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January 14, 2014

VIA OVERNIGHT FEDERAL EXPRESS

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

Re: Reply 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 Reply 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 Kolich

Kathy J. Kolich

Enclosures

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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

I. INTRODUCTION

On December 30, 2013, Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power") and West Penn Power Company ("West Penn") (collectively "the Companies") submitted comments on the specific areas mentioned in the Pennsylvania Public Utility Commission's ("Commission") November 14, 2013 Tentative Order Regarding the Act 129 Amended Demand Response Study ("Amended DR Study").

The Companies hereby provide reply comments[1] to the Office of Consumer Advocate ("OCA"), Industrial Customer Groups ("ICG"), Demand Response Providers ("DR Providers"), Electric Power Generation Association ("EPGA"), PECO Energy Company ("PECO"), PPL Electric Utilities Corporation ("PPL"), Energy Association of Pennsylvania ("EAP") and the

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[1] Failure to address any specific topic raised by parties in their comments to the Commission's Tentative Order of November 14, 2013 should not be interpreted as agreement with said issue.

joint comments of Citizens for Pennsylvania's Future, Clean Air Council, Keystone Energy Efficiency Alliance, Sierra Club ("Joint Commenters").

II. EVEN IF ANOTHER STUDY IS ORDERED, ACT 129 DOES NOT PERMIT THE COMMISSION TO ORDER FUTURE PEAK DEMAND REDUCTION TARGETS BASED ON THAT STUDY.

OCA, Joint Commenters and the DR Providers' comments suggest, with varying rationales and arguments, that further studies on the cost-effectiveness of peak demand reduction programs should be performed and that future targets for peak demand reduction targets should be established. As discussed in the Companies' initial comments, Act 129: (i) set a deadline for the Commission to determine cost-effectiveness of Phase I peak demand reduction programs; (ii) set a deadline for any future peak demand reduction targets; and (iii) no longer required EDCs to meet additional peak demand requirements after May 31, 2017.[2] In its comments, OCA acknowledges these statutory deadlines, but ignores the remainder of Act 129 in advocating for further peak demand reduction studies and targets.[3] Because cost-effectiveness was not determined before those deadlines, Act 129 precludes the Commission from ordering future targets for peak demand reduction. Even if the Commission does order another study, under Act 129, future peak demand reduction targets cannot be established.

Likewise, Act 129 prohibits the Commission from ordering future peak demand reduction targets if the Phase I peak demand reduction programs were not found to be cost-effective.[4] The Joint Commenters "do not dispute that the [statewide evaluator] SWE's finding that Phase I DR

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[2] Companies' Comments at 4.

[3] OCA Comments at 2 ("Moreover, the OCA recommends compliance targets be set expeditiously so that the programs can be designed and implemented by the Summer of 2016, as contemplated by Section 2806.1(d)(2); at 13 ("It is important to note that the statutes contemplates new programs in the Summer of 2016.")

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

programs were not cost-effective under the current TRC test," however, they too ignore the statutory language prohibiting further peak demand reduction targets, and advocate for further peak targets based on revised program requirements.[5] Joint Commenters spend the bulk of their comments offering ways to alter the TRC analysis of the past peak demand reduction programs as well as advocating a "prospective" TRC test which utilizes different program designs and forecasted future benefits.[6] However, Act 129 renders such analysis moot because the deadline for determining cost-effectiveness has passed. The statutory language is clear that the Commission must review the benefits and costs of the Phase I peak demand reduction programs by November 30, 2013 and base its cost-benefit analysis on the actual benefits and costs of Phase I peak demand reduction programs, not hypothetical forward-looking benefits and costs or a modified TRC test of future programs with different program criteria. Moreover, those proposed changes for determining TRC benefits such as inclusion of ancillary services, avoided environmental compliance costs and tax credits are not permitted under the approved Phase I 2011 TRC test and the approved Phase II 2013 TRC test.

Even if a prospective TRC analysis were permitted, which it is not, the SWE's recommended alternative designs and methodologies include unrealistic assumptions in order to achieve marginally cost-effective programs. First, for the Commercial/Industrial ("C/I") sector, the Amended DR Study assumes that C/I customers would be paid roughly the same incentive as Phase I, and also that C/I customers enrolled in the PJM Economic Load Response Program ("ELRP") would not be eligible for participation in an Act 129 demand response program to avoid duplication of benefits. Because this results in a program that directly competes with programs available in the competitive market place, EDCs would need to offer programs and

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[5] Joint Commenters Comments at 2.

incentives comparable to those offered through PJM programs. Given the significant participation in the PJM ELRP program, EDCs would need to offer incentives greater than what was offered in Phase I in order to achieve participation at levels required to meet any established targets. To the extent customers could participate in both the PJM and Act 129 peak demand reduction programs, the savings benefits of the Act 129 programs would need to be reduced to recognize and avoid the double counting of the benefits already attributable to the PJM programs.

Second, for the residential sector, the Amended DR Study assumes that the residential direct load control ("DLC") costs from Phase I are sunk and that the equipment installed in Phase I remains available and operational for new residential peak demand reduction programs. This assumption significantly understates the costs associated with any new residential peak demand reduction programs for the Companies. The Companies oppose OCA, the Joint Commenters and the DR Providers' endorsement of this assumption as a viable premise and endorse PPL's comments on this issue as discussed further below. The SWE has conducted significant analyses to date and those analyses showed that only the DLC programs operating under highly unrealistic circumstances would support a marginally cost-effective scenario and that cost effectiveness can vary significantly throughout the Commonwealth.

As discussed in its comments, PPL demonstrated that the peak demand reduction programs from Phase I were not cost effective because, among other reasons: (i) the Commission's first DR Study concluded that peak demand reduction programs were not cost-effective; (ii) the Amended DR Study also concluded that the overwhelming majority of peak demand reduction programs were not cost-effective; and (iii) further studies would not

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[6] *See id.* at 5-14.

demonstrate that the Phase I peak demand reduction programs are cost-effective.[7] The Companies agree with PPL's comments and the Amended DR Study that the Phase I peak demand reduction programs were not cost effective. A TRC test that looks at forecasted future benefits from hypothetical program designs is simply not appropriate or permitted. The analyses that have been completed within the statutory deadlines have determined that the Phase I peak demand reduction programs were not cost effective – the analysis should stop there. Accordingly, additional expenditures for supplementary analysis are not warranted. For all of those reasons, the Commission should not, and cannot, order further peak demand reduction studies or targets.

III. ACT 129 PEAK DEMAND REDUCTION PROGRAMS UNFAIRLY COMPETE WITH PROGRAMS OFFERED BY THE COMPETITIVE MARKET.

In its Comments, ICG supports the SWE's conclusion that establishing additional peak demand reduction goals for the Large Commercial and Industrial rate class may interfere with the competitive markets already in place.[8] ICG further comments that the SWE's proposed Act 129 programs will directly compete with the PJM programs.[9] Similar to the Companies' comments on this issue, PPL also observes that Act 129 peak demand reduction programs unfairly compete and interfere with free-market peak demand reduction programs and the competitive retail energy market.[10] The Companies agree with ICG and PPL that Act 129 programs will compete with competitive peak demand reduction programs and the Commission should not order further peak demand reduction targets.[11]

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[7] PPL Comments at 6-9.
[8] ICG Comments at 3-4.
[9] *Id.* at 5-8.
[10] PPL Comments at 23-28.
[11] Joint Commenters also observe that "[g]iven FERC's groundbreaking order, anticipated high levels of DR in the coming years, and PJM's administrative contraction of the DR markets beginning in 2016/2017, the relative benefits of EDC administered DR programs is drawn into question." Joint Commenters Comments at 4.

IV. THE PROGRAM DESIGN CHANGES OFFERED BY SOME PARTIES ARE NOT VIABLE OPTIONS FOR FUTURE ACT 129 PEAK DEMAND REDUCTION PROGRAMS.

OCA, DR Providers, and the Joint Commenters offer alternative program design recommendations for future Act 129 peak demand reduction programs. Statutory constraints aside, these parties have not offered viable recommendations for DR program designs. For example, OCA believes that the SWE's proposed methodologies for program design are a sound starting point but could be supplemented with other approaches.[12] OCA agrees with the SWE's recommended methodologies[13] regarding Residential DLC and Load Control programs but submits that the two approaches offered by the SWE[14] should be combined in order to bring greater benefits to customers. OCA recommends that EDCs should trigger demand response events using both: (i) any hour in which real-time locational marginal price ("LMP") for the zone is above a certain dollar/MWh threshold; and (ii) the day-ahead forecast above a certain percentage threshold of the summer demand forecast.[15] The OCA states that if accepted, this combined trigger would dispatch demand resources based on day-ahead load forecasts and real time or day-ahead LMPs to maximize cost effectiveness during high energy cost periods. [16] While these criteria may sound reasonable, forecasting error, the need to provide customers advance notice, and the risk of penalties required under Act 129 collectively contribute to repetition of the same issues encountered by the Companies in Phase I which resulted in programs not being cost-effective. Compliance metrics based on any day-ahead load forecasts and defined

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[12] OCA Comments at 8-10.
[13] Amended DR Study at 57-58
[14] The two approaches are: (i) to require an EDC to call demand response events during any hour in which the real-time LMP for that zone is above a certain dollar-per-MWh threshold; and (ii) to require the EDC to call DR events when the Day-Ahead forecast is above a certain percentage threshold of the summer peak demand threshold. Tentative Order at 9-10
[15] OCA Comments at 8-10.
[16] *Id.* at 10.

MW criteria do not provide assurance that the criteria will support cost-effective performance. Acting on day-ahead pricing does not guarantee mitigation of pricing excursions or cost effective performance in the real-time market (i.e. day ahead market conditions do not necessarily translate to elevated energy pricing that supports the need for additional resources in the real-time market). Neither day-ahead pricing nor load forecasts reliably coincide with pricing excursions or reliability issues in real-time markets.

The Joint Commenters offer a different operating criteria for initiating DR programs which use a combination of threshold LMPs ($/MWh price) in the real time and the day-ahead energy markets. The day-ahead threshold price would be in lieu of a load forecast threshold and would provide an advanced signal to DR participants. The Companies reiterate that any event triggers referencing these criteria duplicate established PJM dispatch protocols for economic demand response and EDCs are not equipped to administer these criteria, particularly relative to dispatching demand reduction resources responsive to real time market pricing.

The methodologies proposed by OCA, DR Providers, and the Joint Commenters also have the potential to conflict with the competitive market PJM has established for demand reduction programs and energy market activities and Act 129 events may not be eligible for PJM economic program payments. As experienced in Phase I, unintended consequences will result from Commonwealth intervention in the competitive market PJM is striving to improve. New demand response rule changes and market rule changes[17] have been proposed by PJM and filed with the FERC to facilitate a more robust DR market that includes DR programs working in the wholesale markets to reduce wholesale costs and ultimately costs to customers. PJM, not the

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[17] PJM Interconnection L.L.C., Docket No. ER14-822-000.

EDCs, is appropriately positioned to manage these kinds of activities based on actual market conditions. Furthermore, the different operating criteria and compliance metrics suggested by various parties underscores the lack of consensus on clear and appropriate practices supporting establishment of any target that will provide reasonable assurance of being cost effective and not interfere or compete with the PJM programs or market. Accordingly, the Commission should reject these recommendations as they neither remedy the statutory constraints nor the issues associated with Phase I peak demand reduction programs.

V. RESIDENTIAL DLC PROGRAMS ARE NOT COST EFFECTIVE AND SHOULD NOT BE MANDATED.

OCA, PECO, DR Providers and Joint Commenters support the SWE's notion that modifications to the residential DLC programs may make them cost effective in future Phases of Act 129. As discussed above, Act 129 requires a review of the Phase I programs for cost-effectiveness and if those programs are not found to be cost-effective, the analysis ends. As PPL discussed and the Companies outlined in their initial comments, none of the seven DLC programs from Phase I analyzed by the SWE proved to be cost-effective. Making modifications to future residential DLC programs in order to theoretically make them cost-effective is not statutory permitted.

Nevertheless, even if modifications to future residential DLC programs were permitted, those modifications would not provide reasonable assurance that the programs will become cost-effective. Modifications recommended by those parties supporting the modification of the DLC programs include increasing the useful life of DLC equipment, amortizing program cost, adoption of full load savings scenario, use of 75% of Incentive Payment structure for customer

payments and considering equipment installed in Phase I as a sunk cost.[18] OCA and PECO further agree with the SWE that the useful life of the measure equipment should be the actual useful life of such equipment, typically eight to ten years.[19] The Amended DR study concludes that these proposed changes will improve the cost-effectiveness of the Residential DLC programs; however, neither the Amended DR Study nor the commenting parties demonstrate how far these individual modifications will move the DLC programs toward becoming cost effective. Even with all of the proposed modifications, the Amended DR Study did not result in Residential DLC programs being cost-effective on a state-wide basis and resulted in a broad range of TRC scores, from a low of 0.59 to a very marginal high of 1.19 based on all modifications and assumptions. As such, neither the Amended DR Study nor the commenting parties have shown that Residential DLC programs would likely be cost-effective with appropriate modifications or reasonable assumptions.

In addition, the Companies recommend the DLC programs should not be mandated for the following reasons. First, increasing the useful life of DLC equipment will not make that program cost-effective. Unlike EE&C programs where a measure installed in a single EE&C Plan phase will continue to produce savings beyond the phase in which it was installed, peak demand reduction programs can only be assumed to provide benefits for the period it is designed, approved and operational. So while some equipment deployed for a peak demand reduction program in a given phase could theoretically be useful to some degree in future phases, until programs are designed, approved and implemented, and customers are enrolled to participate, no benefits can be assumed from peak demand reduction program operations in a future phase.

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[18] OCA at 10-11.
[19] *Id.*

Second, considering Phase I DLC equipment costs as sunk costs incorrectly assumes that the direct load control equipment that was installed during Phase I is still operational and available for use in a future peak demand reduction program.[20] This is an invalid assumption. For example, pursuant to the Commission's Order in Docket No. M-2009-2092222, Met-Ed received approval to remove customer requested 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 the Companies considering changes in technology, inoperability of equipment and customer relocations. Accordingly, any analysis of future residential DLC programs must include all costs necessary to design, approve and implement programs for that future phase.

Furthermore, the Companies agree with PPL that costs should not be carried across multiple Phases of Act 129 EE&C.[21] Demand response equipment costs should be recovered in the phase the program is implemented and the cost is incurred similar to the treatment of costs for other EE&C programs. The amortization of any costs should also be limited to a single EE&C Phase to accurately align the costs and benefits of measures installed during that specific phase. If equipment/program costs are handled improperly, all of the benefits would be recognized in the TRC for the phase in which the measure was installed, while the costs for that

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[20] *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. 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.

[21] PPL Comments at 16.

same equipment/program would be counted partially in the TRC for one phase and partially in the TRC for a subsequent phase. In conclusion, even if future targets were permitted, which they are not, future peak demand reduction targets are not appropriate because the residential DLC programs were not, and have not been shown to be, cost-effective.

VI. EVEN IF FUTURE PEAK DEMAND REDUCTION TARGETS WERE PERMITTED, OFFERING RESOURCES INTO PJM AUCTIONS SHOULD NOT BE MANDATED

As discussed above, Act 129 precludes future peak demand reduction targets. Even if it did, the Commission should not adopt the recommendation that EDCs should bid resources into PJM auctions. OCA agrees with the SWE's recommendation that EDCs should offer Residential DLC resources into the PJM Base Residual Action ("BRA"), pass all of the revenue earned from the PJM capacity market back to ratepayers, and treat that revenue as a benefit in the TRC calculation.[22] However, like PPL and EPGA, the Companies do not agree.

The PJM BRA is the first auction for the delivery year where a physical commitment for resources can be offered. The BRA occurs more than three years in advance of the delivery year for both EE and DR resources and that performance period for DR resources extends beyond the effective term of an approved EE&C Plan (e.g., three years for Phase II). The phased construct with compliance metrics and penalties under Act 129, make it very challenging if not impossible to reasonably predict the Companies' program design and performance (e.g., how many customers the Companies will enroll in the program and the peak demand reductions they will realize from those customers) in a subsequent phase three years in the future. In addition, there are risks associated with delivering demand response resources to PJM since there are financial penalties for under delivery and under performance. Any requirement to offer resources into the

[22] OCA Comments at 12-13.

BRA or other Capacity Auctions would require Commission orders assuring cost recovery of any PJM related costs or penalties incurred by participating in the auctions.

Another factor OCA ignores in its recommendation that EDCs bid demand response resources into the PJM capacity market is the timing of the PJM BRA. Offers are made more than three years in advance of the PJM delivery year. Assuming any future peak demand reduction targets would be mandated in the summer of 2016, the BRA associated with that year (May 2013) has already passed. Therefore, resources resulting from summer of 2016 programs cannot be bid into the PJM BRA.

EPGA comments that it is inappropriate to offer Act 129 demand response resources into the PJM market as it would distort the competitive wholesale market.[23] EPGA states that they object to ... "the potential use of state-sponsored ratepayer subsidized generation products in the wholesale electric markets..... Unnecessary intervention in the current supply and demand dynamic of these markets will result in development of resources without respect to whether they are the most economical and contributes to an imbalance in proper market signals for future capacity."[24] The Companies agree. The Companies further observe that PJM is reviewing potential overreliance on demand resources for reliability planning, and strengthening market signals (pricing and limitations) in Reliability Pricing Market auctions for "limited DR resources." Such limitations could result in subsidized EDC resources supplanting offers from other competitive DR resources offered by PJM market participants. For all of those reasons, even if future peak demand reduction targets were permitted, the Commission should not require EDCs to offer those resources into the PJM BRA or other auctions.

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[23] EPGA Comments at 6-11.

VII. EVEN IF FUTURE PEAK DEMAND REDUCTION TARGETS WERE PERMITTED, COMPLIANCE SHOULD BE BASED ON DEMONSTRATED CAPABILITY.

As discussed above, Act 129 precludes future peak demand reduction targets. Even if it did, the Commission should not adopt the recommendation that compliance should be based on demonstrated capability. The SWE recommends, and the OCA supports, that any future peak demand reduction targets are 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. The OCA also believes the Commission should implement the full load reduction scenario whereby demand savings are determined by multiplying the number of Residential DLC devices by the average kW savings per device. [25]

If compliance is to be based on actual load reductions, EDCs will be forced again to over comply to manage risks associated with customer opt-outs of specific events, equipment failures and forecasting risk of the hours expected to provide cost-effective resources. As cited by the SWE, requiring EDCs to over comply in Phase I contributed to higher program costs which contributed to the poor cost-effectiveness of the Phase I programs. This recommendation certainly would not make any future peak demand reduction programs more cost effective.

For residential DLC programs, the Companies agree with PECO, Joint DR Providers the SWE and OCA that the full load reduction scenario applied to all customers enrolled in the program should be used, along with establishment of deemed per unit savings values set forth in

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[24] *Id.*
[25] OCA Comments at 11.

the Technical Reference Manual. This is consistent with the demonstrated capability approach as it removes the risk associated with customer opt-outs, equipment failures and the error associated with accurately forecasting event hours. Similarly, for commercial and industrial programs, 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 the demonstrated capability approach, coupled with a revised Technical Reference Manual that includes deemed capability impacts, creates a predictable methodology for measurement of DR program implementation. This supports program cost-effectiveness by not establishing the compliance metric in a manner that forces the EDCs to over comply (i.e., assuming compliance is based on load reductions observed after the fact) adding unnecessary program and evaluation costs.

VIII. CONCLUSION

The Companies appreciate the opportunity to comment on the Tentative Order and request the Commission to consider its Comments and Reply Comments and refrain from ordering further studies. As discussed in the Companies' initial comments and these reply comments, Act 129 precludes the Commission from ordering any further studies or targets associated with peak demand reduction. All other issues raised by commenting parties are moot.

Respectfully submitted,

Dated: January 14, 2014

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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
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Dated: January 14, 2014

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