BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Act 129 Energy Efficiency and Conservation Program Phase III	: : :	**Docket No. M-2014-2424864**

REPLY COMMENTS OF ENERGY EFFICIENCY FOR ALL TO ACT 129 PHASE III TENTATIVE IMPLEMENTATION ORDER

Todd Nedwick
Housing and Energy Efficiency Policy Director
National Housing Trust
202-333-8931 x128
tnedwick@nhtinc.org

On behalf of Energy Efficiency for All

Dated: May 15, 2015

I. INTRODUCTION

These comments are submitted by the Energy Efficiency for All ("EEFA") coalition pursuant to the Pennsylvania Public Utility Commission's ("Commission") invitation for interested parties to submit reply comments to its Tentative Implementation Order regarding Act 129 Energy Efficiency and Conservation Program Phase III. [1]

EEFA is a partnership of national and Pennsylvania organizations that share a common goal of ensuring that the owners and tenants of multifamily housing can access energy efficiency services to reduce the energy consumption of these buildings and to preserve existing affordable housing for economically vulnerable households. EEFA is comprised of the following organizations: ACTION-Housing, Inc., The National Housing Trust, The Natural Resources Defense Council, The Pennsylvania Utility Law Project, and Regional Housing Legal Services.

EEFA thanks the Commission for the opportunity to provide these comments.

II. DISCUSSION

In these reply comments EEFA will respond to positions, recommended approaches, and perspectives of some, but not all of the many stakeholders who provided input to the Commission on its Tentative Phase III Order. Where EEFA has not provided specific reply commentary on any of the comments submitted by other parties, it requests that the Commission not take that to imply endorsement by EEFA.

---

[1] *See Tentative Implementation Order Re: Act 129 Energy Efficiency and Conservation Program Phase III*, Docket No. M-2014- 2424864 (Published in the Saturday, March 28, 2015 PA Bulletin, Vol. 45, No.13).

Electric Distribution Company (EDC) Comments

1. Cost and market potential for low income savings

EEFA reviewed the comments of PECO, PPL, Duquesne, and the First Energy Companies, as well as the comments of the Energy Association of Pennsylvania (EAP), paying specific attention to positions that would affect low income and multifamily energy efficiency efforts in the State. All four of the EDCs listed above described objections and/or proposed modifications to the Commission's Tentative Order regarding the low income direct-install carve-out. PPL "does not believe it will be possible to serve enough eligible households to meet the proposed direct-install set-aside target…without jeopardizing the success of LIURP and WAP."[2] It also states that its analysis suggests that the "low-income programs will be approximately 23% of the total portfolio costs."[3] Duquesne "…asserts that proposed low income direct install targets of 2% of Phase III portfolio savings are not achievable…."[4] First Energy goes on to say that low income budgets will need to be "…approximately 25% of the total Act 129 budget for the Companies for 2% of the portfolio savings."[5]

The explanations and arguments presented by the EDCs regarding the assumed high costs and insurmountable barriers to low income energy efficiency programs say much about the EDCs' resistance to innovating effective, far-reaching low income programs. This is particularly troubling because failing to ensure that low income families have equitable access to energy efficiency improvements will only increase the already high burden of energy costs these households face. In addition, by not adequately targeting the low income sector for

[2] PPL comments to the Tentative Order at p.6
[3] PPL at p. 36
[4] Duquesne comments to the Tentative Order at p.11
[5] First Energy comments to the Tentative Order at p.23

energy efficiency savings the EDCs are neglecting a significant source of potential energy savings. Pennsylvania's affordable multifamily housing stock alone consists of approximately 370,000 homes throughout the state, representing potential cumulative electric energy savings of 671 GWh annually over the next 20 years.[6]

EEFA notes in particular the tenor of arguments posed by the First Energy Companies, which state that "…the commission must allow for a more reasonable degree of uncertainty associated with the estimates it relies on to establish savings targets" [7] and suggests that the Companies have only "…a 50/50 chance of having an achievable target."[8] It is troubling that the Companies may view program success as something that is beyond their control, rather than something that they can have a profound influence on achieving through their concerted efforts.

Similarly, in presenting their estimate of the size of the pool of eligible low income customers the Companies assume that 47% of the eligible market will not participate due either to landlord refusal or to customers not responding or moving.[9] While EEFA agrees that there will always be customers who don't participate, it is not clear why the Companies are willing to offhandedly dismiss such a large fraction of the market. Based on the success of low income energy efficiency programs implemented in other states, such as Maryland, Massachusetts, and Vermont, EEFA is confident that the Companies can improve the effectiveness of their program strategies to achieve their savings goals. Indeed, doing so is necessary to provide equitable access to energy efficiency services among customer classes.

The First Energy Companies also state that "The infrastructure of agencies and

---

[6] http://www.energyefficiencyforall.org/sites/default/files/EEFA%20Potential%20Study.pdf

[7] Comments of Metropolitan Edison company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (The Companies) to the Tentative Order at p.24

[8] The Companies at p.24

[9] The Companies, data from FE Table 5 at p.28

contractors does not exist to support the 2% comprehensive direct-install, low-income target"[10] as a justification for asking the Commission to eliminate the direct-install requirement. In EEFA's view, lack of delivery infrastructure is a common barrier that is faced by energy efficiency programs in many jurisdictions, and one that Commissions typically expect the program delivery entities to address in program design and execution. For example, regarding Potomac Edison's EmPOWER Maryland programs, the Maryland Public Service Commission stated the following:

> "The implementation of these and the other utilities' programs will raise some continuing challenges. We remain concerned, among other things, about the availability of qualified contractors, and we remind AP and the other utilities that the Commission expects them to work cooperatively with the Maryland Energy Administration, the Department of Housing and Community Development ("DHCD") and other parties to develop a Maryland contractor and subcontractor workforce to implement these programs." [11]

Lack of a sufficient contractor base to achieve energy efficiency goals is not a reason to abandon targets— indeed, if that were the case, energy efficiency programs would universally fail to meet the ambitious goals that have been set for them for decades.

EEFA respectfully suggests that the Commission can and should hold the EDCs to a high standard for innovation and effectiveness in planning and implementing their low income programs in order to efficiently and effectively achieve the direct-install carve-out requirement, whether that be set at the 2% of savings level, as originally proposed by the Commission, or at

---

[10] The Companies at p.30

[11] Maryland Public Service Commission Order Number 82825 in Case Number 9153, August 6, 2009. http://webapp.psc.state.md.us/Intranet/Casenum/CaseAction_new.cfm?CaseNumber=9153. Note that "AP" refers to Allegheny Power, now known as Potomac Edison, and a First Energy Company.

the 3% of savings level recommended by EEFA. One aspect of this is requiring the EDCs to exhibit better communication and coordination with the Act 129, WAP and LIURP programs than they have up to this point. The Act 129 low income programs won't jeopardize WAP and LIURP if there is a coordinated approach that streamlines costs and assures a collaborative rather than competitive environment. This is true both for single-family low income programs and for the multifamily approaches suggested by EEFA in its comments.[12] EEFA encourages the Commission to create an explicit expectation of a coordinated, streamlined program delivery approach to maximize the cost-effectiveness and efficacy of the Act 129 low income programs and reminds the Commission that the statute states that EDCs shall coordinate their Act 129 EE&C programs with other low income programs administered by the Commission or other Federal and State agencies.[13] EEFA eagerly looks forward to the opportunity to work with the Bureau of Consumer Services (BCS) and the multifamily working group proposed by the Commission in its tentative order to develop strategies to maximize the operational efficiency, cost-effectiveness and energy savings for Act 129 multifamily programs, especially for the low income/affordable sector.

The EDC's present their own analyses and data in their comments to argue their positions against the 2% of savings direct-install carve-out. Given the framework of the

[12] The PA Department of Community and Economic Development recently concluded that there should be more emphasis in the state's Weatherization Assistance Program on multifamily weatherization and recommended the formulation of a Multifamily Weatherization Subcommittee to consider how to move forward during the 2016-17 program year to enable either current subgrantees or new partners to provide multifamily weatherization on a larger scale. Thus, this is an opportune time for the Commission and the EDCs to work with DCED to develop collaboration strategies.

[13] 1 66 Pa.C.S. §2806.1(b)(i)(G). "The plan shall include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines. The number of measures shall be proportionate to those households' share of the total energy usage in the service territory. **The electric distribution company shall coordinate measures under this clause with other programs administered by the commission or another Federal or State agency.** The expenditures of an electric distribution company under this clause shall be in addition to expenditures made under 52 Pa. Code Ch. 58 (relating to residential low income usage reduction programs)" [emphasis added].

Tentative Order commenting process, and the insufficient review time in the schedule, EEFA is unable to determine whether the data and analyses provided by the EDCs have any merit. Indeed, even the Energy Association of Pennsylvania (EAP) argues that "…presenting expert opinion(s) to counter the Commission's expert…is unwieldy and arguably does not afford the due process protection that the Commission strives to provide."[14] Yet, the EDCs take exactly this approach in their individual comments, putting the Commission and stakeholders in the untenable position of not having a reasonable "…opportunity to question the expert so as to test the strength or veracity of the new opinion."[15]

However, the EDC comments do raise a number of questions. For example, PPL estimates that it will take 23% of the portfolio budget to meet the low income direct-install carve-out, and the First Energy Companies estimate that it will take 25% of the portfolio budget. These estimates are in sharp contrast to the 2013 evaluated results from Massachusetts, where the program administrators achieved low income direct-install savings equal to 2.6% of the total portfolio savings at a cost equal to approximately 11.6% of the total portfolio budget.[16] Similarly, in 2014, Efficiency Vermont achieved 1.5% of total portfolio savings from low income direct install programs using incentives that were only equal to 4.2% of the total incentive budget.[17] Vermont's results suggest that achieving even the 3% direct-install savings level recommended by EEFA could be done for less than 10% of the total portfolio incentive budget. Given this disparity in cost assumptions, it is difficult not to conclude that the First Energy Companies and PPL have significant opportunities either to improve the administration

[14] EAP comments to the Tentative Order at p.4
[15] EAP at p.5
[16] 2013 Electric Statewide Summary http://ma-eeac.org/results-reporting/
[17] Efficiency Vermont 2014 Savings Claim Summary https://www.efficiencyvermont.com/docs/about_efficiency_vermont/annual_reports/evt-2014-savings-claim-summary.pdf

and operations of their programs or of their estimating and planning, or both. Regardless of the cause of the difference in estimated costs, neither EEFA, nor the Commission and Statutory Stakeholders can fairly evaluate the information provided by the EDCs.

Unlike the impartial Statewide Evaluator (SWE), the EDCs' perspectives on the reasonableness of the overall proposed savings targets are necessarily biased. All of the EDCs face the prospect of financial penalties for failing to meet targets established by the Commission, and therefore are highly motivated to argue for reducing targets and requirements to levels that present the least risk possible. This is in direct contrast to the SWE, who is specifically contracted to provide the unbiased, data-driven perspectives sought by the Commission that will maximize the results obtained for ratepayers relative to their investments. Therefore, in establishing both the low income direct-install requirement and the overall savings targets for the EDCs, EEFA respectfully submits that the unbiased data driven analysis of the SWE is far more reliable than the arguments submitted by the EDCs and urges the Commission to maintain the targets it has set out in its Tentative Order.

2. PECO Proposal for a low income spending, rather than savings requirement

EEFA recognizes and appreciates that PECO supports "…a continued focus on consumption reduction from the low-income sector…."[18] However, EEFA disagrees with PECO's recommendation that the Commission establish a minimum investment level for low income programs rather than a minimum savings level based on its conclusion that the "2% savings requirement…lacks evidentiary support."[19] EEFA respectfully recommends that the Commission reject this proposal, as it would effectively remove the incentive for the EDCs to maximize the cost-effectiveness of their programs that is built-in to the savings requirement

[18] PECO at p.28
[19] PECO at p.28

approach. While it clearly would reduce risk for the EDCs, a minimum spending requirement would not assure that low income customers will receive the maximum benefits possible relative to the utility investment, and in the cost-constrained environment of Act 129— as it is anywhere that public funds are being invested— this is critically important. With this in mind, if the Commission should choose to consider PECO's recommendation for a minimum investment level, EEFA urges that parameters and expectations for maximizing benefits from the investment are also incorporated into the requirement, and that cost-recovery for the low income programs is contingent upon prudence review to assure that benefits for low income customers are maximized relative to the investments made.

3. **PPL request for clarification on attribution of costs and savings for multifamily on commercial meters**

PPL asks the Commission to "Clarify how to classify the costs and savings for master-metered multifamily housing with a commercial rate schedule and low-income occupants."[20] EEFA believes that costs and savings for master-metered multifamily housing on commercial accounts should be accounted for under the rate schedule of the building, consistent with EEFA's recommendation to the Commission to establish a requirement for 1% of portfolio savings to come from master-metered multifamily housing on commercial accounts, and that these savings should not apply to the G/E/NP carve-out unless it is increased significantly from the proposed 3.5%.

Citizens for Pennsylvania's Future Comments

1. **Comprehensive Programs**

[20] PPL at p.9

EEFA agrees with PennFuture's recommendation that the EDCs should be encouraged to increase savings from non-lighting measures and discouraged from "…achieving significant savings through mail-out energy saving kits."[21] To provide an illustrative example of a comprehensive portfolio design for the Commission, PennFuture attached a "Model Portfolio" that was developed by Optimal Energy and Energy Futures Group. EEFA agrees with both the intent and substance of the model portfolio, but offers two points for the Commission to consider. First, EEFA notes that the model portfolio does not specifically identify where multifamily energy efficiency fits in the model. EEFA understands that the model portfolio was developed at a very high level. Our understanding, based on conversations with Optimal Energy, is that multifamily energy efficiency was indeed included in the portfolio, but that it was simply not addressed as a distinct program in this initial model. We would recommend, as the model is considered by the Commission, and by the utilities as they design their Phase III programs, that multifamily energy efficiency is identified as a distinct program area, reflecting due consideration of the issues laid out by EEFA and others in this proceeding.

Secondly, we note that the model portfolio assumes a 3% share of savings from low income programs. Given our skepticism that the method of allocating participation from residential programs to low income customers used in Phase II is realistic, EEFA believes that 3% savings from the model portfolio's dedicated low income program is consistent with the 3% direct-install carve-out recommended by EEFA in its initial comments on the Tentative Order.

2. Application of Excess Phase II Budget

EEFA supports PennFuture's position that "Not only is it more beneficial to spend excess budgets on efficiency measures, the process of returning excess money would incur

[21] Citizens for Pennsylvania's Future (PennFuture) comments to the Tentative Order at p.10

further administration costs with no added benefits."[22] Consistent with EEFA's comments regarding the Tentative Order, we respectfully encourage the Commission to both allow unexpended Phase II funds to be used to obtain energy efficiency benefits in Phase III, and to assure that savings targets are increased in proportion to the funds that are rolled over.

Keystone Energy Efficiency Alliance Comments

1. **Lifetime Energy Savings**

EEFA agrees with KEEA's assertion that "Reporting and tracking of lifetime savings will help stakeholders better understand EDC portfolio plans and reports"[23] and supports the recommendation to require the EDCs to report lifetime savings. Lifetime savings provide a far better measure than first year savings of the true economic value of energy efficiency programs, and should be considered in assessing portfolio performance and in planning for future efforts. This is consistent with the "model comprehensive portfolio" provided by the Citizens for Pennsylvania's Future (and attached to KEEA's comments) that values more comprehensive and longer-lived measures in preference to measures that simply provide low-cost first year savings.

2. **Low income Energy Efficiency**

EEFA agrees that data gleaned from asking and answering the questions KEEA poses regarding low income energy efficiency [24] could provide information that would be useful in informing future program designs. However, putting too much emphasis on these questions fails to recognize the over-arching public policy rationale for including meaningful low income

[22] PennFuture at pp.16-17
[23] Keystone Energy Efficiency Alliance (KEEA) comments to the Tentative Order at p.12
[24] KEEA at p. 13

energy efficiency programs in the Act 129 portfolios. Low income ratepayers are widely acknowledged to pay a far greater portion of their incomes for basic energy needs than other residential ratepayers do.[25] It is also widely understood that low income utility customers face unique barriers in participating in energy efficiency programs, including larger first-cost barriers than typical residential customers, and more significant access barriers, including access to information, credit, and contractors. Because low income ratepayers are assessed a cost for the Act 129 programs on the same basis as other residential customers, it is essential that they are provided access to the benefits of the programs as well. Failing to do this would, in effect, raise the energy burden on low income ratepayers, which in EEFA's view would be a terrible policy outcome. Therefore, while EEFA agrees that information will be useful, it respectfully urges the Commission to maintain its focus on the importance of providing meaningful low income services, including the direct-install carve-out, in order to assure that low income ratepayers are not inadvertently harmed by the Act 129 programs.

3. Multifamily Energy Efficiency Working Group

KEEA suggests several areas for exploration by the multifamily working group[26] that BCS will convene, and EEFA agrees that these recommended areas, including financing for multifamily properties, enhanced coordination by EDCs, and cost-sharing opportunities between utilities and other low income program services should all be given serious consideration by the multifamily working group to be convened by BCS, and that the findings and recommendations of the group should be reported to the Commission consistent with the schedule proposed by EEFA in its comments.

[25] Cause-PA comments to the Tentative Order at p.8
[26] KEEA at pp. 16-19

Respectfully submitted,

/s/Kathryn Fantauzzi
The One Stop Program Manager
ACTION-Housing, Inc.
425 Sixth Ave, Suite 950
Pittsburgh, PA 15219
(412) 281-2102
kfantauzzi@actionhousing.org

/s/Elizabeth Marx
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
(717) 236-9486
emarxPULP@palegalaid.net

/s/Rachel Blake
Associate Director
Regional Housing Legal
Services 2 S. Easton Street
Glenside, PA 19038
(215) 572-7300
rblake@rhls.org

/s/Todd Nedwick
Housing and Energy Efficiency Policy Director
National Housing Trust
1101 30th Street, NW, Ste.
100A Washington, D.C. 20007
(202) 333-8931
tnedwick@nhtinc.org

/s/Deron Lovaas
State/Federal Policy & Practice Dir., Urban Solutions
Natural Resources Defense Council
1152 15th Street NW, Suite 300
Washington, D.C. 20005
(202) 289-2384
dlovaas@nrdc.org