COMMONWEALTH OF PENNSYLVANIA

April 27, 2015

E-FILED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
PO Box 3265
Harrisburg, PA 17105-3265

Re: Energy Efficiency and Conservation Program Phase III
Docket No. M-2014-2424864

Dear Secretary Chiavetta:

I am delivering for filing today the Comments on the Proposed Tentative Implementation Order, on behalf of the Office of Small Business Advocate, in the above-captioned matter.

If you have any questions, please contact me.

Sincerely,

Elizabeth Rose Triscari

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Deputy Small Business Advocate
Attorney ID #306921

Enclosures:

Cc: Robert D. Knecht
Megan Good
Kriss Brown

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Energy Efficiency and Conservation Program	:	**Docket No. M-2014-2424864**

COMMENTS OF THE OFFICE OF SMALL BUSINESS ADVOCATE TO THE TENTATIVE IMPLEMENTATION ORDER

I. INTRODUCTION

At the public meeting held March 11, 2015, the Pennsylvania Public Utility Commission ("Commission") issued a "Tentative Implementation Order" in the above-captioned matter seeking comments from interested stakeholders on the Commission's proposed required consumption and peak demand reductions for each electric distribution company ("EDC") as well as guidelines for implementing Phase III of the energy efficiency and conservation program. The Tentative Implementation Order directed comments from interested parties to be filed within 30 days of its publication in the *Pennsylvania Bulletin*. On March 28, 2015, the Tentative Implementation Order was published accordingly. The Office of Small Business Advocate ("OSBA") submits the following comments pursuant to the Tentative Implementation Order.

II. COMMENTS

In the OSBA's view, the key aspects of Act 129 with respect to energy efficiency and conservation ("EE&C") and demand reduction ("DR") programs are twofold. First, the programs must be economically efficient, in that they must pass the total resource cost ("TRC") test. Second, while EDCs are permitted to recover their prudently incurred cost on a full and reconcilable basis, minimum reduction goals are specified, penalties are imposed for failure to meet the goals, and maximum spending limits are applied, all in order to discourage excessive or wasteful spending by the EDCs.

Programs which pass the TRC test generally provide an economic benefit to the participants in the program that exceeds the cost of the program. Thus, Act 129 EE&C and DR programs all generally require that ratepayers who do not benefit from these programs cross-subsidize those customers who do participate.[1] While these subsidies are deemed necessary to induce consumer behavior that is economically efficient, it must be recognized that these subsidies are inherently inequitable.

In this context, the OSBA offers the following comments regarding two aspects of the Commission's Tentative Implementation Order.

A. Demand Reduction Programs

1. At pages 32 to 38 of the Tentative Implementation Order, the Commission proposes to extend DR targets and programs into Phase III. In general, the Commission proposes that 10 percent of overall program spending be targeted at DR programs, with annual MW reduction targets being defined separately for each EDC based on the Statewide Evaluator ("SWE") analysis.[2]

2. While the Commission's rationale for extending the DR programs into Phase III is not totally clear, it appears that the Commission determined that it had an obligation to extend the DR programs because the SWE concluded that there was potential for cost-effective DR programs. The Commission acknowledges that DR programs would involve substantial complexities, in potential overlap with PJM programs, in potential changes to the wholesale

[1] Because Act 129 specifies that each rate class must pay for the EE&C and DR programs from which it benefits, the subsidies are *intra-class* subsidies. However, the Commission has generally allowed EDCs to establish broad rate class groups, within which the subsidies occur.

[2] "Demand Response Potential Pennsylvania," Statewide Evaluation Team, February 25, 2015 ("SWE DR Report").

markets, and in how the evaluation of meeting demand reduction targets will be addressed given the vagaries of the weather.

3. With respect, the OSBA believes that the Commission has misinterpreted the results of the SWE analysis. Table 7-5 of the SWE DR Report shows that there are net benefits associated with DR programs, at least under the assumptions which apply to that analysis. However, Table 7-6 of the SWE DR Report shows that the net benefits of the combined EE&C and DR programs are maximized by assigning no funding to DR.

4. In evaluating whether a program is cost-effective, it is necessary to define the alternative against which that program is compared. Thus, the OSBA would agree that the SWE shows that certain DR programs are more cost-effective than the alternative of not having that particular DR program. However, under the provisions of Act 129, this is not the appropriate comparison. By assigning program costs to DR programs, the Commission is implicitly requiring EDCs to forego investments in other load reduction programs that are more cost effective. Thus, when correctly evaluated on an opportunity cost basis, the SWE DR Report shows that DR programs are not cost effective.

5. The OSBA has a strong preference that EDCs pursue economically efficient programs. The programs that are most efficient will likely provide the greatest benefit to plan participants. These benefits should reduce the need for incentives to induce participation, and thus reduce the overall magnitude of inequitable cross-subsidies.

6. Therefore, in light of the overall reduction in economic efficiency associated with DR programs, and with the substantial uncertainties surrounding DR programs recognized by the Commission, the OSBA respectfully recommends that the Commission reverse its preliminary

decision to extend DR targets and programs into Phase III, and to require EDCs to focus on the more cost effective load reduction programs.

B. Government, Educational and Non-Profit ("G/E/NP") Carve-out

7. At pages 61 to 63 of the Tentative Implementation Order, the Commission proposes a "carve-out" for government, educational and non-profit ("G/E/NP") customers equal to 3.5 percent of all EE&C load reduction requirements.

8. As a general rule, the EDC general service rate classes which serve small and medium sized business customers also serve a variety of other entities, including G/E/NP customers and some multi-family residential customers. Thus, while Act 129 limits cross-subsidization to intra-class effects, the potential for cross-subsidization among very different types of customer groups within the general service rate classes exists. The Commission has already determined that there is no need to separately track and reconcile costs between these different customer groups within each class.

9. The OSBA does not explicitly object to the proposed G/E/NP minimum percentages. The OSBA's concern is rather the reverse, namely that the potential exists for EDCs to assign a disproportionate amount of the program costs to government or other non-business customers. Such behavior could occur for a variety of reasons, including the possibility that these entities were less inclined to undertake EE&C improvements without incentives, or that the EDCs desire to curry favor with local governments, or simple public relations benefits.

10. The OSBA notes that the Tentative Implementation Order responds to the concerns about intra-class cross-subsidization raised by the Industrials. At page 62, the Commission states:

> We also recognize that G/E/NP programs are funded by other members of the rate class that cannot participate in those programs. We, however, also recognize that some of these institutions have unique circumstances that create barriers to participation in programs and that a reduction in energy costs at these institutions should also reduce costs passed on to these entities or participants.

To the extent that the Commission has concluded that EE&C programs targeted at government customers have value because they will serve to reduce the overall tax burden, the OSBA would agree. However, if that is the aim of these programs, the OSBA notes that recovering these costs only from small and medium business customers is not a particularly equitable or effective form of taxation. All taxpayers benefit from government cost reductions, not solely business customers. Thus, benefits to taxpayers do not justify disproportionate EE&C spending on government customers.

11. The OSBA therefore concludes that, absent strong economic efficiency evidence to the contrary, that programs targeted at G/E/NP customers should be reasonably proportionate to those customers' share of the class load. During the first two phases of the EE&C programs, however, the OSBA (and other parties) have generally encountered resistance from the EDCs with respect to making such a demonstration. The EDCs are often unable or unwilling to provide information showing the relative share of program benefits, program costs, and overall load associated with G/E/NP programs within small, medium and large general service classes.

12. The OSBA therefore respectfully requests that the Commission include a requirement that EDCs reporting for Phase III include detail by the separate customer segments within the general service rate classes. To the extent that program costs are disproportionately directed to any particular segment or segments (either government or business), the EDC should be required to provide an economic efficiency justification for the divergence.

III. CONCLUSION

In view of the foregoing, the OSBA respectfully requests that the Commission issue a Final Implementation Order consistent with the OSBA's comments above.

Respectfully submitted,

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