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December 30, 2013

VIA OVERNIGHT FEDERAL EXPRESS

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

Re: Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company to the November 14, 2013 Tentative Order on Act 129 Amended Demand Response Study

Docket No. M-2012-2289411

Dear Secretary Chiavetta:

Enclosed for filing are an original and three (3) copies of Comments of Metropolitan Edison Company. Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company to the November 14, 2013 Tentative Order on Act 129 Amended Demand Response Study.

Please date stamp the copy and return to me in the enclosed, postage-prepaid envelope. Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

Kathy J. Kolich

Kathy J. Kolich

Enclosures

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Act 129 Energy Efficiency and Conservation Program Phase Two	:	Docket Nos.: M-2012-2289411 M-2008-2069887

COMMENTS OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER COMPANY AND WEST PENN POWER COMPANY TO THE NOVEMBER 14, 2013 TENTATIVE ORDER ON ACT 129 AMENDED DEMAND RESPONSE STUDY

I. INTRODUCTION

On October 15, 2008, House Bill 2200, Act 129 of 2008, P.L. 1592, 66 Pa. C.S. §§ 2806.1 and 2806.2 ("Act 129") was signed into law and requires the Commonwealth's largest electric distribution companies ("EDCs") to develop Energy Efficiency & Conservation ("EE&C") programs including programs to meet the Act 129 peak demand reduction goals. Act 129 required the Pennsylvania Public Utility Commission ("Commission") to evaluate the costs and benefits of the EE&C programs by November 30, 2013 and directed the Commission to set new incremental consumption and peak demand reductions that would need to be implemented before May 31, 2017, if the benefits of the programs and plans exceed the costs. Among other things, Phase I of Act 129 required EDCs, by May 31, 2013, to reduce peak demand by a minimum of four-and-a-half percent (4.5%) of the EDC's annual system peak demand in the 100 hours of highest demand measured against the EDC's peak demand during the period of June 1, 2007 through May 31, 2008.

In accordance with Act 129's directives, by November 30, 2013, the Commission was to assess the cost-effectiveness of the EE&C Program and set additional incremental reductions in electric consumption, for the period before May 31, 2017, if the EE&C Program's benefits exceed its costs. *See* 66 Pa. C.S. § 2806.1(c)(3). In addition, by November 30, 2013, the Commission was to compare the total costs of the peak demand reduction portion of the EE&C plans to the total savings in energy and capacity costs, as well as other costs determined by the Commission, incurred by retail customers in the Commonwealth. *See* 66 Pa. C.S. § 2806.1(d)(2). If the Commission determined that the benefits of the peak demand reduction program exceed the costs, the Commission was to set additional incremental requirements for reduction in peak demand for the 100 hours of greatest demand or an alternative peak reduction program approved by the Commission. Furthermore, these incremental reductions in peak demand must be measured against the EDCs' peak demand for the period from June 1, 2011, through May 31, 2012 with the reductions being accomplished no later than May 31, 2017.[1]

On August 3, 2012, the Commission issued an Implementation Order, which determined the required consumption reduction targets for each EDC for Phase II of Act 129 EE&C Plans. At that time, the Commission determined not to set additional peak demand reduction requirements for the EDCs' Phase II EE&C Plans due to the fact that it had to assess the cost-effectiveness of the EDCs' Phase I peak demand reduction programs.

To assist the Commission in determining the cost-effectiveness of the peak demand reduction program, the Commission directed the Act 129 Statewide Evaluator ("SWE") to conduct a Demand Response Study to fully assess the costs and benefits of the Phase I peak demand reduction programs. In a May 17, 2013 Secretarial Letter, the Commission released the *Act 129 Demand Response Study – Final Report* ("DR Study") under the above-referenced docket, where the SWE found that the majority of phase I peak demand reduction programs were

[1] *Id.* It is important to note that regardless of the Commission's finding as to the cost effectiveness of the Phase I peak demand reduction programs, there is no statutory authority in Act 129 that would allow the Commission to order EDCs to implement peak demand reduction programs after May 31, 2017.

not cost effective. At the suggestion of stakeholders, the Commission directed the SWE to conduct a Preliminary Wholesale Price Suppression and Prospective TRC Analysis of the peak demand reduction program. The SWE's analysis was completed on November 1, 2013.

On November 14, 2013, the Commission issued a Tentative Order ("Tentative Order") seeking comment on the amended Act 129 Demand Response Study ("Amended DR Study"),[2] which included the Preliminary Wholesale Price Suppression and Prospective Total Resource Cost Test ("TRC") prepared by the SWE further assessing the cost-effectiveness of the Phase I peak demand reduction program. The Tentative Order also seeks comments on any proposed future peak demand reduction programs as well as the Commission's proposal that the SWE perform a full Wholesale Price Suppression Study.

Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company ("Companies") appreciate the opportunity to comment on these topics.[3] As an initial matter, Act 129 constrains the Commission from ordering further studies on the benefits of any future peak demand reduction programs as well as ordering new peak demand reduction targets as a result of these studies. In addition, because the SWE found that the Phase I peak demand reduction programs were not cost-effective, Act 129 prohibits further peak demand reduction targets. Second, as discussed below, there are practical reasons that a future peak demand reduction program should not be ordered. Third, from a policy standpoint, the competitive retail electric market already offers robust demand reduction programs and Act 129 peak demand reduction programs interfere with

[2] *See Act 129 Demand Response Study – Final Report*, Prepared for the Pennsylvania Public Utility Commission, GDS Associates, *et al.*, Submitted May 13, 2013, Addendum Added November 1, 2013, available at http://www.puc.pa.gov/filing_resources/issues_laws_regulations/act_129_information/act_129_statewide_evaluator_swe_.aspx.

[3] Failure to address any specific topic raised the Statewide Evaluator in the *Act 129 Demand Response Study* should not be interpreted as agreement with said issue.

those programs. Last, if the Commission were to order a further study or peak demand reduction goals, the Commission should consider several changes outlined below.

I. ACT 129 CONSTRAINS THE COMMISSION FROM ORDERING FUTURE PEAK DEMAND REDUCTION STUDIES OR TARGETS.

Section 2801.01(D)(2) of Act 129 requires that: (i) the Commission determine by November 30, 2013 whether mandatory additional peak demand reduction goals (beyond Phase I) will be set if the previous Phase I peak demand reduction programs' benefits exceeded the costs; and (ii) if that is the case, EDCs must meet those additional mandatory peak demand reductions no later than May 31, 2017. Specifically,

> By *November 30, 2013*, the Commission shall compare the total costs of energy efficiency and conservation plans implemented under this section to the total savings in energy and capacity costs to retail customers in this Commonwealth or other costs determined by the Commission. If the Commission determines that the benefits of the plans exceed the costs, the Commission shall set additional incremental requirements for reduction in peak demand for the 100 hours of greatest demand or an alternative reduction approved by the commission. Reductions in demand shall be measured from the electric distribution company's peak demand for the period from June 1, 2011 through May 31, 2012. The reductions in consumption shall be accomplished no later than May 31, 2017.[4]

The above section of Act 129 indicates that the Legislature intended (i) to set a deadline for the Commission to determine cost-effectiveness of Phase I peak demand reduction programs; (ii) to set a deadline for any future peak demand reduction targets; and (iii) to no longer require EDCs to meet additional peak demand requirements after May 31, 2017. Moreover, unlike Section 2806.01(C)(3) of Act 129 which directs the Commission "by November 30, 2013 *and every five years thereafter*" to "evaluate the costs and benefits of [energy consumption reductions]...," Section 2801.01(D)(2) does not contain that same provision. Instead, the Legislature has drawn a distinction between additional peak demand requirements and additional EE&C requirements.

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[4] 66 Pa. C.S. §2806.1(d)(2)(emphasis added).

The Supreme Court of Pennsylvania has routinely found that the Commission must act within its statutory powers.[5] "The power and authority to be exercised by administrative commissions must be conferred by legislative language clear and unmistakable. A doubtful power does not exist. Such tribunals are extra judicial. They should act within the strict and exact limits defined."[6]

Act 129 contained a deadline, November 30, 2013, by which the Commission was to determine whether Phase I peak demand reduction programs' benefits outweighed the costs, which has not occurred. Indeed, the SWE's Amended DR Study demonstrates otherwise, and, in the very few single programs that were found to be cost effective, those conclusions are flawed.[7] First, the Amended DR Study concluded that none of the direct load control programs were cost effective having a TRC benefit-cost ratio of below 1.0.[8] The combined "Base Case Scenarios" produced a TRC score of only 0.33 and *only* the "Best Case Scenarios," where the best case for all of the individual scenarios is assumed, are shown to have potential to pass the TRC test in *some* service territories. It is unrealistic to assume that the best case scenario will occur in every instance for each service territory, thus skewing any acknowledgement of results favoring potential for cost effectiveness. And, this best case scenario incorrectly assumes that the direct load control equipment that was installed during Phase I is still available for use in a future peak demand reduction program.[9] For example, for Met-Ed, pursuant to the Commission's Order in

[5] *See e.g., Process Gas Consumers Group v. Pennsylvania Public Utility Commission*, 511 Pa. 88, 95-6 (1986).
[6] *Id.* at 96, *citing Green v. Milk Control Commission*, 340 Pa. 1, 3 (1940).
[7] The SWE method used in calculating the cost effectiveness of peak demand reduction programs improperly ignored the May 31, 2017 end date of all such programs included in Act 129 and, therefore, overstated the potential savings.
[8] Tentative Order at 18-19.
[9] *See* Act 129 Amended Demand Response Study at 44. Another flaw of the best case scenario is that the SWE utilized a typical useful life of a direct load control switch over a 10 year life timeframe with 3% customer attrition per year and escalation of benefits and ongoing program costs, which tripled the TRC ratio from 0.12 to 0.33. However, an EDC is not permitted to collect the cost of a program such as this over several phases of Act 129.

Docket No. M-2009-2092222, Met-Ed received approval to remove all of the residential direct load control devices. As a result, Met-Ed would be required to make a new investment in direct load control devices, which is a cost that is ignored by the SWE when performing its TRC test for this program. Moreover, the time lapse between Phase I and any future peak reduction program before May 31, 2017 would require significant re-investment in this program by all EDCs considering changes in technology, inoperability of equipment and customer relocations.

Second, the SWE's analysis of cost-effectiveness for load curtailment programs, generally were not cost-effective.[10] Moreover, the SWE's inclusion of a $25kW-year avoided transmission and distribution ("T&D") benefits in the TRC calculation,[11] demonstrating that two of the EDC's load curtailment programs may be cost-effective, is flawed. Avoided T&D costs, as noted by the SWE, are challenging to estimate due to locational issues and are not consistent from one EDC to another. Moreover, including avoided T&D costs in the TRC calculation for short-term peak demand reduction programs should not be considered a viable substitute for infrastructure upgrades, which are often needed for other reasons such as reliability or system expansions.

Last, even with the inclusion of the overstated price suppression benefits, only four of the 15 programs would result in a TRC ratio greater than 1.0.[12] Similarly, while the Amended DR Study observes that the avoided cost of generation for 2012-2015 range from $6.11 to $89.46 per kW-year, the "best case scenario" assumes $90.00 per kW-year for all EDCs,[13] which is more than 50% greater than the average historic (2012/13 - 2016/17) base residual auction clearing

Rather, program costs must be collected within the phase where the program is implemented and operated, making the use of a 10 year life timeframe not appropriate.

[10] Tentative Order at 19.

[11] Act 129 Amended Demand Response Study at 45.

[12] *Tentative Order* at 20.

[13] Act 129 Demand Response Amended Study at 46.

price for the highest priced PJM zone serving Pennsylvania and more than 300% of the average BRA clearing price for the lowest priced PJM Zone.

Given the November 30, 2013 statutory deadline to determine the cost effectiveness of the Phase I peak demand reduction program and to set any future goals, the May 31, 2017 deadline for any future peak demand reduction targets, and the fact that the Commission and SWE's analysis have not concluded that the benefits of peak demand reduction programs exceed the costs of those programs, Act 129 constrains the Commission from ordering any further peak demand reduction studies or goals. Moreover, unlike future consumption reduction goals, the statute prohibits the Commission from reviewing this issue any further or from ordering the continuation of any such program beyond May 31, 2017. As such, the Commission should neither conduct any future studies on this issue nor set future peak demand reduction goals.

III. THERE ARE PRACTICAL CHALLENGES TO IMPLEMENTING ANY FUTURE PEAK DEMAND REDUCTION PROGRAM.

A. Budgets are Not Available and Would Need to be Established to Develop and Implement Any Peak Demand Reduction Programs.

In addition to the statutory constraints described above, there are also several practical challenges to implementing a new peak demand reduction program. The Commission has established a three-year EE&C program for Phase II of Act 129 with energy reduction targets, based on 100% of the Companies' budget available under Act 129, through May 31, 2016. The Commission has entered Orders accepting the Phase II plans filed by the Companies. Act 129 requires that "...*these incremental reductions in peak demand must be measured against the* EDCs' peak demand for the period from June 1, 2011, through May 31, 2012 with the reductions being accomplished no later than May 31, 2017."[14] The Companies would need to develop and implement peak demand reduction programs in their current Phase II EE&C Plans.

It is important to understand that most, if not all, of the programs set forth in the Companies' Phase II EE&C Plans have been implemented as approved using practically the entire budget available to the Companies under Act 129, without any budget set aside for development or implementation of any peak demand reduction programs. In other words, the full amount of the 2% spending cap for the Companies' Phase II EE&C Plans has been budgeted for the Commission Approved Phase II consumption reduction targets. If the Commission were to establish new peak demand reduction targets with such reductions to be achieved prior to May 31, 2017, as statutorily required, the Companies would either need reduced Phase II consumption reduction targets to provide funding to develop and implement future peak demand reduction programs or establish additional funding in excess of the Companies' 2% budget cap, which is not statutorily permitted. Moreover, it is critical that the Companies have budgets suitable to provide the incentive payments required to attract and maintain participation in the programs or an EDC would risk penalties for non-compliance should the Commission set specific peak demand reduction targets. The SWE's report suggests that EDCs paid large incentives in their Phase I programs in order to ensure that the EDCs achieved their Top 100 hour peak demand reduction targets. As such, the EDCs would need a significant budget and incentive payments to achieve any future peak demand reduction targets, if any, that are established given the mandatory targets and penalties associated with peak demand reduction targets under Act 129. The Commission should not implement a future peak demand reduction target given both the statutory and budgetary constraints.

[14] 66 Pa. C.S. § 2806.1(d)(2)

B. It Is Not Realistic to Establish a Future Peak Demand Reduction Target Given the Statutory Timeline, Which Would Require an Aggressive Timeline for EDCs to Develop, File, and Implement Programs.

As previously discussed, Act 129 requires that the reductions be accomplished no later than May 31, 2017. In order for the Companies to meet this timeframe, the Companies would need time to develop, file for approval and implement any peak demand reduction programs for the programs to be fully implemented and *operational* by June 1, 2016 to support performance during the summer of 2016. The Commission would need to issue an order with any new targets prior to June 2014 to provide adequate time to develop, file for approval and implement any demand reduction programs for the programs to be fully implemented and *operational* by June 1, 2016, a tall order given that the Commission is proposing further studies now.

In addition, during Phase I, EDCs learned that they need a long lead time, at least 12 months, to implement peak demand reduction programs, both in the residential sector and commercial, industrial and government sectors with significant time required to contract with Conservation Service Providers ("CSPs") as well as substantial time to promote programs to customers, educate customers on the programs and achieve customer enrollments. Therefore, to implement plans achieving such targets, EDCs would need Orders approving plans and funding and supporting development of RFPs, commitment of funds and contracts to develop the proper infrastructure, hire contractors, implement the programs, enroll customers and develop processes and systems not later than January 2015. In summary, development and approval of any future peak demand reduction task is an incredibly difficult task especially in light of the May 31, 2017 statutory deadline for peak demand reduction targets to be met.

III. FROM A POLICY STANDPOINT, THE COMPETITIVE RETAIL ELECTRIC MARKET ALREADY OFFERS ROBUST DEMAND REDUCTION PROGRAMS AND ACT 129 PROGRAMS INTERFERE WITH THOSE PROGRAMS.

Pennsylvania's competitive retail market already has robust and thriving demand reduction programs offered by Electric Generation Suppliers ("EGS") and CSPs in the PJM markets. Participating EGSs and CSPs currently provide appropriate market incentives or price signals to attract and facilitate demand reduction needed to meet PJM system reliability targets and for participation in the energy markets. In PJM, there are currently over 65 active CSPs having over 15,000 registered customer sites, providing almost 10,000 MW of demand reduction in the Emergency and Economic programs. Furthermore, participation in those programs has grown to almost 15,000 MW in 2015/2016 based on commitments already made to PJM in the Emergency Program. During 2013, in Pennsylvania, over 60 active CSPs having over 5,000 registered customer sites provided more than 2,300 MW of demand reduction in the Emergency and Economic Markets. Put simply, Act 129 peak demand reduction programs would compete and interfere with existing competitive market programs. Table 1 below presents the demand reduction resources registered in PJM's Economic and Emergency programs in the service territories of the FirstEnergy Pennsylvania EDCs for 2013.[15]

[15] While Penn Power appears to have a low participation relative to other PA EDCs, overall peak demand reduction participation in the ATSI zone which includes Penn Power exceeds 9%.

Table 1 – 2013 PJM Economic and Emergency Demand Reduction and Percentage of EDC Phase I System Load

PA EDC	Customer Registrations	Peak Demand Reduction (MW)*	Peak Demand Reduction as a % Of Base Period System Load	EDC Top 100 Peak Load 6/1/07 – 5/31/08
West Penn Power	585	346.0	10%	3,496
Penn Power	67	45.45	5%	980
Met-Ed	487	209.6	8%	2,644
Penelec	591	298.9	12%	2,395
Total	**1,730**	***899.9***	**9%**	**9,515**

* Source- 2013 Demand Reduction Operations Markets PJM Activity Report – December

In addition, the competitive market is better equipped than EDCs to respond to the frequent PJM demand reduction program changes that would otherwise have a direct impact on existing operations or the measurable performance of Act 129 peak demand reduction programs and targets. This is especially true given that the EDCs are required to seek Commission approval before making any changes to their EE&C Plans. These changes include: (i) changes in response to FERC Order 745 which eliminated economic incentives for demand reduction that is not scheduled and dispatched by PJM; (ii) emergency program sub-zonal dispatch (such that events could be called for small portions of EDC service territories rather than the entire territory disassociating system reliability demand reduction needs with targets for the entire territory); and (iii) new or requirements for emergency program demand reduction resources requiring energy strike pricing, availability in addition to PJM emergency dispatch (raising new process requirement for CSPs and customers) that both change the nature of the market, and render market potential studies extremely challenging and potentially meaningless.

In order to comply with the mandatory Act 129 Phase I requirements, the Companies had to relax their program requirements to register and settle Act 129 events in the PJM Economic Load Response Systems ("ELRP"). Also, Act 129 events that were initiated independent of PJM programs were not properly recognized by PJM for activities including resource dispatching for daily load requirements and add-back of customer loads in the customer's peak load share contribution ("PLC") determination. This led to CSPs and customers already participating in PJM Emergency Markets not wanting to participate in Act 129 program events fearing their participation would reduce their PLC and jeopardize their current contract with the CSP or potential demand reduction availability in future years already committed in the PJM Capacity Market. Given that Act 129 peak demand reduction programs will interfere with programs offered by EGSs and CSPs, peak demand reduction programs are better left to the competitive market.

Likewise, many customers have already committed to the PJM Emergency Program for 2016/2017 through the competitive market. The Act 129 statutory deadline for any future peak demand reduction compliance is May 31, 2017. Customers would then have to choose between the competitive market and an Act 129 program interfering again with current competitive contracts and making it very difficult for EDCs to attain the peak demand reduction needed to achieve their goals. Last, demand reduction is primarily done to eliminate or shift end use load to better match supply and to mitigate reliability. These activities are not the responsibility of the EDCs given that EGS has the capacity obligation for customers and PJM is responsible for system reliability. For all of those reasons, Act 129 or other subsidized peak demand reduction programs operated in isolation of the competitive market will interfere with the current robust competitive market programs.

IV. IF THE COMMISSION WERE TO ESTABLISH FUTURE PEAK DEMAND REDUCTION TARGETS UNDER ACT 129, SEVERAL CHANGES WOULD NEED TO BE MADE FROM THE ORIGINAL REQUIREMENTS.

While the Companies believe that the Commission is statutorily prohibited from proceeding with future peak demand reduction programs -- first, because of the plain meaning of Section 2806.1(D)(2), and second, because the cost benefit analysis is flawed in several material respects – assuming for the sake of argument that the Commission could proceed with a future peak demand reduction program, at a minimum, the following items should be eliminated from the requirements that were in place for Phase I of Act 129.

A. The Existing Structure of the Peak Demand Reduction Target Is Flawed and Should Not Be Continued.

The Companies agree with the SWE that the existing structure of the peak load reduction target (average peak load reductions over the 100 hours of highest EDC system load in one summer) is flawed and should not be continued. Meeting Act 129's demand reduction target for the 100 hours of highest demand required EDCs to predict when the highest 100 hours will occur over the course of the summer season. These predictive difficulties are less common for peak demand reduction programs in the other states and in the ISOs examined by the SWE, where peak demand reduction programs are used only when necessary based on reliability triggers or market pricing conditions. The SWE recommends the top 100 hour definition be discontinued and the Companies support this recommendation. Using the Phase I peak demand reduction program methodology, EDCs did not know the actual peak load hours until after-the-fact (after the summer compliance period) which was too late to take corrective action if the EDC is short of the target and also too late to target demand reduction at the actual peak load hours. Given the statutory minimum penalties for missing any target established under Act 129, and not knowing the actual peak load hours until after-the-fact also encourages EDCs to over-comply during the summer (call more MW, more hours, or both) to increase the likelihood of hitting the mathematical average reductions over the 100 hours, which also results in even more demand reduction and program costs when it makes no sense, either for reliability or economic purposes.

The SWE recommends that any future peak demand reduction targets be crafted such that the compliance metric is the average load reduction observed over a subset of hours during which peak demand reduction is likely to provide a cost-effective alternative to generation rather than a fixed number of hours. While this sounds reasonable on the surface, by the SWE's own analysis, only commercial and industrial programs have any remote potential to be cost-effective. Based on the availability of a robust market for these customers, and potential unintended conflicts between Act 129 and competitive programs, the Commission should not mandate that EDCs compete with CSPs or intervene in PJM's evolving markets.

B. If the Commission Were to Mandate Additional Peak Demand Reduction Targets, the Companies Recommend Other Changes.

That said, if the Commission mandates future peak demand reduction targets, the Companies recommend that any triggers should be similar to established PJM protocols for demand response and not on a peak load threshold. As recognized by PJM, the need for demand reduction to occur not only in the summer months, but also be used annually, market products and pricing provides the most suitable indication of the need for additional demand reduction resources to meet projected loads and system reliability needs whenever they occur, just as PJM intended. Also, peak load conditions do not necessarily translate to elevated energy pricing that would support the need for demand response resources. In making this recommendation, the Companies underscore the potential this choice has for conflicts with in the competitive market demand reduction programs and energy market activities (i.e., dispatching load reductions based on day-ahead market pricing may not coincide with pricing that arise in real-time markets based on dynamic circumstances).

The Companies also recommend that any demand reduction trigger should be established in a manner that supports customer and general public satisfaction as well as to ensure that any target hours are applicable for peak load compliance and representative of the times of critical resources being needed, not merely because they may be the top hours during any summer. To support customer and general public satisfaction and to provide EDCs with reasonable opportunity to meet any targets established by the Commission, the Companies recommend that caps should be established on the total number of hours (e.g. 60 hours) that the programs operate over the course of the summer, as well as provide EDCs with the ability to limit the duration of events and limit any requirement to call events on consecutive days.

Last, to the extent that the Commission does order future peak demand reduction targets, targets must be set in a fashion that properly aligns with the afore-mentioned considerations. Compliance with the targets should be based on the Companies having sufficient resources under contract to deliver (i.e., "demonstrated capability") and not on the operational performance of the resources, which are not exclusively under the Companies' control. Adoption of a demonstrated capability approach, similar to that used by PJM, coupled with a revised Technical Reference Manual that includes deemed capability impacts would be needed to create a predictable methodology for measurement of DR program implementation. The demonstrated capability approach would provide effective, understandable guidelines against which success could be determined, removing the uncertainty of voluntary programs and unpredictable customer participation, loads and demand impacts.

V. CONCLUSION

The Companies appreciate the opportunity to participate in this proceeding and respectfully request that the Commission consider their comments; more specifically, that there are statutory, practical and policy constraints that demonstrate that the Commission should not order any future studies or peak demand reduction targets.

Respectfully submitted,

Dated: December 30, 2013

Kathy J. Kolich

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 *(relating to service by a participant)*.

Service by overnight Federal Express, as follows:

Rosemary Chiavatta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
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Harrisburg, PA 17120

RECEIVED
DEC 30 2013
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Dated: December 30, 2013

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