available upon stakeholder request. In addition to these meetings, the Companies will continue to meet with community based organizations on a quarterly basis and will provide the written materials distributed for such meetings to parties entering into this settlement who request such information.

Act 129 stakeholder meetings have proven to be an excellent opportunity for the Companies and interested stakeholders to work in a collaborative manner to exchange experiences, evaluate, fine tune and improve the delivery of Act 129 services and measures. Doubling the number of these meetings so that they may be held at more frequent intervals and enabling additional telephonic conferences, when appropriate, will greatly facilitate the timely and meaningful exchange of information and will result in an improved Act 129 Phase II program, which is in the public interest.

2. Section II A Paragraph 2 provides that within 90 days of approval of the Companies' EE&C plans, the Companies will agree to contact major natural gas distributors in their service territories for the purpose of trying to find ways to better coordinate the Companies' whole home retrofit program with like programs provided by the natural gas distributors, and will report the results of such meeting(s) at a subsequent stakeholder meeting. This section, which provides for timely action by the Companies to communicate with and coordinate efforts with the natural gas companies will provide efficiencies in the delivery of

energy efficiency and conservation services and measures and will provide added benefits to the households targeted to receive those services.

3. Section II A Paragraph 3 of the Settlement commits the Companies to allow customers to submit a single application for multiple measures installed under Phase II as a result of a comprehensive audit, provided that the multiple measures are all proposed and completed at the same time. The Companies will also discuss with their implementation vendor(s) the possibility of offering a tiered incentive structure for customers who meet certain audit retrofit performance specifications and will report their findings at their then next stakeholder meeting. Assuming that such an offering does not significantly decrease the cost-effectiveness and tracking and verifying results, and there is no significant opposition from stakeholders, the Companies will seek to modify their EE&C plans through the Commission's standard processes, if necessary, with express support for such modifications being provided by the Joint Petitioners.

Reducing the paperwork and administrative burdens borne by customers, while at the same time considering the delivery of a tiered incentive structure and discussing the possible options for such a tiered structure at stakeholder meetings will create enhanced incentives for customer participation in ACT 129 Phase II efficiency opportunities.

4. Section II A Paragraph 4 of the Settlement commits the Companies to target evaluation funds for annual evaluation of the energy savings associated with the Home Energy Reports (aka Energy Usage Reports) and to share the evaluation results and any proposed

recommendations with interested parties during the Companies' next applicable stakeholder meeting.

It is in the public interest to have meaningful information available to the companies, stakeholders and the Commission regarding the effectiveness of the Energy Usage Reports in reducing energy usage.

5. Section II A Paragraph 6 of the Settlement provides that within 90 days of the approval of the Companies' EE&C Plans, the Companies will meet in a collaborative with interested stakeholders to discuss recommendations for the reallocation of residential customer dollars from the Energy Efficiency Kits and the Home Energy Reports (HER) Programs to: (1) the Residential Energy Efficient Products Program to include HVAC, water heating, and ENERGY STAR appliances measures and (2) the Residential Home Performance Program for building shell measures and weatherization measures recommended through the Audit program to obtain more of the potential savings for these measures identified in the Statewide Evaluator's (SWE) Electric Energy Efficiency Potential for Pennsylvania Study. Any agreed-upon changes to the programs will be requested through the Commission's "Minor Changes" process, if necessary.

The continued and timely discussion of recommendations intended to obtain greater potential aggregate as well as more meaningful individual household energy savings is in the public interest. The consideration of reallocation of residential customer dollars to measures such as HVAC, water heating and ENERGY Star appliances will assist the Companies develop an effective plan intended to achieve those ends. Specifying that any



agreed-upon changes will be requested through the Commission's "Minor Changes" process will permit efficient and cost effective implementation of these changes which is also in the public interest.

6. Section II A Paragraph 7 of the Settlement commits the Companies to revise their Low Income Programs to target an increasing of the energy savings by at least 10% over the Plan's currently proposed targets for low income programs. To the extent that additional funding is required to support the targeted increase in energy savings, the Companies will shift up to \$1 million in funds currently included in the general residential programs to specific low income programs, with the understanding that within 60 days of the Companies' EE&C plans being approved, the Companies will meet with Joint Petitioners who are interested in low income programs to discuss the results of its evaluation to increase the energy savings achieved through the dedicated low income programs and any requirement that additional funds should be allocated to its low income programs.

As the testimony in this proceeding has demonstrated, dedicated, cost free low-income programs have been specifically developed and designed to serve the low-income population within each service territory. They have been demonstrated to be best able to achieve effective energy savings results for that targeted population. The revision of the plans to increase energy savings within the low-income programs combined with the potential shifting within the residential sector of up to \$1 million dollars, currently included within general residential programs, will enable the company to better and more meaningfully serve low income households within its service territory. These potential

changes are expected to enable the Companies to better meet their low-income sector energy reduction obligations and are thus within the public interest.

This commitment by the Companies is not unconditional. It is subject to their ability to reject any recommendation that causes the Companies to exceed their 2% spending cap or places at risk the Companies' ability to achieve their statutory Phase II energy efficiency targets, thereby ensuring that the reallocation of funding is achieved in a prudent and efficient manner.

Furthermore, continued monitoring of the revisions will occur. Within 9 months of the Companies' EE&C plans being approved, the Companies will meet with the parties and review the results of the implemented recommendations. If actual results are not meeting expectations as established during the initial meeting, or the Companies, in their discretion, cannot achieve their statutory Phase II energy efficiency targets if such funding continues the Companies retain the ability to reallocate funds.

Finally, the Companies will file such changes through the Commission's "Minor Changes" process, if necessary. This is in the public interest process in that it will permit efficient and cost effective implementation of these changes.

7. Section II A Paragraph 8 of the Settlement requires the Companies to work to develop a dedicated marketing plan for low income customers to target their participation in all residential programs. Within 90 days of approval of the Companies' EE&C plans, the

Companies will meet with Joint Petitioners interested in low income programs and review all marketing materials for all low income and general residential programs. The Companies will in good faith consider all suggested improvements made by the low income advocates while retaining the discretion to adopt any changes subject to the suggestions not being unreasonably rejected by the Companies. The Companies will share their rationale for any such rejection.

Low income advocates have unique and valuable experience in addressing the needs of low-income households and in designing materials and methods of reaching those households in an economic, efficient and effective manner. This section of the settlement paragraph will enable the companies and advocates to work collaboratively to take advantage of multiple perspectives and experiences; thereby developing an effective marketing plan and enabling the companies to better achieve their low-income sector energy reduction targets.

8. Section II A Paragraph 9 of the Settlement commits the Companies to investigate, during 2013, the market for heat pump water heaters within their respective service territories. The Companies will share the results of the pilot developed under the LIURP program in Penn Power's service territory and will study and share the results no later than their first stakeholder meeting in 2014. Should the results of the pilot demonstrate the feasibility of installing more heat pump water heaters within the available low income budget, the Companies will discuss during its stakeholder meeting the possibility of expanding the budget for heat pump water heater installations. The Companies will use

reasonable efforts to target and install up to an additional 20 heat pump water heaters for low income customers annually across the Companies' combined service territories. Further the Companies will investigate the feasibility of adding an add-on heat pump to existing water heaters and will report their findings during an upcoming stakeholder meeting.

Heat pump water heaters provide the potential for meaningful bill reductions to low-income households as part of the energy efficiency reductions. The installation of 20 additional heat pump water heaters annually will aid that many households reduce their monthly bills while at the same time assist the companies to achieve low-income energy reduction targets. The Penn Power LIURP pilot program results will provide an informed basis to evaluate the benefits and methods for future expansion of this initiative.

9. Section II A Paragraph 10 of the Settlement requires the Companies to continue to cross market all low income programs offered by the Companies to confirmed low income customers. They will also continue to direct confirmed low income customers to other federal and state agency sponsored low income programs for which the customer qualifies. The Companies' commitment to continue to inform low-income customers of all the options available to them for energy savings and bill payment assistance is an important step in coordinating activities and resources and enabling low-income households to best determine how to utilize those programs most appropriate to their needs.

10. Section II A Paragraph 11 of the Settlement commits the Companies to continue to meet with Community Based Organizations (CBOs) on a quarterly basis to discuss, among other things, issues involving the Companies' low income EE&C program offerings. The Companies will provide meeting notes/results to Settling Parties upon request.

CBOs have unique and valuable experience in addressing the needs of low-income households and in the provision of effective energy efficiency programs. This section of the settlement will enable the companies and CBOs to work collaboratively to take advantage of multiple perspectives and experiences; thereby developing a more effective Plan and enabling the companies to better achieve their low-income sector energy reduction targets.

11. Section II A Paragraph 12 of the Settlement commits the Companies to work with the Statewide Evaluator (SWE) to develop a survey methodology that is acceptable to the SWE that assesses low income customer participation in non-low income programs. Prior to conducting the survey, the Companies will discuss the survey methodology agreed-upon by the SWE. The Companies will share the results of any such survey during an upcoming stakeholder meeting.

It is in the public interest to ensure that low-income participation in non-low-income programs is effectively assessed so as to ensure that a) the energy savings are accurately measured and b) are provided only to households meeting the low-income eligibility requirements. The requirement that the Companies work with SWE to develop an acceptable survey methodology and to discuss, at stakeholder meetings, that methodology and results will ensure that limited resources are most effectively targeted.

12. Section II A Paragraph 13 of the Settlement commits the Companies to continue to require its vendors and contractors who implement low income programs and install low income energy efficiency measures to use commercially reasonable efforts to coordinate any such installations and implementations with natural gas providers located within the applicable Company's service territory.

The coordination with natural gas providers located within the applicable Company's service territory will enable low-income households to achieve the benefits of all programs through effective and commercially reasonable methods. The avoidance of multiple service calls and the coordination of activities will achieve beneficial time savings results for the households as well as the vendors and contractors and establish a mechanism to provide that household a fuller array of services in an efficient manner.

13. Section II A paragraph 14 of the Settlement specifies that educational materials included within the energy efficiency kits will include information on kit content; installation instructions; household energy savings tips; CFL disposal instructions; and marketing materials for other residential programs.

This information will enable the kits to be more effectively used by the receiving households and will broaden the impact and effectiveness of the specific measures provided by the inclusion of materials and information about other residential programs.

## CONCLUSION


The Joint Petition avoids extended litigation with potentially uncertain outcome, actively addresses low-income concerns and satisfies the Commission's requirements of Act 129 Phase II in regard to those matters.

The Joint Petitioners arrived at the Settlement after a number of meetings, discussions, discovery and extensive negotiations. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (*see* 52 Pa. Code §§ 5.231, 69.391, and 69.401).

WHEREFORE, CAUSE-PA submits this Statement of Support and respectfully requests that this Honorable Commission find the settlement to be in the public interest and approve the settlement as set forth in the Petition for Settlement its entirety without modification.

Respectfully submitted,

**PENNSYLVANIA UTILITY LAW PROJECT**  
*Counsel for CAUSE-PA*



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January 28, 2013

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Metropolitan Edison Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	:	
	:	M-2012-2334387
	:	
	:	
Petition of Pennsylvania Electric Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	:	
	:	M-2012-2334392
	:	
	:	
Petition of Pennsylvania Power Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	:	
	:	M-2012-2334395
	:	
	:	
Petition of West Penn Power Company For Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan	:	
	:	M-2012-2334398
	:	

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STATEMENT OF CITIZENS FOR PENNSYLVANIA’S FUTURE  
IN SUPPORT OF THE JOINT PETITION FOR FULL SETTLEMENT OF  
NON-RESERVED ISSUES

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Citizens for Pennsylvania’s Future (“PennFuture”), one of the signatory parties to the Proposed Joint Petition for Full Settlement of Non-Reserved Issues, pursuant to 66 Pa. C.S. §1307(f), submits the following Statement in Support:

**I. Background**

Petitioner is PennFuture, a Pennsylvania nonprofit corporation with offices in Philadelphia, West Chester, Wilkes-Barre, Harrisburg, and Pittsburgh, Pennsylvania. PennFuture's principal business location is 610 North Third Street, Harrisburg, PA 17101, tel. (717) 214-7920. PennFuture has members who live in the companies’ service territories (collectively referred to as “FirstEnergy”), are customers of FirstEnergy and/or receive service



from FirstEnergy. PennFuture engages in policy development, public education, litigation and other strategies to achieve its goals, including promoting clean energy and energy efficiency.

On or about November 13, 2012, FirstEnergy, pursuant to the requirements of Act 129 of 2008, 66 Pa. C.S. §2806.1, petitioned the Commission for approval of FirstEnergy's Phase II Energy Efficiency and Conservation Plan ("Petition"). Pursuant to the *Implementation Order* entered August 3, 2012 at Docket Nos. M-2012-2289411 and M-2008-2069887 ("Implementation Order") all Answers and Comments to any such proposed plan were due within 20 days of publication of notice in the *Pennsylvania Bulletin*. Said publication was completed on December 1, 2012. PennFuture timely submitted its Petition to Intervene on December 13, 2012.

PennFuture, on behalf of its members and the public interest, have an interest in ensuring that FirstEnergy's Energy Efficiency and Conservation ("EE&C") plan is in accordance with Act 129 and provides a robust and comprehensive package of energy efficiency measures and programs that will result in cost-effective electricity savings that will protect public health, preserve the environment, reduce energy prices, and maintain grid reliability. PennFuture's members are directly and personally affected by the Proceedings because any modification to FirstEnergy's Phase II Plan may impact the ability of those members to participate in energy efficiency programs and benefit from resulting reductions in their electric bills. PennFuture's members depend on electric distribution service from FirstEnergy to meet basic necessities of life, and risk health and financial consequences if service is not provided in a reliable, clean, and affordable manner provided by maximum investment in energy efficiency allowed through Act 129.

PennFuture has a right and interest in assuring that safe, reliable, clean and affordable public utility service, and participation in these Proceedings is an appropriate way to protect these rights and interests. PennFuture has participated in the FirstEnergy Act 129 stakeholder input process, and submitted comments to the Commission in the matter captioned *Energy Efficiency and Conservation Program*, Docket Nos. M-2012-2289411 and M-2008-2069887.

PennFuture reviewed and analyzed FirstEnergy's proposed Phase II Plan as it pertains to program design. The variety and type of programs and measures offered in FirstEnergy's Phase II Plan will directly impact PennFuture's members' ability to participate in Act 129 and benefit from investing in energy efficiency measures. PennFuture also submitted the testimony of Glenn Reed. A hearing in this matter was scheduled for January 17, 2013 before Administrative Law Judge Elizabeth Barnes. Prior to said hearing, the parties to the Proposed Joint Petition for Full Settlement of Non-Reserved Issues were able to reach a settlement. At the hearing, PennFuture submitted into evidence the Direct Testimony of Glenn Reed.

## **II. Terms and Settlement**

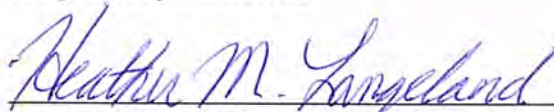
One of the primary concerns raised by PennFuture was the reliance of FirstEnergy's EE&C Plans on Energy Efficiency Kits. The proposed settlement addresses this issue in Paragraph 6 of page 6. Specifically, this provision provides: "Within 60 days of the approval of the Companies' EE&C Plans, the Companies will meet in a collaborative with interested stakeholders to discuss recommendations for the reallocation of residential customer dollars from the Energy Efficiency Kits and the Home Energy Reports (HER) Programs to: (1) the Residential Energy Efficient Products Program to include HVAC, water heating, and ENERGY STAR appliances measures and (2) the Residential Home Performance Program for building shell measures and weatherization measures recommended through the Audit program to obtain more

of the potential savings for these measures identified in the Statewide Evaluator's (SWE) Electric Energy Efficiency Potential for Pennsylvania Study. While the Companies will entertain suggestions for the reallocation of such funding, it is within the discretion of the Companies to accept or reject any such recommendations made by any party, with such acceptance not being unreasonably withheld. It is expressly acknowledged and agreed that rejection of any recommendation that causes the Companies to exceed their 2% spending cap or places at risk the Companies' ability to achieve their statutory Phase II energy efficiency targets shall be deemed a reasonable rejection. The Companies will share their rationale for any such rejections. The Joint Petitioners agree that any agreed-upon changes to the programs will be requested through the Commission's "Minor Changes" process, if necessary. Nothing contained herein restricts any Joint Petitioner's rights in the "Minor Changes" process." This provision addresses PennFuture's concerns.

### **III. Conclusion**

For the foregoing reasons, PennFuture submits that the terms of the proposed Settlement should be approved.

Respectfully submitted,



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Counsel for Petitioner PennFuture

DATED: January 28, 2013

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Metropolitan Edison Company – Petition	:	
For Approval of Act 129 Phase II Energy	:	Docket No. M-2012-2334387
Efficiency & Conservation Plan	:	
Pennsylvania Electric Company – Petition	:	
For Approval of Act 129 Phase II Energy	:	Docket No. M-2012-2334392
Efficiency & Conservation Plan	:	
Pennsylvania Power Company – Petition	:	
For Approval of Act 129 Phase II Energy	:	Docket No. M-2012-2334395
Efficiency & Conservation Plan	:	
West Penn Power Company – Petition	:	
For Approval of Act 129 Phase II Energy	:	Docket No. M-2012-2334398
Efficiency & Conservation Plan	:	

**COMMUNITY ACTION ASSOCIATION OF PENNSYLVANIA’S**  
**STATEMENT IN SUPPORT OF**  
**JOINT PETITION FOR PARTIAL SETTLEMENT**

NOW COMES the Intervenor, the Community Action Association of Pennsylvania (CAAP) and files this statement in support of the settlement reached in the above-captioned matters stating as follows:

1. CAAP is a not-for-profit Pennsylvania corporation and a statewide association representing Pennsylvania’s community action agencies that provide anti-poverty planning and community development activities for low income communities and services to individuals and families. .

2. CAAP has been directly involved in assuring that low income persons’ utility costs are contained through counseling, advice, payment assistance and energy conservation measures.

3. CAAP intervened in these proceedings to address, on behalf of its clients, the low-income portion of the Companies’ Act 129 Phase II plan.

4. CAAP submitted the direct testimonies of Susan Moore-Wychulis (CAAP Statements No. 1).

5. Mrs. Moore-Wychulis' testimonies addressed in large part the need for the companies' plans to target and market energy saving measures to their low-income customers.

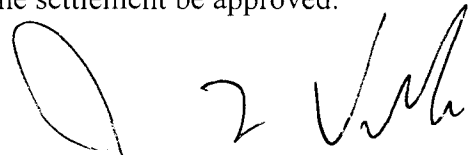
6. CAAP contended in its testimony that the plans as proposed did not specifically target low-income customers with direct energy saving measures.

7. In settlement, the Companies have agreed to meet and work with stakeholders to develop a marketing plan to its low-income customers and to increase the number of direct measures offered to those customers.

8. CAAP believes that the settlements as they relate to the above issues addresses its concerns and will provide a substantial benefit to low income customers by providing additional conservation measures to those customers that will result in lower energy use and utility costs for those vulnerable customers. Further, those additional measures that promote conservation will benefit the public generally.

9. CAAP did not submit testimony relative to other issues presented in this case so this statement in support will not address those issues.

WHEREFORE, CAAP respectfully requests that the settlement be approved.



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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Joint Petition of Metropolitan Edison</b>	<b>:</b>	
<b>Company, Pennsylvania Electric</b>	<b>:</b>	<b>Docket Nos. P-2012-2334387</b>
<b>Company, Pennsylvania Power Company</b>	<b>:</b>	<b>P-2012-2334392</b>
<b>and West Penn Power Company for</b>	<b>:</b>	<b>P-2012-2334395</b>
<b>Approval of Their Act 129 Phase II</b>	<b>:</b>	<b>P-2012-2334398</b>
<b>Energy Efficiency and Conservation Plans:</b>		

**STATEMENT OF THE OFFICE OF SMALL BUSINESS ADVOCATE  
IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT**

**Background**

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers of utility services in the Commonwealth of Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. Pursuant to that statutory authority, on December 18, 2012, the Office of Small Business Advocate (“OSBA”) filed Notices of Intervention and Public Statements in response to the November 13, 2012, filings by Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power Company (“West Penn”) (collectively “the Companies”) of their separate Petitions for Approval of Their Act 129 Phase II Energy Efficiency and Conservation Plans (“Petitions”).

Act 129 of 2008 (“Act 129”) was signed into law on October 15, 2008. Act 129 requires that each electric distribution company (“EDC”) with at least 100,000 customers must develop and file an Energy Efficiency & Conservation Plan (“EE&C Plan”) with the Commission for approval. Met-Ed, Penelec, Penn Power and West Penn developed, filed, and

received approval of their initial EE&C Plans.

On August 3, 2012, the Commission entered the *Phase II Implementation Order* at Docket Nos. M-2008-2069887 and M-2012-2289411, tentatively adopting EDC-specific targets for reduced energy consumption in Phase II of the EE&C Program, to run from June 1, 2013 through May 31, 2016. The Companies filed their Phase II EE&C Plans with the Commission on November 13, 2012, seeking approval from the Pennsylvania Public Utility Commission (“Commission”) of the Companies’ Plans.

The OSBA did not file testimony in these proceedings. However, the OSBA actively participated in the negotiations that led to the Joint Petition for Settlement (“Settlement”) and is a signatory to the Settlement.

The OSBA submits this statement in support of the Settlement

### **Settlement**

The Settlement sets forth a list of issues that were resolved through the negotiation process. The following are issues tentatively identified by the OSBA in its Prehearing Memoranda, filed on December 18, 2012.

- 1) Small business customers are assigned a reasonable share of the overall EE&C programs, neither disproportionately large or small;
- 2) Costs for the various EE&C programs are reasonably and equitably assigned and allocated among the various rate classes;
- 3) Programs focusing on small business customers have TRC Test benefit-cost ratios that are reasonably similar to those for other customers;
- 4) The proposed cost recovery and reconciliation mechanisms reasonably assign EE&C program costs *within* the rate classes containing small business customers and are consistent with sound utility ratemaking policy;

- 5) These or any other aspects of the Company's filing are unreasonably discriminatory to small business customers.

The resolution of these issues is detailed below:

1. After review of the Plans, the OSBA has concluded that small business customers are assigned a reasonable share of the overall EE&C programs, a share that is neither disproportionately large or small. Since the OSBA did not dispute the share of the programs assigned to small business customers, the OSBA saw no need to file testimony on this issue.

2. After review of the Plans, the OSBA has concluded that the costs for the various EE&C programs are reasonably and equitably assigned and allocated among the various rate classes. Since the OSBA did not dispute the costs of the programs assigned to small business customers, the OSBA saw no need to file testimony on this issue.

3. After review of the Plans the OSBA has concluded that the Programs focusing on small business customers have TRC Test benefit-cost ratios that are reasonably similar to those for other customers. Since the OSBA did not dispute the benefit-cost ratios of the TRC Tests for the programs for small business customers, the OSBA saw no need to file testimony on this issue.

4. After review of the Plans, the OSBA has concluded that the proposed cost recovery and reconciliation mechanisms reasonably assign EE&C program costs within the rate classes containing small business customers and are consistent with sound utility ratemaking policy. Since the OSBA did not dispute the proposed cost recovery or reconciliation mechanisms or the assignment of costs within those rate classes containing small business customers, the OSBA saw no need to file testimony on this issue.

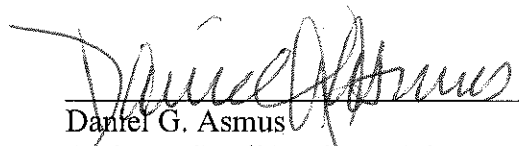


5. After review of the Plans, the OSBA has concluded that there are no aspects of the Companies' filings which are unreasonably discriminatory to small business customers. Since the OSBA did not dispute this, the OSBA saw no need to file testimony on this issue.

### **Conclusion**

For the reasons set forth in the Settlement, as well as the additional factors that are enumerated in this statement, the OSBA supports the proposed Settlement and respectfully requests that the Administrative Law Judge and the Commission approve the Settlement document in its entirety without modification.

Respectfully submitted,

  
Daniel G. Asmus  
Assistant Small Business Advocate  
Attorney ID No. 83789

For:

Steven C. Gray,  
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Attorney ID No 77538

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(717) 783-2525  
(717) 783-2831 (fax)

Dated: January 28, 2013

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF METROPOLITAN :  
EDISON COMPANY FOR APPROVAL : Docket No. M-2012-2334399  
OF ITS ACT 129 PHASE II ENERGY :  
EFFICIENCY AND CONSERVATION :  
PLAN :

PETITION OF PENNSYLVANIA :  
ELECTRIC COMPANY FOR : Docket No. M-2012-2334392  
APPROVAL OF ITS ACT 129 PHASE II :  
ENERGY EFFICIENCY AND :  
CONSERVATION PLAN :

PETITION OF PENNSYLVANIA :  
POWER COMPANY FOR APPROVAL : Docket No. M-2012-2334395  
OF ITS ACT 129 PHASE II ENERGY :  
EFFICIENCY AND CONSERVATION :  
PLAN :

PETITION OF WEST PENN POWER :  
COMPANY FOR APPROVAL OF ITS : Docket No. M-2012-2334398  
ACT 129 PHASE II ENERGY :  
EFFICIENCY AND CONSERVATION :  
PLAN :

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**COMVERGE, INC.  
STATEMENT IN SUPPORT OF SETTLEMENT**

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Comverge, Inc. (“Comverge”) submits this Statement in Support of Pennsylvania Public Utility Commission (“Commission”) approval of the Settlement (“Settlement”) in the above-captioned docket to the Act 129 Phase II Energy Efficiency and Conservation (“EE&C”) Plan (“Phase II Plan” or “Plan”) of FirstEnergy Corp. (“First Energy”), on behalf of Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power Company (“West Penn”) (collectively “Companies”).

Comverge is one of the nation's leading providers of energy management products and services. Comverge has been an active Conservation Service Provider ("CSP") in Pennsylvania<sup>1</sup> and has served several electric distribution companies ("EDCs") who are in the Act 129 Phase II Programs. Comverge has provided complex energy management programs and related services to small business, large commercial, and industrial customers throughout Pennsylvania, including those customers in the Companies' service territory.

Comverge supports the use of combined heat and power ("CHP") technologies for all Pennsylvania EDCs as a cost effective, energy efficient use that supports the goals and objectives of Act 129.<sup>2</sup> CHP projects are prudent, capture significant environmental benefits and avoid waste. These projects generate electric and thermal energy from a single fuel source, e.g., natural gas. Customers with steady base load electricity usage coupled with steady thermal demand can realize significant efficiencies and savings by incorporating CHP.

Comverge supports the Settlement and recommends that it be approved. The Settlement addresses Comverge's concerns regarding the Companies' programs to develop and implement CHP technologies in their service territory by revising the program structure to specific permit CHP projects with a Total Resource Cost ("TRC") score above 1.0, as calculated in accordance with the Technical Reference Manual ("TRM") standards or other Commission guidelines or directives.

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<sup>1</sup> Comverge is registered as a CSP on the PUC's Registry of CSPs. *Petition of Comverge, Inc.*, Docket No. A-2009-2113604, Secretarial Letter dated Nov. 3, 2011 approving the company's application to re-register as a Conservation Service Provider. Comverge's wholly owned subsidiary, Enerwise Global Technologies, is also registered as a CSP. *Petition of Enerwise Global Technologies, Inc.*, Docket No. A-2012-2297625, Secretarial Letter dated April 11, 2012 approving the company's application to register as a Conservation Service Provider.

<sup>2</sup> Comverge Petition to Intervene at 3.

## I. BACKGROUND

The Companies included CHP as an energy efficiency and conservation measure in both its Phase I and Phase II EE&C Plans. In its Phase I EE&C Plan, the Companies mentioned CHP in its Custom Technology Application Program.<sup>3</sup> This Program has been focused on reducing energy and demand for various customer segments as well as improving energy efficiency for specific processes and applications, including CHP systems. In Phase II, along with other custom measures, Met Ed mentions CHP as a custom measure within the C&I Energy Efficient Equipment Program. It states that calculated or performance based incentives will be provided to customers based upon an analysis of potential energy savings on a case by case basis for upgrading less efficient specialized processes and applications.<sup>4</sup>

Comverge averred that the Companies' Phase II Plans did not go far enough and may actually prevent the inclusion of CHP as an energy efficiency measure. Specifically, Comverge argued that the lack of detail and clarity would inhibit the use of CHP as an energy efficiency measure in the Companies' service territories. Such projects would be hindered by the lack of any details, such as a TRC score, related to CHP projects. Comverge was further concerned that

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<sup>3</sup> For example, CHP is mentioned in the following: West Penn's Phase I Plan, Docket M-2009-2093218, dated June 30, 2009 at 19, 123,133, 159-160, 172; West Penn's Phase I Plan dated December 21, 2009 at 18, 116-117, 136-137, 147; West Penn's Phase I Plan dated April 29, 2010 at 20, 117-118, 137-138 155; West Penn's Phase I Plan dated September 10, 2010 at 92-93, 103-104, 123; West Penn's 2009 Third Quarter Report to the Commission at 54; West Penn's Annual Report dated September 15, 2010 at 90, 98, 110; West Penn's First Quarter Report of 2010 at 88, 96, 108; West Penn's Annual Report of June 2010-May 2011 at 79, 87; Met Ed's Quarterly Report of September 1, 2011 to November 30, 2011 at 74, 80; Met Ed's Quarterly Report of June 2011 to August 2011 at 71, 77.

<sup>4</sup> Met Ed's Plan Phase II at 55 and 123.

the lack of details in the Phase II Plan could have formed the springboard for a future unwillingness by the Companies refuse to provide incentives for CHP projects.

## **II. THE SETTLEMENT**

In the Settlement, the Companies agree to modify their Phase II EE&C Plans so that:

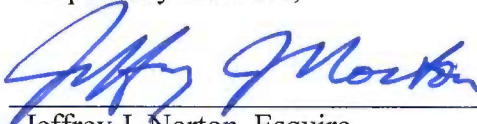
Combined Heat and Power (“CHP”) projects may be approved as eligible custom measure projects, if found to be cost effective as indicated by a Total Resource Cost (“TRC”) score above 1.0, as calculated in accordance with the Technical Reference Manual (“TRM”) standards or other Commission guidelines or directives. In addition, each eligible project must not be above 10 MW in size, are intended solely for customer on-site use (not wholesale merchant projects), produce retail energy savings to a FirstEnergy operating company (“Company”) (i.e., the reduction of electricity consumption), are installed and operational during Phase II and comply with all Company interconnection and standby service rules and requirements.

Comverge submits that the Settlement should be adopted. By agreeing to modify their Phase II Plans with respect to CHP projects, the Companies are reasonably addressing the concerns raised by Comverge regarding the development and implementation of CHP programs in the Companies’ service territories. The proposed modification sets a reasonable TRC threshold for CHP projects. The lack of a specific reasonable TRC threshold would have created a false impression to customers that CHP projects were not permissible in the Companies’ service territory. Importantly, the TRC threshold treats CHP projects in an equivalent manner to other measures that would be eligible for funding under the Companies’ Phase II EE&C Plans. These changes would not result in a budget impact, and will simply induce more CHP projects to be considered and ultimately developed in the Companies’ service territory. Finally, this Settlement language with regard to CHP is consistent with similar EE&C Phase II Plans and/or settlements for PECO Energy Company and Duquesne Light Company.

### III. CONCLUSION

For the reasons stated above, Comverge submits that the Settlement is a reasonable resolution of the concerns raised by Comverge regarding the development and implementation of CHP programs in the Companies' service territories, and should be granted.

Respectfully submitted,



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Date: January 28, 2013

Attorneys for Comverge, Inc.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Petition for Approval of its Act 129</b>	<b>:</b>	
<b>Phase II Energy Efficiency and</b>	<b>:</b>	<b>Docket Nos. M-2012-2334392</b>
<b>Conservation Plans of Metropolitan Edison</b>	<b>:</b>	<b>M-2012-2334387</b>
<b>Company, Pennsylvania Electric Company,</b>	<b>:</b>	<b>M-2012-2334395</b>
<b>Pennsylvania Power Company Plan and</b>	<b>:</b>	<b>M-2012-2334398</b>
<b>West Penn Power Company</b>	<b>:</b>	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

**Via Email and First Class Mail**

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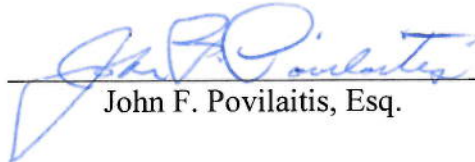
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