

January 14, 2014

To: Secretary's Bureau
From: Logan Welde, Clean Air Council

M-2012-2289411

Please accept these Joint Reply Comments on the Comments on the Tentative Order on the Amended Demand Response Study.

Sincerely,



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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Energy Efficiency and Conservation Program)
) Docket No. M-2012-2289411
) Docket No. M-2008-2069887
)

AMENDED DEMAND RESPONSE STUDY REPLY COMMENTS

I. INTRODUCTION

Citizens for Pennsylvania’s Future (“PennFuture”); Clean Air Council; Keystone Energy Efficiency Alliance (“KEEA”); the Sierra Club (hereinafter “Joint Commenters”), respectfully submit these Joint Demand Response Reply Comments in response to the Public Utility Commission’s (Commission) Tentative Order entered on November 14, 2013 and the *Pennsylvania Bulletin* published notice on November 30, 2013 at 43 Pa.B. 7050.

Consistent with the Tentative Order, Comments were filed by the following: (1) the Office of Consumer Advocate (OCA); (2) the Energy Association of Pennsylvania (EAP); (3) PPL Electric Utilities Corporation (PPL); (4) the Demand Response Providers, Comverge, Inc., EnerNOC, Inc., and Johnson Controls, Inc.; (5) the Citizens for Pennsylvania’s Future, Clean Air Council, Keystone Efficiency Alliance, and the Sierra Club; (6) PECO Energy Company; (7) Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively the FirstEnergy Companies; (8) the Industrial Energy Consumers of Pennsylvania (IECPA), Duquesne Industrial Intervenors (DII), Met-Ed Industrial Users Group (MEIUG), Penelec Industrial Users Group (PICA), Penn Power Users Group (PPUG), Philadelphia Area Industrial Users Group (PAIEUG), PP&L Industrial Customer Alliance (PPLICA), and West Penn Power Industrial Intervenors (WPPII)(collectively the Industrial Customer Groups); and (9) the Electric Power Generation Association (EPGA).

II. THE COMMISSION HAS THE AUTHORITY TO REQUIRE ADDITIONAL REDUCTIONS IN PEAK DEMAND

The Commission has the legal authority under Act 129 to set additional incremental requirements for reductions in peak demand. Contrary to the arguments raised by PPL, the FirstEnergy Companies and EAP, who attempt to argue that that if the Statewide Evaluator (SWE) determines that the top 100 hours methodology is not cost-effective in Phase I, the Commission is barred from setting additional demand response (DR) targets in Phase III and beyond. EAP Comments at 5-7; PPL Comments at 6-9; FirstEnergy Companies Comments at 4-7. However, this contention misconstrues Act 129, and the Commission’s authority, is unnecessarily limiting and contrary to the intent of the statute. Indeed, the Commission rejected these arguments in its Implementation Order (IO) regarding Phase II programs. Energy

Efficiency and Conservation Programs, Docket M-2012-2289411, slip op. at 32 (IO entered August 23, 2012).

The relevant portion of Section 2806.1(d) states:

The plans adopted under subsection (b) shall reduce electric demand as follows:

* * *

(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, 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 required by the commission shall be accomplished no later than May 31, 2017.

66 Pa. C.S. §2806.1(d)(2). The Commission has commented on this subsection and stated its intentions in its IO. There, the Commission stated:

The Commission's interpretation of subsection 2806.1(d)(2) of Act 129, 66 Pa.C.S. §2806.1(d)(2), is that, in order to be required to prescribe specific peak demand reduction targets for subsequent phases of Act 129, the demand response programs must be proven to be cost-effective. In order to determine the cost-effectiveness of current and potential future demand response programs, the Commission has directed the SWE to complete a demand response study.

IO at 32-33.

The Commission's interpretation is exactly on point. If the Commission determines that the specific DR programs are not cost-effective, the Commission is not required to set specific peak demand reduction targets; however, the statute does not prevent the commission from implementing other cost-effective targets in the absent of such a finding. The Commission found in its IO that it would await the analysis of the cost-effectiveness of the current programs and potential future programs, as well as the Demand Response Potential Study before determining whether to establish incremental compliance targets. IO at 33-42.

The FirstEnergy Companies also contend that the language in § 2806.1(d)(2) demonstrates that the Legislature intended "to no longer require EDCs to meet additional peak demand requirements after May 31, 2017." (FirstEnergy Companies Comments at 6) The Joint Commenters submit that any restrictions on the Commission's authority pursuant to subsection 2806.1(d)(2) were intended to apply only to plans adopted under subsection 2806.1(b). The

Legislature has provided the Commission broad authority to require measures, including DR, independent of subsection 2806.1(b) stating:

In determining or prescribing safe, adequate and sufficient services and facilities of a public utility, the commission may order the utility to establish a conservation *or load management program* that the commission determines to be prudent and cost-effective.

66 Pa.C.S. § 1505(b) (emphasis added). As the Legislature took no action to restrict the Commission's existing statutory authority, it is clear that no such general prohibition was intended.

The legislative intent of Act 129 clearly demonstrates that the Commission is the authority vested with the power to direct the utilities to implement DR and load control programs that will reduce peak demand. The Commission should utilize its authority and follow the lead of other neighboring states in the PJM region, such as Delaware, New Jersey, and Maryland, that direct their respective utilities to offer cost-effective demand response programs.

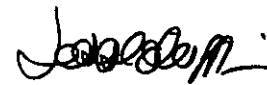
III. CONCLUSION

The Joint Commenters support the Commission's authority to continue to design and require cost-effective demand response and load control programs in Phase III and beyond. Accordingly, we respectfully request that the Commission order the expeditious completion of the Demand Response Potential Study and the Wholesale Price Suppression Study that will inform the development of additional incremental requirements for reductions in peak demand in Phase III and beyond.

Dated: January 14, 2014



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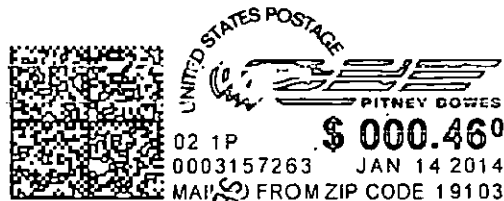
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