

January 8, 2016

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

**Re: Petition of PECO Energy Company for Approval of its Act 129 Phase 111  
Energy Efficiency and Conservation Plan;  
Docket No, M-2015-2515691**

Dear Secretary Chiavetta:

Please find attached for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the **Pre-Hearing Memorandum of EnerNOC**, in the above-referenced matter.

This document was filed electronically with the Commission on this date. All parties are being served a copy of this document in accordance with the enclosed Certificate of Service.

Please contact our office if you have any questions concerning this filing.

Sincerely,

**TUCKER ARENSBERG, PC**

By:   
\_\_\_\_\_  
Kevin L. Hall, Esquire

KLH/sed

Enclosure

cc: Administrative Law Judge Angela T. Jones (via E-mail and First-Class Mail)  
Administrative Law Judge Darlene Heep (via E-mail and First-Class Mail)  
Certificate of Service

HBGDB:155105-1 030489-169654

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company  
For Approval of its Act 129 Phase III Energy  
Efficiency and Conservation Plan

**DOCKET NO. M-2015-2515691**

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**PREHEARING MEMORANDUM  
OF  
ENERNOC, INC.**

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**COUNSEL FOR ENERNOC, INC.**

**DATED: JANUARY 8, 2016**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of PECO Energy Company  
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**PREHEARING MEMO**

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**TO ADMINISTRATIVE LAW JUDGES ANGELA JONES & DARLENE HEEP:**

AND NOW COMES **Kevin L. Hall, Esquire** and **Scott H. DeBroff, Esquire** of **Tucker Arensberg, PC**, on behalf of their client **EnerNOC, Inc.** (“EnerNOC”), and respectfully submits the following Prehearing Memorandum in the above-captioned Energy Efficiency and Conservation Plan filing.

EnerNOC is a leading provider of cloud-based energy intelligence software (“EIS”) and services to thousands of enterprise customers and utilities globally. EnerNOC's EIS solutions for enterprise customers improve energy productivity by optimizing how they buy, how much they use, and when they use energy. EnerNOC's EIS solutions for utilities help maximize the value of

demand-side resources, including fully outsourced and utility-managed demand response and energy efficiency programs that drive customer engagement.

EnerNOC's technology-enabled demand side response and energy management solutions help both customers and grid operators optimize the balance of electric supply and demand. EnerNOC is a leading provider of third-party demand response ("DR") and energy efficiency ("EE") programs on behalf of public agencies and electric and gas utilities. EnerNOC is currently managing over 24 GW of load sourced from over 14,000 commercial and industrial sites across markets in North America, Asia, Europe, Australia, and New Zealand, offering much of this load into energy, capacity, and ancillary services markets of varied designs.

This case will impact the opportunities for EnerNOC and customers of PECO to participate through curtailment service providers, like EnerNOC, in Act 129 demand side programs. EnerNOC provides EE and DR programs for utilities and has customers in the PECO service territory. Therefore, EnerNOC has a direct interest in, and may be adversely affected by, the outcome of this case. The opportunities offered by PECO as part of PECO's Phase III Energy Efficiency and Conservation Plan should not provide competitive advantages or competitive disadvantages to any party.

EnerNOC has a direct interest in this proceeding. First, the nature and extent of EnerNOC's interest is to engage customers to encourage demand response and energy efficiency services to the commercial and industrial customers of PECO. This interest is different from that of any other party and especially different from that of the utility.

Second, EnerNOC's legal position relates to how cloud based energy management solutions should be provided to Pennsylvania customers. Pennsylvania customers should be allowed to participate in any programs offered in Pennsylvania and there should be no additional

financial incentive for customers to participate in PECO's programs over others. This position is directly related to the Phase III Plan, pending before the Commission.

Third, EnerNOC's intervention will not unduly prolong or delay the proceedings. EnerNOC's issues in this proceeding are narrow. In addition, EnerNOC has extensive experience practicing before the state and federal commissions. This will allow for the efficient processing of the case.

Fourth, EnerNOC's intervention will contribute to the full development and equitable resolution of the factual issues, EnerNOC has and will develop information that this Commission should consider for equitably and lawfully reviewing the Petition and making determinations in the public interest.

A telephonic Prehearing Conference will be held on **Tuesday, January 12, 2016 at 2:00 p.m.**, as the ALJs assigned to this proceeding are based in the Philadelphia, Pennsylvania office. EnerNOC will be represented by Kevin L. Hall, Esquire and Scott H. DeBroff, Esquire in this proceeding. All correspondence regarding this case should be directed to Mr. Hall as follows:

<p><b>KEVIN L. HALL, ESQUIRE</b> <b>SCOTT H. DEBROFF, ESQUIRE</b></p> <p>TUCKER ARENSBERG, PC 2 LEMOYNE DRIVE, SUITE 200 LEMOYNE, PA 17043</p> <p>TEL: (717) 234-4121 FAX: (717) 232-6802 EMAIL: <a href="mailto:KHALL@TUCKERLAW.COM">KHALL@TUCKERLAW.COM</a> EMAIL: <a href="mailto:SDEBROFF@TUCKERLAW.COM">SDEBROFF@TUCKERLAW.COM</a></p>
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**I. INTRODUCTION**

Act 129 of 2008 (“the Act” or “Act 129”) was signed into law on October 15, 2008, and became effective on November 14, 2008. Among other objectives, the Act created an Energy

Efficiency & Conservation (EE&C) Program, codified in the Pennsylvania Public Utility Code at Sections 2806.1 and 2806.2, 66 Pa. C.S. §§ 2806.1 and 2806.2. This initial program required an Electric Distribution Company with at least 100,000 customers to adopt an EE&C Plan, approved by the Commission, to reduce electric consumption by at least one percent (1%) of its expected consumption for June 1, 2009 through May 31, 2010. By May 31, 2013, consumption was to be reduced by a minimum of three percent (3%). Also, by May 31, 2013, peak demand was to be reduced 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. By November 30, 2013, and every five years thereafter, the Commission was to assess the cost-effectiveness of the EE&C Program and set additional incremental reductions in electric consumption if the EE&C Program's benefits exceed its costs.

At its June 11, 2015 Public Meeting, the Commission adopted its Phase III Implementation Order. With its Phase III Final Implementation Order, the Commission adopted additional reductions in electricity consumption and peak demand for the period of June 1, 2016 through May 31, 2021. On November 30, 2015, the EDCs each filed their Phase III Implementation Plans with the Commission.

EnerNOC intends to participate in PECO's Implementation Plan proceeding.

## **II. HEARING AND BRIEFING SCHEDULE**

A substantial Hearing and Briefing Schedule has been established by the ALJs in this docket and EnerNOC will cooperate with other parties in the event of changes or modifications to this procedural schedule.

This case is being litigated at an extremely expedited basis. The date for the evidentiary hearing has been set for **Tuesday, February 2, 2016** and will not be changed. The record in this case will be compiled and certified to the Commission's Office of Special Assistants for decision. The dates for this litigation will be as follows unless the parties agree upon an alternative but acceptable schedule:

Publication of Notice of Filing	December 12, 2015
<b>Due Date for Answers, Comments &amp; Recommendations</b>	January 4, 2016
<b>Prehearing conference</b>	January 12, 2016
<b>Evidentiary hearing</b>	February 2, 2016
<b>Initial Briefs due</b>	February 12, 2016
<b>PECO Reply Comments and/or Revised Plan</b>	February 22, 2016
<b>Commission Order</b>	March 24, 2016

### **III. ISSUES**

The following list represents EnerNOC's present determination of the potential major issues in this case. The listing is as complete as can be made by EnerNOC at this time. EnerNOC specifically reserves the right to address other issues as it deems appropriate when any such relevant issues arise. EnerNOC intends to detail several best practices and provide testimony in support of the following issues/areas:

1. EnerNOC fully supports the efforts of the Company in attempting to meet energy efficiency and demand response goals.
2. A greater emphasis, should be focused by the Company to incorporate EE measures into their plan that will encourage the use of smart meter data and software solutions and maximizing the investments already and to be made in smart meters. These efforts should be supported and reinforced by an appropriate incentive structure to ensure success for the Company and its

customers EE measures. Reference is made to the Pennsylvania Public Utility Commissions' public fact sheet on Act 129 and the use of smart metering technology.

3. Phase III plans will be in place until 2021. Without an emphasis on intelligent energy efficiency measures in Phase III, the Company's plan will be noticeably behind on the development of energy efficiency measures that maximize the value of smart meters for which customers are already paying. Advanced energy technologies engaging customers in Phase III will help prevent barriers to the success of the investments in energy efficiency measures.

4. The PUC should encourage higher levels of customer engagement moving forward, including appropriate metrics to ensure that customers are being best served. The Company should receive proper incentives for demonstrating superior performance in achieving these metrics.

5. Programs and technology to achieve these customer engagement goals should be encouraged by the PUC.

6. EnerNOC has particular experience engaging small and medium commercial customers through its EIS. Advanced energy technologies which are specifically designed for the diverse needs of smaller businesses can overcome the traditional challenges in delivering low-cost, wide-scale efficiency services to this customer class. EnerNOC recommends that additional offerings be deployed to these customers, especially those which build upon the State's smart metering investments to ensure there are no barriers to the successful implementation of the Companies EE measures in Phase III.



#### **IV. WITNESSES**

EnerNOC has examined the utility's filings and supporting testimony and has determined that there are potential issues that would be worthy of further discussion. It is currently expected that we may call our following expert witness from EnerNOC without being limited thereto:

1.

**Peter Cavan  
Regulatory Strategy Manager  
EnerNOC, Inc.  
One Marina Park Drive, Suite 400  
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#### **V. CONCLUSION**

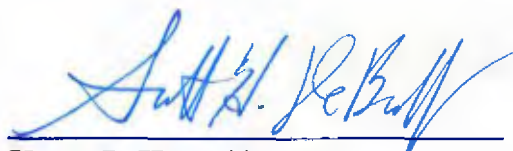
EnerNOC reserves the right to call additional witnesses or delete witnesses listed above. The above listing is provided without the benefit of complete discovery, or analysis of the positions of all parties to this proceeding. EnerNOC may prepare direct comments and the potential exists for additional live direct testimony that may be submitted by EnerNOC during these proceedings.

In addition to the direct testimony and the exhibits presented by EnerNOC's witnesses and the evidence adduced through cross-examination of the Company and other parties, EnerNOC intends to rely upon the Company's filing, answers to data requests and interrogatories, annual reports and other documents submitted to the Commission, other relevant Commission filings, general financial market information sources and other public documents and reports.

Respectfully submitted,

Dated: January 8, 2016

By:



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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Pre-Hearing Memorandum foregoing document upon the following parties to this proceeding in accordance with the requirements of 52 Pa. Code

§ 1.54 (relating to service by participant).

VIA E-MAIL & FIRST-CLASS MAIL

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Respectfully Submitted,

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Dated: January 8, 2016

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