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|  | **PENNSYLVANIA****PUBLIC UTILITY COMMISSION**Harrisburg, PA 17105-3265 |  |

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|  | Public Meeting held August 3, 2017 |
| Commissioners Present: |  |

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| Gladys M. Brown, Chairman |  |
| Andrew G. Place, Vice Chairman |  |
| Robert F. Powelson |  |
| David W. Sweet |  |
| John F. Coleman, Jr. |  |
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|   |  |
| Energy Efficiency and Conservation Program | M-2012-2289411  |

**COMPLIANCE ORDER**

**BY THE COMMISSION:**

The Commission has been charged by the Pennsylvania General Assembly (General Assembly) with establishing an energy efficiency and conservation program (EE&C Program). The EE&C Program requires each electric distribution company (EDC) with at least 100,000 customers to adopt a plan to reduce energy demand and consumption within its service territory.[[1]](#footnote-1) 66 Pa. C.S. § 2806.1. On August 2, 2012, the Commission adopted an Implementation Order at Docket No. M-2012-2289411 establishing the standards each plan must meet and providing guidance on the procedures to be followed for submittal, review and approval of all aspects of the EDCs’ Energy Efficiency and Conservation plans (EE&C plans). *See Energy Efficiency and Conservation Program*, Implementation Order at Docket No. M‑2012‑2289411, entered August 3, 2012 (*Phase II Implementation Order*).

The Commission was also charged with the responsibility to evaluate the costs and benefits of the Energy Efficiency and Conservation (EE&C) Program by November 30, 2013, and every five years thereafter. 66 Pa. C.S. § 2806.1(c)(3). The Commission must adopt additional incremental reductions in consumption if the benefits of the EE&C Program exceed its costs. *Id*. With the Phase II Implementation Order, the Commission adopted additional incremental reductions in consumption that each EDC was required to meet by May 31, 2016.

 Beginning five years following the effective date of the Act, and annually thereafter, the Commission is required to submit a report to the Consumer Protection and Professional Licensure Committee of the Senate and the Consumer Affairs Committee of the House of Representatives. 66 Pa. C.S. § 2806.1(i)(2). The Commission believes the intent of this report is to provide information regarding the programs offered by the EDCs, an overview of the Commission’s Statewide Evaluator’s (SWE) activities,[[2]](#footnote-2) and information regarding EDCs’ compliance with the mandates. To meet this requirement, the Commission directed the SWE to provide a comprehensive Phase II Final Annual Report, to be filed in lieu of a program year 7 (PY7) annual report. In addition to outlining its audit activities and findings for PY7, the SWE was to review the EDCs’ PY7 Final Annual Reports[[3]](#footnote-3) and its own auditing information to determine whether or not the consumption reductions reported by the EDCs were accurate. On April 6, 2017, the Commission released the SWE’s Phase II Final Annual Report.

 The Commission must also determine whether the EDCs are in compliance with the targets adopted by the Commission in the *Phase II Implementation Orde*r in accordance with 66 Pa. C.S. §§ 2806.1(b), (c) and (d).[[4]](#footnote-4) In an Order adopted at this Docket on April 6, 2017, the Commission assessed the EDCs’ compliance with these targets. Specifically, the Commission initially determined that Duquesne Light Company (Duquesne), Metropolitan Edison Company (Met-Ed), PECO Energy Company (PECO), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), PPL Electric Utilities (PPL), and West Penn Power Company (West Penn) were in compliance with the May 31, 2016 electric consumption reduction requirements as outlined in the table below:[[5]](#footnote-5)

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| --- | --- | --- | --- |
| EDC | Three-Year Program Acquisition Cost (S/MWh) | Three-Year % of 2009/10Forecast Reductions | Three-Year MWh Value of 2009/10 Forecast Reductions |
| Duquesne | $211.90 | 2.0 | 276,722 |
| Met-Ed | $220.87 | 2.3 | 337,753 |
| Penelec | $216.19 | 2.2 | 318,813 |
| Penn Power | $209.20 | 2.0 | 95,502 |
| PPL | $224.71 | 2.1 | 821,072 |
| PECO | $227.55 | 2.9 | 1,125,851 |
| West Penn | $209.42 | 1.6 | 337,533 |

 Furthermore, the Commission initially determined that Duquesne, Met-Ed, PECO, Penelec, Penn Power, PPL and West Penn were in compliance with the May 31, 2016 requirement to obtain a minimum of ten percent (10%) of all consumption reduction requirements from government/educational/nonprofit institutions.[[6]](#footnote-6) Finally, the Commission initially determined that Duquesne, Met-Ed, PECO, Penelec, Penn Power, PPL and West Penn were in compliance with the May 31, 2016 requirement to obtain a minimum of four‑and‑one‑half percent (4.5%) of their total consumption reduction requirements from the low-income sector, as well as, the requirement to include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines in proportion to those households’ share of the total energy usage in the EDCs’ service territories.[[7]](#footnote-7)

 While no party challenged these Phase II compliance determinations, Duquesne, PECO and PPL sought reconsideration of the Commission’s determination of excess energy efficiency savings that each company can carry-over into Phase III of the EE&C Program. The Office of Consumer Advocate (OCA) filed an Answer to the PECO and PPL Petitions. With this Order, the Commission grants Duquesne’s Petition and denies the PECO and PPL Petitions for the reasons expressed in this Order.

# BACKGROUND AND HISTORY OF THIS PROCEEDING

 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 things, the Act created an 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 EDC with at least 100,000 customers to adopt an EE&C plan, approved by the Commission, to reduce electric consumption by May 31, 2011 and May 31, 2013. *See*, 66 Pa. C.S. § 2806.1(c). Also, by May 31, 2013, peak demand was to be reduced by a minimum of 4.5% of the EDCs’ annual system peak demand in the 100 hours of highest demand. *See*, 66 Pa. C.S. § 2806.1(d).

The Act requires the Commission to evaluate the costs and benefits of the EE&C Program and of the approved EE&C plans by November 30, 2013, and at least every five years thereafter. This evaluation is to be consistent with the total resource cost (TRC) test or a cost-benefit analysis determined by the Commission. As stated in the Act, “[i]f the Commission determines that the benefits of the Program exceed the costs, the Commission shall adopt additional required incremental reductions in consumption” to be met by the large EDCs. *See* 66 Pa. C.S. § 2806.1(c)(3). Also, the Commission interpreted subsection 2806.1(d)(2) of Act 129, 66 Pa. C.S. §2806.1(d)(2), as requiring the Commission to prescribe specific peak demand reduction targets for subsequent phases of Act 129, if the demand response program is proven to be cost-effective.

The Statewide Evaluator (SWE) conducted Pennsylvania specific residential, commercial and industrial baseline saturation studies and prepared a Market Potential Study for the Commission that recommended EDC-specific energy efficiency reduction targets. For Phase II, the Commission established a three-year length of program. The primary reason was to give the Commission time to evaluate the current and potential future peak demand reduction program design and assess the potential for demand response savings in a potential Phase III EE&C program. The Commission adopted the SWE recommended EDC‑specific consumption reduction requirements for Phase II. Because the Commission did not receive information on the cost-effectiveness of the EDC’s Phase I demand response programs until the end of 2012, the Commission could not definitively determine if the Phase I or another peak demand reduction program design was cost-effective. As such, the Commission did not to set any peak demand reduction targets for the Phase II EE&C program period.[[8]](#footnote-8)

If an EDC fails to achieve these reductions in electric consumption or in peak demand, that EDC shall be subject to a civil penalty of not less than $1,000,000 and not greater than $20,000,000. Such penalties may not be recovered from ratepayers. *See*, 66 Pa. C.S. § 2806.1(f)(2).

Act 129 also required the EDCs to file with the Commission annual reports relating to the results of their EE&C Plans for that program year. 66 Pa. C.S. § 2806.1(i)(1). These reports were to document the effectiveness of the EDCs’ EE&C plans, the measurement and verification of energy savings, the evaluation of the cost‑effectiveness of expenditures and any other information required by the Commission. For Phase II, EDCs were to submit two Act 129 annual reports per program year. The first annual report, due July 15, was to be a preliminary report providing each EDC’s reported savings for its EE&C portfolio for that program year. The second annual report, due November 15, was to be a final annual report providing verified savings for the EDC’s EE&C portfolio for that program year, the cost‑effectiveness evaluation (TRC test), the process evaluation, as well as items required by Act 129 and Commission Orders. In addition to the annual reports, the EDCs are to file quarterly reports for the first three quarters of each reporting year, due 45 calendar days from the end of the respective quarter; fourth quarter reporting information is to be included in the preliminary annual report.[[9]](#footnote-9)

 Additionally, the SWE is required to provide annual reports which provide the results of its independent evaluations of the EDCs’ programs. The SWE’s PY7 annual report provides an overview of the entirety of Phase II. This Phase II Final Annual Report provides the SWE’s analysis of whether or not it agrees with the EDCs’ reported compliance consumption reduction and peak demand reduction information. This report will also provide the Commission with a report to submit to the Consumer Protection and Professional Licensure Committee of the Senate and the Consumer Affairs Committee of the House of Representatives in accordance with Section 2806.1(i)(2) of the Act, 66 Pa. C.S. § 2806.1(i)(2).

 On April 6, 2017, the Commission released the SWE’s Phase II Final Annual Report. Based on Duquesne’s Petition, the SWE amended its Phase II Final Annual Report, which the Commission releases with this Order.

# DISCUSSION

**A. Compliance**

 The Commission has reviewed the results provided by all of the EDCs’ in their Final Annual Reports and the SWE’s Amended Phase II Final Annual Report. Based on this review, we have outlined below our determinations of EDC compliance with the energy consumption reduction targets. We have also outlined the EDCs’ performance with regard to their government/educational/non-profit and low-income EE&C Plan requirements. The compliance determinations outlined below are final determinations as no Petition was filed in accordance with 52 Pa. Code § 5.41 challenging the initial determination for a particular EDC within 20 days of the entry of the April 6, 2017 Order.

**1. May 31, 2016 - Electric Consumption Reduction Requirement** As outlined in the previous table, the three-year electric consumption reduction requirements varied by EDC and were based on a specific mix of program potential, acquisition costs and funding availability under the 2% of revenue annual spending cap. In addition, the Commission allowed EDCs that achieved their Phase I three percent target before the end of Phase I to continue their programs and credit all of those savings above the three percent reduction target towards Phase II reduction targets. In other words, the Commission allowed the EDCs to “carry over” into Phase II the Phase I verified energy savings that exceeded the Phase I compliance target. The Commission’s determination of compliance with the May 31, 2016, portfolio‑level electric consumption reduction requirement for each EDC follows.

 **a. Duquesne**

 Duquesne was required to reduce, by May 31, 2016, electric consumption in its service territory by 276,722 megawatt-hours (MWh).[[10]](#footnote-10) Duquesne reports, in its PY7 Final Annual Report, that when using the savings methodologies outlined in the Technical Reference Manual (TRM),[[11]](#footnote-11) it attained a reduction of 510,965 MWh in electric consumption as of May 31, 2016, including carryover savings from Phase I.[[12]](#footnote-12) In its Phase II Final Annual Report, the SWE validated Duquesne’s reported TRM‑verified savings of 510,965 MWh and noted that this amounts to 185% of Duquesne’s electric consumption reduction requirement.[[13]](#footnote-13) In the April, 2017 Order, the Commission agreed with the TRM-verified savings reported by Duquesne and confirmed by the SWE and initially deemed Duquesne to be in compliance with the May 31, 2016, electric consumption reduction requirement.

However, on April 28, 2017, Duquesne filed a Petition for Reconsideration *Nunc Pro Tunc* to contest initial determinations of a portion of the April 6, 2017 Order (Duquesne Petition).[[14]](#footnote-14) Duquesne states in its petition that it identified a small error in its calculations of one of its low-income program realization rates. Correcting this error decreases the “Low Income Verified Gross Savings from Low Income Programs” by 59 MWh from 5,495 MWh to 5,436 MWh.[[15]](#footnote-15) In its Amended Phase II Final Annual Report, the SWE validates Duquesne’s “Low Income Verified Gross Savings from Low Income Programs” of 5,436 MWh, which consequentially reduces Duquesne’s TRM-verified savings from 510,965 MWh to 510,906 MWh.[[16]](#footnote-16) The Commission agrees with the TRM‑verified savings reported and corrected by Duquesne in its petition, confirmed by the SWE and deems Duquesne to be in compliance with the May 31, 2016, electric consumption reduction requirement.

 **b. Met-Ed**

 Met-Ed was required to reduce, by May 31, 2016, electric consumption in its service territory by 337,753 MWh.[[17]](#footnote-17) Met-Ed reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 415,422 MWh in electric consumption as of May 31, 2016, including carryover savings from Phase I.[[18]](#footnote-18) In its Amended Phase II Final Annual Report, the SWE validates Met-Ed’s reported TRM-verified savings of 415,422 MWh and notes that this amounts to 123% of Met-Ed’s electric consumption reduction requirement.[[19]](#footnote-19) The Commission agrees with the TRM-verified savings reported by Met‑Ed and confirmed by the SWE and deems Met-Ed to be in compliance with the May 31, 2016, electric consumption reduction requirement.

 **c. PECO**

 PECO was required to reduce, by May 31, 2016, electric consumption in its service territory by 1,125,851 MWh.[[20]](#footnote-20) PECO reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 1,333,298 MWh in electric consumption as of May 31,2016, including carryover savings from Phase I.[[21]](#footnote-21) In its Amended Phase II Final Annual Report, the SWE validates PECO’s reported TRM-verified savings of 1,333,298 MWh and notes that this amounts to 118% of PECO’s electric consumption reduction requirement.[[22]](#footnote-22) The Commission agrees with the TRM-verified savings reported by PECO and confirmed by the SWE and deems PECO to be in compliance with the May 31, 2016, electric consumption reduction requirement.

 **d. Penelec**

 Penelec was required to reduce, by May 31, 2016, electric consumption in its service territory by 318,813 MWh.[[23]](#footnote-23) Penelec reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 395,313 MWh in electric consumption as of May 31, 2016, including carryover savings from Phase I.[[24]](#footnote-24) In its Amended Phase II Final Annual Report, the SWE validates Penelec’s reported TRM-verified savings of 395,313 MWh and notes that this amounts to 124% of Penelec’s electric consumption reduction requirement.[[25]](#footnote-25) The Commission agrees with the TRM-verified savings reported by Penelec and confirmed by the SWE and deems Penelec to be in compliance with the May 31, 2016, electric consumption reduction requirement.

 **e. Penn Power**

 Penn Power was required to reduce, by May 31, 2016, electric consumption in its service territory by 95,502 MWh.[[26]](#footnote-26) Penn Power reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 131,948 MWh, in electric consumption as of May 31, 2016, including carryover savings from Phase I.[[27]](#footnote-27) In its Amended Phase II Final Annual Report, the SWE validates with Penn Power’s reported TRM-verified savings of 131,948 MWh and notes that this amounts to 138% of Penn Power’s electric consumption reduction requirement.[[28]](#footnote-28) The Commission agrees with the TRM-verified savings reported by Penn Power and confirmed by the SWE and deems Penn Power to be in compliance with the May 31, 2016, electric consumption reduction requirement.

 **f. PPL**

 PPL was required to reduce, by May 31, 2016, electric consumption in its service territory by 821,072 MWh.[[29]](#footnote-29) PPL reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 1,194,372 MWh in electric consumption as of May 31, 2016, including carryover savings from Phase I.[[30]](#footnote-30) In its Amended Phase II Final Annual Report, the SWE validates PPL’s reported TRM-verified savings of 1,194,372 MWh and notes that this amounts to 146% of PPL’s electric consumption reduction requirement.[[31]](#footnote-31) The Commission agrees with the TRM-verified savings reported by PPL and confirmed by the SWE and deems PPL to be in compliance with the May 31, 2016, electric consumption reduction requirement.

 **g. West Penn**

 West Penn was required to reduce, by May 31, 2016, electric consumption in its service territory by 337,533 MWh.[[32]](#footnote-32) West Penn reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 418,002 MWh in electric consumption as of May 31, 2016, including carryover savings from Phase I.[[33]](#footnote-33) In its Amended Phase II Final Annual Report, the SWE validates West Penn’s reported TRM-verified savings of 418,002 MWh and notes that this amounts to 124% of West Penn’s electric consumption reduction requirement.[[34]](#footnote-34) The Commission agrees with the TRM-verified savings reported by West Penn and confirmed by the SWE and deems West Penn to be in compliance with the May 31, 2016, electric consumption reduction requirement.

**2. Government/Educational/Non-Profit Carve-Out**

For Phase I, Act 129 required the EDCs submit EE&C Plans that provide a minimum of 10% of the required reductions in consumption and peak demand be obtained from units of Federal, State and local government, including municipalities, school districts, institutions of higher education and nonprofit entities (G/E/NP). 66 Pa. C.S. § 2806.1(b)(1)(i)(B). For Phase II, the Commission again required the EDCs to obtain a minimum of 10% of all consumption reduction requirements from the federal, state and local governments, including municipalities, school districts, institutions of higher education and nonprofit entities.[[35]](#footnote-35) The Commission’s determination of compliance with the G/E/NP consumption reduction carve-out for each EDC follows.

 **a. Duquesne**

 Duquesne was required to obtain 27,672 MWh of its total electric consumption reduction from the G/E/NP sector in its service territory.[[36]](#footnote-36) Duquesne reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 29,857 MWh from the G/E/NP sector, including carryover savings from Phase I.[[37]](#footnote-37) In its Amended Phase II Final Annual Report; the SWE validates Duquesne’s reported TRM-verified savings of 29,857 MWh and notes that this amounts to 108% of Duquesne’s G/E/NP consumption reduction requirement.[[38]](#footnote-38) The Commission agrees with the TRM-verified savings from the G/E/NP sector reported by Duquesne and confirmed by the SWE and deems Duquesne to be in compliance with the G/E/NP consumption reduction requirement.

 **b. Met-Ed**

 Met-Ed was required to obtain 33,775 MWh of its total electric consumption reduction from the G/E/NP sector in its service territory.[[39]](#footnote-39) Met-Ed reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 40,087 MWh from the G/E/NP sector, including carryover savings from Phase I.[[40]](#footnote-40) In its Amended Phase II Final Annual Report; the SWE validates Met-Ed’s reported TRM-verified savings of 40,087 MWh and notes that this amounts to 119% of Met-Ed’s G/E/NP consumption reduction requirement.[[41]](#footnote-41) The Commission agrees with the TRM-verified savings from the G/E/NP sector reported by Met-Ed and confirmed by the SWE and deems Met-Ed to be in compliance with the G/E/NP consumption reduction requirement.

 **c. PECO**

 PECO was required to obtain 112,585 MWh of its total electric consumption reduction from the G/E/NP sector in its service territory.[[42]](#footnote-42) PECO reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 305,946 MWh from the G/E/NP sector, including carryover savings from Phase I.[[43]](#footnote-43) In its Amended Phase II Final Annual Report; the SWE validates PECO’s reported TRM-verified savings of 305,946 MWh and notes that this amounts to 272% of PECO’s G/E/NP consumption reduction requirement.[[44]](#footnote-44) The Commission agrees with the TRM-verified savings from the G/E/NP sector reported by PECO and confirmed by the SWE and deems PECO to be in compliance with the G/E/NP consumption reduction requirement.

 **d. Penelec**

 Penelec was required to obtain 31,881 MWh of its total electric consumption reduction from the G/E/NP sector in its service territory.[[45]](#footnote-45) Penelec reports, in its PY7 Final Annual Report, it attained a TRM-verified savings value of 42,685 MWh from the G/E/NP sector, including carryover savings from Phase I.[[46]](#footnote-46) In its Amended Phase II Final Annual Report, the SWE validates Penelec’s reported TRM-verified savings of 42,685 MWh and notes that this amounts to 134% of Penelec’s G/E/NP consumption reduction requirement.[[47]](#footnote-47) The Commission agrees with the TRM-verified savings from the G/E/NP sector reported by Penelec and confirmed by the SWE and deems Penelec to be in compliance with the G/E/NP consumption reduction requirement.

 **e. Penn Power**

 Penn Power was required to obtain 9,550 MWh of its total electric consumption reduction form the G/E/NP sector in its service territory.[[48]](#footnote-48) Penn Power reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 17,124 MWh from the G/E/NP sector, including carryover savings from Phase I.[[49]](#footnote-49) In its Amended Phase II Final Annual Report, the SWE validates Penn Power’s reported TRM-verified savings of 17,124 MWh and notes that this amounts to 179% of Penn Power’s G/E/NP consumption reduction requirement.[[50]](#footnote-50) The Commission agrees with the TRM-verified savings from the G/E/NP sector reported by Penn Power and confirmed by the SWE and deems Penn Power to be in compliance with the G/E/NP consumption reduction requirement.

 **f. PPL**

 PPL was required to obtain 82,107 MWh of its total electric consumption reduction from the G/E/NP sector in its service territory.[[51]](#footnote-51) PPL reports, in its PY7 Final Annual Report, it attained a TRM-verified savings value of 185,391 MWh from the G/E/NP sector, including carryover savings from Phase I.[[52]](#footnote-52) In its Amended Phase II Final Annual Report, the SWE validates PPL’s reported TRM-verified savings of 185,391 MWh and notes that this amounts to 226% of PPL’s G/E/NP consumption reduction requirement.[[53]](#footnote-53) The Commission agrees with the TRM-verified savings from the G/E/NP sector reported by PPL and confirmed by the SWE and deems PPL to be in compliance with the G/E/NP consumption reduction requirement.

 **g. West Penn**

 West Penn was required to obtain 33,753 MWh of its total electric consumption reduction form the G/E/NP sector in its service territory.[[54]](#footnote-54) West Penn reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 93,655 MWh from the G/E/NP sector.[[55]](#footnote-55) In its Amended Phase II Final Annual Report, the SWE validates West Penn’s reported TRM-verified savings of 93,655 MWh and notes that this amounts to 277% of West Penn’s G/E/NP consumption reduction requirement.[[56]](#footnote-56) The Commission agrees with the TRM-verified savings from the G/E/NP sector reported by West Penn and confirmed by the SWE and deems West Penn to be in compliance with the G/E/NP consumption reduction requirement.

 **4. Low-Income Carve-Out – Number of Measures**

Act 129 proscribed that, in Phase I, each EDC EE&C Plan must include specific energy efficiency measures for households at or below 150% of the federal poverty income guidelines (FPIG), in proportion to that sector’s share of the total energy usage in the EDC’s service territory. *See* 66 Pa. C.S. § 2806.1(b)(1)(i)(G). For Phase II, the Commission continues this prescription.[[57]](#footnote-57) The Commission’s determination of compliance with the low-income measure proportion requirement for each EDC follows.

 **a. Duquesne**

Duquesne was required to offer 8.402% of its measures to the low-income sector.[[58]](#footnote-58) Duquesne reports, in its PY7 Final Annual Report, that out of 97 measures offered across all sectors, 14 were offered to low-income customers. Duquesne states that this represented 14% of its measures.[[59]](#footnote-59) In its Amended Phase II Final Annual Report, the SWE validates Duquesne’s reported proportion of measures offered to low-income customers.[[60]](#footnote-60) The Commission agrees with the proportion of low-income offerings reported by Duquesne and confirmed by the SWE and deems Duquesne to be in compliance with the low-income measure proportion requirement.

**b. Met-Ed**

 Met-Ed was required to offer 8.787% of its measures to the low-income sector.[[61]](#footnote-61) Met-Ed reports, in its PY7 Final Annual Report, that out of 40 measures offered across all sectors, six were offered to low-income customers. Met-Ed states that this represented 15% of its measures.[[62]](#footnote-62) In its Amended Phase II Final Annual Report, the SWE validates Met-Ed’s reported proportion of measures offered to low-income customers.[[63]](#footnote-63) The Commission agrees with the proportion of low-income offerings reported by Met-Ed and confirmed by the SWE and deems Met-Ed to be in compliance with the low-income measure proportion requirement.

 **c. PECO**

 PECO was required to offer 8.799% of its measures to the low-income sector.[[64]](#footnote-64) PECO reports, in its PY7 Final Annual Report, that out of 112 measures offered across all sectors, 19 were offered to low-income customers. PECO states that this represented 17% of its measures.[[65]](#footnote-65) In its Amended Phase II Final Annual Report, the SWE validates PECO’s reported proportion of measures offered to low-income customers.[[66]](#footnote-66) The Commission agrees with the proportion of low-income offerings reported by PECO and confirmed by the SWE and deems PECO to be in compliance with the low-income measure proportion requirement.

 **d. Penelec**

 Penelec was required to offer 10.231% of its measures to the low-income sector.[[67]](#footnote-67) Penelec reports, in its PY7 Final Annual Report, that out of 40 measures offered across all sectors, six were offered to low-income customers. Penelec states that this represented 15% of its measures.[[68]](#footnote-68) In its Amended Phase II Final Annual Report, the SWE validates Penelec’s reported proportion of measures offered to low-income customers.[[69]](#footnote-69) The Commission agrees with the proportion of low-income offerings reported by Penelec and confirmed by the SWE and deems Penelec to be in compliance with the low-income measure proportion requirement.

 **e. Penn Power**

Penn Power was required to offer 10.639% of its measures to the low-income sector.[[70]](#footnote-70) Penn Power reports, in its PY7 Final Annual Report, that out of 40 measures offered across all sectors, six were offered to low-income customers. Penn Power states that this represented 15% of its measures.[[71]](#footnote-71) In its Amended Phase II Final Annual Report, the SWE validates Penn Power’s reported proportion of measures offered to low-income customers.[[72]](#footnote-72) The Commission agrees with the proportion of low-income offerings reported by Penn Power and confirmed by the SWE and deems Penn Power to be in compliance with the low-income measure proportion requirement.

 **f. PPL**

 PPL was required to offer 9.950% of its measures to the low-income sector.[[73]](#footnote-73) PPL reports, in its PY7 Final Annual Report, that out of 134 measures offered across all sectors, 62 were offered to low-income customers. PPL states that this represented 46% of its measures.[[74]](#footnote-74) In its Amended Phase II Final Annual Report, the SWE validates PPL’s reported proportion of measures offered to low-income customers.[[75]](#footnote-75) The Commission agrees with the proportion of low-income offerings reported by PPL and confirmed by the SWE and deems PPL to be in compliance with the low-income measure proportion requirement.

 **g. West Penn**

 West Penn was required to offer 8.794% of its measures to the low-income sector.[[76]](#footnote-76) West Penn reports, in its PY7 Final Annual Report, that out of 40 measures offered across all sectors, six were offered to low-income customers. West Penn states that this represented 15% of its measures.[[77]](#footnote-77) In its Amended Phase II Final Annual Report, the SWE validates West Penn’s reported proportion of measures offered to low-income customers.[[78]](#footnote-78) The Commission agrees with the proportion of low-income offerings reported by West Penn and confirmed by the SWE and deems West Penn to be in compliance with the low-income measure proportion requirement.

**5. Low-Income Carve-Out – Consumption Reduction Requirement**

 In addition to the low‑income number of measures requirement, the Commission requires that each EDC obtains a minimum of four-and-a-half percent (4.5%) of its consumption reduction requirements from the low-income sector.[[79]](#footnote-79) The Commission’s determination of compliance with the low‑income consumption reduction carve-out for each EDC follows.

 **a. Duquesne**

 Duquesne was required to obtain 12,452 MWh of its total electric consumption reduction from the low‑income sector in its service territory.[[80]](#footnote-80) Duquesne reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 23,173 MWh from the low‑income sector.[[81]](#footnote-81) In its Phase II Final Annual Report, the SWE validated Duquesne’s reported TRM-verified savings of 23,173 MWh and noted that this amounts to 186% of Duquesne’s low‑income consumption reduction requirement.[[82]](#footnote-82) In the April 6, 2017 Order, the Commission agreed with the TRM-verified savings from the low‑income sector reported by Duquesne and confirmed by the SWE and initially deemed Duquesne to be in compliance with the low‑income consumption reduction requirement.

 However, on April 28, 2017, Duquesne filed a Petition for Reconsideration *Nunc Pro Tunc* to contest initial determinations of a portion of this Order (Duquesne Petition).[[83]](#footnote-83) Duquesne states in its petition that it identified a small error in its calculations of one of its low-income program realization rates. Correcting this error decreases the “Low Income Verified Gross Savings from Low Income Programs” by 59 MWh from 5,495 MWh to 5,436 MWh. *[[84]](#footnote-84)* In its Amended Phase II Final Annual Report, the SWE validates Duquesne’s “Low Income Verified Gross Savings from Low Income Programs” of 5,436 MWh, which consequentially reduces Duquesne’s TRM-verified savings from the low‑income sector from 23,173 MWh to 23,114 MWh. [[85]](#footnote-85) The Commission agrees with the TRM‑verified savings from the low-income sector as reported and corrected by Duquesne in its petition, confirmed by the SWE and deems Duquesne to be in compliance with the low-income consumption reduction requirement.

 **b. Met-Ed**

 Met-Ed was required to obtain 15,199 MWh of its total electric consumption reduction from the low‑income sector in its service territory.[[86]](#footnote-86) Met-Ed reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 45,839 MWh from the low‑income sector.[[87]](#footnote-87) In its Amended Phase II Final Annual Report, the SWE validates Met-Ed’s reported TRM-verified savings of 45,839 MWh and notes that this amounts to 302% of Met-Ed’s low‑income consumption reduction requirement.[[88]](#footnote-88) The Commission agrees with the TRM-verified savings from the low‑income sector reported by Met-Ed and confirmed by the SWE and deems Met-Ed to be in compliance with the low‑income consumption reduction requirement.

 **c. PECO**

 PECO was required to obtain 50,663 MWh of its total electric consumption reduction from the low‑income sector in its service territory.[[89]](#footnote-89) PECO reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 91,673 MWh from the low‑income sector.[[90]](#footnote-90) In its Amended Phase II Final Annual Report, the SWE validates PECO’s reported TRM-verified savings of 91,673 MWh and notes that this amounts to 181% of PECO’s low‑income consumption reduction requirement.[[91]](#footnote-91) The Commission agrees with the TRM-verified savings from the low‑income sector reported by PECO and confirmed by the SWE and deems PECO to be in compliance with the low‑income consumption reduction requirement.

 **d. Penelec**

 Penelec was required to obtain 14,347 MWh of its total electric consumption reduction from the low‑income sector in its service territory.[[92]](#footnote-92) Penelec reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 55,255 MWh from the low‑income sector.[[93]](#footnote-93) In its Amended Phase II Final Annual Report, the SWE validates Penelec’s reported TRM-verified savings of 55,255 MWh and notes that this amounts to 385% of Penelec’s low‑income consumption reduction requirement.[[94]](#footnote-94) The Commission agrees with the TRM-verified savings from the low‑income sector reported by Penelec and confirmed by the SWE and deems Penelec to be in compliance with the low‑income consumption reduction requirement.

 **e. Penn Power**

 Penn Power was required to obtain 4,298 MWh of its total electric consumption reduction from the low‑income sector in its service territory.[[95]](#footnote-95) Penn Power reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 12,713 MWh from the low‑income sector.[[96]](#footnote-96) In its Amended Phase II Final Annual Report, the SWE validates Penn Power’s reported TRM-verified savings of 12,713 MWh and notes that this amounts to 296% of Penn Power’s low‑income consumption reduction requirement.[[97]](#footnote-97) The Commission agrees with the TRM-verified savings from the low‑income sector reported by Penn Power and confirmed by the SWE and deems Penn Power to be in compliance with the low‑income consumption reduction requirement.

 **f. PPL**

 PPL was required to obtain 36,948 MWh of its total electric consumption reduction from the low‑income sector in its service territory.[[98]](#footnote-98) PPL reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 58,703 MWh from the low‑income sector.[[99]](#footnote-99) In its Amended Phase II Final Annual Report, the SWE validates PPL’s reported TRM-verified savings of 58,703 MWh and notes that this amounts to 159% of PPL’s low‑income consumption reduction requirement.[[100]](#footnote-100) The Commission agrees with the TRM-verified savings from the low‑income sector reported by PPL and confirmed by the SWE and deems PPL to be in compliance with the low‑income consumption reduction requirement.

 **g. West Penn**

 West Penn was required to obtain 15,189 MWh of its total electric consumption reduction from the low‑income sector in its service territory.[[101]](#footnote-101) West Penn reports, in its PY7 Final Annual Report, it attained a TRM-verified reduction of 37,513 MWh from the low‑income sector.[[102]](#footnote-102) In its Amended Phase II Final Annual Report, the SWE validates West Penn’s reported TRM-verified savings of 37,513 MWh and notes that this amounts to 247% of West Penn’s low‑income consumption reduction requirement.[[103]](#footnote-103) The Commission agrees with the TRM-verified savings from the low‑income sector reported by West Penn and confirmed by the SWE and deems West Penn to be in compliance with the low‑income consumption reduction requirement.

 **5. Challenges To The Phase II Results**

 In the April 6, 2017 Order, the Commission directed that if any party desired to contest the facts the Commission relied upon in making its determinations of compliance contained in that Order, they had 20 days, from the date that order was entered, to file a petition in accordance with Section 5.41 of the Commission’s Regulations, 52 Pa. Code § 5.41. Such petitions were to reference Docket Nos. M‑2012‑2289411 and the applicable EDC EE&C plan Phase II Docket. The party contesting the Commission’s initial compliance determination had the burden of proof in accordance with 66 Pa. C.S. §§ 315 and 332(a). If no parties filed a petition within 20 days of the date the April 6, 2017 order was entered, the Commission’s initial compliance determinations for each EDC were to be considered final. As noted previously, no party filed a petition challenging the Commission’s determination that all the EDC’s meet the Phase II compliance requirements.

**B. Accumulated Savings In Excess Of Reduction Requirements**

 In its *Phase II Implementation Order*, the Commission recognized the importance of the continued implementation of cost-effective Phase I programs until the beginning of Phase II.[[104]](#footnote-104) However, in its *Phase III Implementation Order*, the Commission expressed concerns that continued carryover of all excess savings from phase to phase will lead to a scenario in which an EDC meets most, if not all, of its reduction target simply with carryover savings. Therefore, EDCs are allowed to bank only those savings attained in Phase II that are in excess of their Phase II targets for application towards Phase III targets.[[105]](#footnote-105)

 **1. Carryover And Excess Savings**

The EDCs, in their PY7 Final Annual Reports, have provided the amount of carryover and excess savings resulting from the Phase II EE&C Program. The Commission’s determination regarding the accuracy of these values for each EDC follows.

 **a. Duquesne**

 In its PY7 Final Annual Report, Duquesne reports it attained portfolio‑level Technical Reference Manual‑verified (TRM‑verified) electric consumption carryover savings of 100,526 MWh and low‑income reduction requirement excess savings of 3,431 MWh; however, it was not able to attain excess savings from the G/E/NP reduction requirement.[[106]](#footnote-106) In its Phase II Final Annual Report, the SWE validated Duquesne’s portfolio‑level electric consumption carryover savings of 100,526 MWh; and that Duquesne is not able to carry over G/E/NP reduction requirement excess savings.[[107]](#footnote-107) The SWE was not able to verify the low‑income reduction requirement excess savings of 3,431 MWh. The SWE noted that, low‑income excess savings for Phase III are based on an allocation factor determined by the ratio of savings from low‑income specific programs to non-low‑income specific programs; therefore, Duquesne’s verified low‑income reduction requirement excess savings total as reported by the SWE decreased from 3,431 MWh to 2,542 MWh.[[108]](#footnote-108)

In the April 6, 2017 Order, the Commission agreed with the SWE verified and adjusted low‑income reduction requirement excess savings and initially accepted an excess savings total of 2,542 MWh to be credited against Duquesne’s Phase III low‑income reduction requirements. In addition, the Commission agreed with the TRM‑verified carryover savings reported by Duquesne, confirmed by the SWE, and initially accepted a portfolio‑level carryover total of 100,526 MWh to be credited against Duquesne’s Phase III portfolio‑level electric consumption reduction requirements.

However, as noted in section A. 5. a. above, on April 28, 2017, Duquesne filed a Petition for Reconsideration *Nunc Pro Tunc,* to contest the Commission’s initial determinations related to the amount of low‑income carryover. Duquesne states in its petition that the SWE’s calculations of low‑income reduction requirement excess savings stem from a minor difference in construction of one value in Duquesne’s PY7 Final Annual Report; Table 1-6 of the report lists a value of 5,495 MWh for “Low Income Verified Gross Savings from Low Income Programs”. [[109]](#footnote-109)

The SWE expressed to Duquesne that when the SWE verified Duquesne’s low‑income reduction requirement excess savings, the SWE believed this value to comprise *all* savings from program activities targeted specifically to low-income customers. In actuality, this value includes 2,461 MWh in savings from activities not targeted specifically to low-income customers, and does *not* include savings from Duquesne’s multifamily retro-fit program, of which 96%, or 4,105 MWh, represent low‑income savings. Re-including these adjustments accounts for the difference between Duquesne’s and the SWE’s results. In addition, Duquesne acknowledged that it identified a small error in its calculation of one of its low‑income program realization rates. Duquesne further states that correcting this error decreases the savings by 59 MWh, from 5,495 to 5,436 MWh. Duquesne states, therefore, by using the Commission’s prescribed calculation methodology, with this corrected value of 5,436 MWh, Duquesne’s program yields 3,266 MWh in low‑income reduction requirement excess savings eligible for carryover into Phase III.*[[110]](#footnote-110)*

In its Amended Phase II Final Annual Report, the SWE validates Duquesne’s low‑income reduction requirement excess savings of 3,266 MWh and Duquesne’s “Low Income Verified Gross Savings from Low Income Programs” of 5,436 MWh, which consequentially reduces Duquesne’s portfolio‑level electric consumption carryover savings of 100,526 MWh to 100,467 MWh.[[111]](#footnote-111)

The Commission agrees with the MWh reductions associated with the programs not targeted specifically to low‑income customers and the low‑income program realization rate error. The Commission also agrees with the addition of MWh’s associated with the multifamily retro‑fit program attributable to the low‑income program. Therefore, the Commission accepts a portfolio‑level carryover total of 100,467 MWh to be credited against Duquesne’s Phase III portfolio‑level electric consumption reduction requirements and accepts an excess savings total of 3,266 MWh will be credited against Duquesne’s Phase III low‑income reduction requirements.

 **b. Met-Ed**

 In its PY7 Final Annual Report, Met-Ed reports it attained the portfolio‑level TRM-verified electric consumption carryover savings amount of 30,482 MWh and low‑income reduction requirement excess savings of 5,025 MWh; however, it was not able to attain excess savings from the G/E/NP reduction requirement.[[112]](#footnote-112) In its Amended Phase II Final Annual Report, the SWE validates Met-Ed’s portfolio‑level carryover of electric consumption in the amount of 30,482 MWh and low‑income reduction requirement excess savings of 5,025 MWh; and that Met‑Ed is not able to carry over G/E/NP reduction requirement excess savings.[[113]](#footnote-113) The Commission agrees with the TRM-verified carryover and excess savings reported by Met-Ed, confirmed by the SWE, and accepts a portfolio‑level carryover total of 30,482 MWh to be credited against Met‑Ed’s Phase III portfolio‑level electric consumption reduction requirements and an excess savings total of 5,025 MWh to be credited against Met-Ed’s Phase III low‑income reduction requirements.

 **c. PECO**

 In its PY7 Final Annual Report, PECO reports it is not eligible to carryover portfolio‑level TRM-verified electric consumption savings; however, it attained G/E/NP reduction requirement excess savings of 115,400 MWh and low‑income reduction requirement excess savings of 3,729 MWh.[[114]](#footnote-114) In its Amended Phase II Final Annual Report, the SWE validates that PECO is not eligible to carryover portfolio‑level savings towards its Phase III portfolio‑level electric consumption reduction requirement, but is eligible to carryover G/E/NP reduction requirement excess savings of 115,400 MWh.[[115]](#footnote-115) However, the SWE has calculated TRM‑verified low‑income reduction requirement excess savings that are significantly different than PECO’s verified total of 3,729 MWh. The SWE notes, that low‑income excess savings for Phase III are based on an allocation factor determined by the ratio of savings from low‑income specific programs to non-low‑income specific programs; therefore, PECO’s low‑income reduction requirement excess savings total amount increased from 3,729 MWh to 24,332 MWh.[[116]](#footnote-116)

In the April 6, 2017 Order, the Commission commended PECO for its efforts to obtain savings in excess of its carve-outs for low‑income and G/E/NP customers. The Commission continued by noting that as PECO did not obtain portfolio‑level TRM‑verified electric consumption savings in excess of its portfolio‑level requirements, PECO could not carryover the low‑income or G/E/NP excess savings. The Commission continued by noting that both the low‑income and G/E/NP savings are a carve-out or subset of the whole, accordingly, to allow a carryover for these carve-outs into Phase III, would, in essence, permit a carryover for the total Phase III consumption reduction requirement. As PECO did not obtain Phase II savings in excess of its Phase II consumption reduction requirement, the Commission determined that PECO was not entitled to any carryover savings into Phase III. As such, the Commission initially denied PECO any carryover savings to be credited against its Phase III consumption reduction requirements.[[117]](#footnote-117)

On April 21, 2017, PECO filed a Petition regarding the initial determination in the Phase II Compliance Order (PECO Petition).[[118]](#footnote-118) Specifically, PECO is contesting the Commission’s initial determination that precludes PECO from using savings in excess of its Phase II EE&C plan carve‑outs for low‑income and government, educational and non‑profit customers to meet Phase III carve‑out requirements.[[119]](#footnote-119) PECO states that it is only seeking to carryover excess Phase II carve‑out savings for credit against its Phase III carve‑out requirements, and not its overall Phase III consumption reduction target.[[120]](#footnote-120)

PECO notes that in the Phase III Implementation Order, the Commission found that an EDC could only bank those savings actually attained in Phase II in excess of its target to apply towards the Phase III target. PECO states that it understood the Commission’s directive regarding the G/E/NP carve‑out to apply similarly, requiring the G/E/NP carve‑out to be exceeded in Phase II in order to carry over excess G/E/NP savings to Phase III but not incorporating the overall Phase II consumption reduction target. PECO also states that the Commission provided that excess savings to be applied toward the Phase III low‑income carve‑out in accordance with an allocation factor based on the ratio of low‑income specific program savings to savings from non‑low‑income programs. PECO further noted that the Commission stated that the timing of its direction would allow EDCs that had already exceeded their Phase II 4.5% low‑income carve‑out to enhance their ratios rather than stopping or significantly reducing their low‑income programs until the beginning of Phase III. Finally, PECO asserts that the Commission did not state that excess low‑income savings could only be carried over if an EDC first demonstrated that its overall savings actually attained in Phase II exceeded its overall Phase II consumption reduction target.[[121]](#footnote-121)

PECO is seeking to apply its excess Phase II low‑income and G/E/NP savings towards their respective Phase III carve‑outs. PECO asserts that it will still have to obtain 1,962,659 MWh of savings during Phase III to meet its overall consumption reduction target, but may deduct 24,332 MWh from its Phase III low‑income savings requirement and 115,400 MWh from its Phase III G/E/NP savings requirement. PECO asserts that these deductions are meaningful because they will provide it with additional flexibility in plan implementation, such as directing more resources towards comprehensive projects for low‑income customers. PECO notes that low‑income savings programs are generally more expensive than other consumption savings programs. PECO asserts that if the carryover of carve‑out savings is dependent upon exceeding the consumption reduction target for an entire phase, EDCs will not be incentivized to continue costlier programs at normal levels if carve‑out obligations are satisfied prior to the end of a phase.[[122]](#footnote-122)

On May 11, 2017, the OCA filed an Answer to the PECO Petition. In its Answer, OCA states that while supportive of achieving deeper savings through the use of whole house programs, the OCA is concerned with such a significant reduction in achieved savings for low‑income customers in Phase III. The OCA notes that if PECO is permitted to carry over its excess Phase II low‑income savings, low‑income customers may not obtain the full benefits intended in Phase III by increasing the savings requirement to 5.5%. While allowing for more flexibility, the OCA suggests that such flexibility may prevent PECO’s low‑income customers from realizing the full benefits of the EE&C program, noting that while the OCA is supportive of whole house programs, not all low‑income households are eligible for whole house treatment or could benefit from such treatment. The OCA suggests that if the Commission were to grant PECO’s request, the Commission should direct PECO to continue applying the full amount of funding allocated to programs directed toward low‑income customers in Phase III. In addition, PECO should be directed to work with the existing stakeholder group to develop an approach that will spend the entire budgeted amount on programs specifically benefitting low‑income customers, and will achieve the maximum amount of savings for the broadest low‑income customer base. The OCA asserts that this will ensure that low‑income customers continue to receive the benefit of the program.[[123]](#footnote-123)

 The Commission denies PECO’s Petition. The Commission is not persuaded by PECO’s assertions. The Commission again reiterates that the G/E/NP and low‑income requirements are subsets of the whole. They are established as being a percent of the overall savings must come from G/E/NP and low‑income. Specifically, Act 129 required that “[a] minimum of 10% of the required reductions in consumption under subsections (c) and (d) shall be obtained from units of Federal, State and local government, including municipalities, school districts, institutions of higher education and nonprofit entities.” 66 Pa. C.S. § 2806.1(b)(1)(i)(B). The Commission continued this requirement for Phase II,[[124]](#footnote-124) as well as Phase III, with a reduced carve‑out of 3.5% of the EDC’s consumption reduction requirements.[[125]](#footnote-125) In particular, in the Phase III Implementation Order, the Commission specifically stated that “we direct all EDCs obtain 3.5% of their consumption reduction requirements from the G/E/NP sector.”[[126]](#footnote-126) Regarding the low‑income carve‑out, in the Phase II Implementation Order, the Commission “proposed that each EDC Phase II EE&C Plan should obtain a minimum of four-and-a-half percent (4.5%) of its consumption reduction requirements from this sector.”[[127]](#footnote-127) In the Phase III Implementation Order, the Commission “proposed to require each EDC to obtain a minimum of 5.5% of their total consumption reduction target from the low‑income sector….”[[128]](#footnote-128) These are clearly portions of the consumption reduction requirement. If there are no consumption reduction requirement savings being carried‑over then there can be no subset or carve‑out of those savings to carry‑over.

 The Commission’s Phase III Implementation Order did not alter this fact. In the Phase III Implementation Order, the Commission stated that “the EDCs are allowed to bank only those savings obtained in Phase II in excess of their targets for application towards Phase III targets.”[[129]](#footnote-129) The Commission went on to state that [t]hese carryover savings may only be savings actually obtained in Phase II” and that “[t]his directive applies to excess savings in the G/E/NP sector, as well.”[[130]](#footnote-130) For the low‑income carryover, the Commission established a ratio to be applied to any applicable low‑income excess to ensure that the savings being carried over into Phase III meet the Phase III low‑income carve‑out requirements. This discussion in no way changed the fact that the two carve‑outs are to be a portion of the overall savings requirements.

In fact, PPL, in its comments to the Phase III Tentative Implementation Order, specifically asked the Commission to clarify “whether EDCs are permitted to apply Phase II over‑compliance savings to Phase III at the customer sector level for low‑income and [G/E/NP] sector carve‑outs, even if there is no over‑compliance at the portfolio level.”[[131]](#footnote-131) PPL, in its comments went on to give an example of where the EDC had no portfolio level carryover, but had Phase II low‑income excess savings of 20,000 MWh/yr savings and asked whether the EDC can carryover these excess savings into Phase III even though there is no carryover at the portfolio level.[[132]](#footnote-132) Significantly, the Commission, in the Phase III Implementation Order, did not specifically adopt PPL’s proposal to allow EDCs to apply Phase II low‑income and G/E/NP carve‑out over‑compliance savings to Phase III, even if there is no over‑compliance at the portfolio level. Accordingly, PPL’s proposal was rejected by the Commission. For these reasons, the Commission denies PECO’s Petition.

 **d. Penelec**

 In its PY7 Final Annual Report, Penelec reports it attained the portfolio‑level TRM-verified electric consumption carryover savings amount of 49,695 MWh, G/E/NP reduction requirement excess savings of 83 MWh, and low‑income reduction requirement excess savings of 7,872 MWh.[[133]](#footnote-133) In its Amended Phase II Final Annual Report, the SWE validates Penelec’s portfolio‑level electric consumption carryover of 49,695 MWh, G/E/NP reduction requirement excess savings of 83 MWh, and low‑income reduction requirement excess savings of 7,872 MWh.[[134]](#footnote-134) The Commission agrees with the portfolio‑level TRM-verified carryover savings reported by Penelec and confirmed by the SWE and accepts a portfolio‑level carryover total of 49,695 MWh to be credited against Penelec’s Phase III portfolio‑level electric consumption reduction requirements, an excess savings total of 83 MWh to be credited against Penelec’s Phase III G/E/NP reduction requirements, and an excess savings total of 7,872 MWh to be credited against Penelec’s Phase III low‑income reduction requirements.

 **e. Penn Power**

 In its PY7 Final Annual Report, Penn Power reports it attained the portfolio‑level TRM-verified electric consumption carryover savings amount of 13,866 MWh, G/E/NP reduction requirement excess savings of 7,316 MWh, and low‑income reduction requirement excess savings of 1,805 MWh.[[135]](#footnote-135) In its Amended Phase II Final Annual Report, the SWE validates Penn Power’s portfolio‑level electric consumption carryover of 13,866 MWh, G/E/NP reduction requirement excess savings 7,316 MWh, and low‑income reduction requirement excess savings of 1,805 MWh.[[136]](#footnote-136) The Commission agrees with the TRM-verified carryover savings reported by Penn Power and confirmed by the SWE and accepts a portfolio‑level carryover total of 13,866 MWh to be credited against Penn Power’s Phase III portfolio‑level electric consumption reduction requirements, an excess savings total of 7,316 MWh to be credited against Penn Power’s Phase III G/E/NP reduction requirements, and an excess savings total of 1,805 MWh to be credited against Penn Power’s Phase III low‑income reduction requirements.

 **f. PPL**

In its PY7 Final Annual Report, PPL reports it is not eligible to carryover portfolio‑level TRM-verified electric consumption savings; however, it reported 11,141 MWh of TRM‑verified G/E/NP reduction requirement excess savings and 10,299 MWh of low‑income reduction requirement excess savings.[[137]](#footnote-137) In its Phase II Final Annual Report, the SWE validates that PPL is not eligible to carryover savings towards its Phase III portfolio‑level electric consumption reduction requirement,[[138]](#footnote-138) but is eligible to carryover 11,141 MWh of G/E/NP reduction requirement excess savings.[[139]](#footnote-139) However, the SWE has calculated TRM‑verified low‑income reduction requirement excess savings that differ from PPL’s total of 10,299 MWh. The SWE notes, that low‑income excess savings for Phase III are based on an allocation factor determined by the ratio of savings from low‑income specific programs to non-low‑income specific programs; therefore, PPL’s low‑income reduction requirement excess savings total amount increased from 10,299 MWh to 10,520 MWh.[[140]](#footnote-140)

In the April 6, 2017 Order, the Commission commended PPL for its efforts to obtain savings in excess of its carve-out requirements for low‑income and G/E/NP customers. The Commission continued by noting that as PPL did not obtain portfolio‑level TRM‑verified electric consumption savings in excess of its portfolio‑level requirements, PPL could not carryover the low‑income or G/E/NP carve-out excess savings. The Commission continued by noting that both the low‑income and G/E/NP savings are a carve-out or subset of the whole, accordingly, to allow a carryover for these carve-outs into Phase III, would, in essence, permit a carryover for the total Phase III consumption reduction requirement. As PPL did not obtain Phase II savings in excess of its Phase II consumption reduction requirement, the Commission determined that PPL was not entitled to any carryover savings into Phase III. As such, the Commission initially denied PPL any carryover savings to be credited against its Phase III consumption reduction requirements.[[141]](#footnote-141)

On April 21, 2017, PPL filed a Petition for reconsideration of a portion of the Commission’s April 6, 2017 Compliance Order at this Docket (PPL Petition). Specifically, PPL requests that the Commission reconsider the determination that PPL is not entitled to any carryover savings into Phase III. PPL states that it is not arguing that the Phase II savings in excess of the G/E/NP and low‑income carve‑outs be counted toward the overall Phase III energy consumption reduction requirement, it only seeks to apply the Phase II G/E/NP and low‑income excess savings toward the Phase III G/E/NP and low‑income carve‑outs. PPL submits that counting these Phase II excess savings toward the Phase III carve‑outs is consistent with the Commissions orders and PPL’s approved Phase III EE&C Plan. PPL asserts that the Commission’s initial determination is poor public policy that would lead to arbitrary outcomes. For these reasons, PPL requests that the Commission reconsider its Phase II Compliance Order and permit PPL to carry over its Phase II G/E/NP and low‑income excess savings only for the purpose of meeting the Phase III G/E/NP and low‑income carve‑outs.[[142]](#footnote-142)

In support of its Petition, PPL asserts that nothing in the Commission’s EE&C Orders states that an EDC is prohibited from carrying over G/E/NP and low‑income excess savings if the EDC fails to achieve its overall savings requirement without carryover savings. PPL further asserts that the only requirement is that carryover savings may only be savings actually obtained in Phase II and that low‑income carryover savings would be based on an allocation factor determined by the ratio of savings from low‑income specific programs (citing the Phase III Implementation Order at 84-85). PPL also cites in support that the Commission has previously stated that the savings achieved in Phase I should be applied in Phase II at the particular customer sector level (citing the Phase II Implementation Order at 59). Next, PPL notes that the Commission has repeatedly treated the overall savings requirement, the G/E/NP savings carve‑out, and low‑income savings carve‑out as three separate compliance obligations (citing the Phase II Implementation Order at 45-46 and the Phase III Implementation Order at 70, 72). PPL asserts therefore, that it is logical to treat their carryover savings similarly and apply Phase II G/E/NP and low‑income excess savings to the Phase III G/E/NP and low‑income carve‑outs.[[143]](#footnote-143)

Next, PPL notes that although PPL asked for clarification of this issue in its comments to the Phase III Tentative Order, PPL asserts that the Commission’s Phase III Implementation Order did not state anything contradicting the Company’s position. Although PPL also acknowledges that nothing in the Phase III implementation Order explicitly addressed its request for clarification. PPL posits that therefore, it had no reason to believe that its planned carryover of the Phase II G/E/NP and low‑income excess savings would be rejected. PPL acknowledges that the Commission simply stated that “EDCs are allowed to bank only those savings obtained in Phase II in excess of their targets for application towards Phase III targets” and that “[t]his directive applies to excess savings in the G/E/NP sector, as well.” (Citing the Phase III Implementation Order at 85.) PPL goes on to note that concerning the low‑income carryover savings, the Commission found that EDCs will only be allowed to carry over excess low‑income savings into Phase III based on an allocation factor determined by the ratio of savings from low‑income specific programs (citing the Phase III Implementation Order at 85. PPL asserts that nothing in the Phase III Implementation Order prohibits PPL from carrying over these excess savings.[[144]](#footnote-144)

Next, PPL asserts that it specifically detailed in its Phase III EE&C Plan that it was planning to count Phase II G/E/NP and low‑income excess savings toward the Phase III G/E/NP and low‑income carve‑outs but not the overall energy savings requirement (citing PPL’s Phase III EE&C Plan, Tables 2 and 10). PPL asserts that by not disputing PPL’s treatment of the G/E/NP and low‑income excess savings in the Order approving PPL’s Phase III EE&C Plan, the Commission tacitly approved such treatment. PPL goes on to assert that since its Phase III plan included these excess savings, PPL would be required to file for approval a change to its plan that excludes these excess savings. PPL next asserts that the Commission’s decision could negatively affect its ability to meet its Phase III G/E/NP and low‑income savings targets. Although PPL also notes that its Phase III EE&C Plan is designed to achieve the G/E/NP and low‑income carve‑outs without any Phase II carryover.[[145]](#footnote-145)

Finally, PPL posits that the Commission’s decision to deny carryover is poor public policy. PPL asserts that the Commission’s decision would encourage an EDC to slow down its G/E/NP and low‑income programs toward the end of an EE&C Phase to avoid excess savings in those categories as EDCs would better position itself to meet the G/E/NP and low‑income carve‑outs in the upcoming phase and letting programs go dark. Next PPL asserts that EDCs would reallocate resources from the more costly G/E/NP and low‑income programs to meet the overall savings requirement. Finally, PPL asserts that the Commission’s decision would lead to arbitrary outcomes, noting that if PPL exceeded its overall Phase II savings requirement by 1 MWh/yr, PPL would be able to carry over 11,141 MWh/yr in G/E/NP and 10,520 MWh/yr in low‑income savings. In addition, PPL states, if it had to use 1 MWh/yr of phase I carryover savings to meet its overall requirement, it would not be able to carry over any Phase II G/E/NP or low‑income excess savings into Phase III.[[146]](#footnote-146)

On May 11, 2017, the OCA filed an Answer to PPL’s Petition. In its Answer, the OCA notes that PPL’s request effectively reduces the low‑income savings expected to be achieved in Phase III from a carve‑out of 5.5% to 4.8% of the total Phase III savings. The OCA is concerned with this significant reduction in achieved savings for low‑income customers in Phase III, noting that PPL provides no indication or commitment to continuing or improving the low‑income programs if its request is granted. The OCA asserts that by allowing the carryover, low‑income customers may not obtain the full benefits intended in Phase III or see improved programs. The OCA suggests that if the Commission were to grant PPL’s request, the Commission should direct PPL to continue applying the full amount of funding allocated to programs directed toward low‑income customers in Phase III. In addition, PPL should be directed to work with the existing stakeholder group to develop an approach that will spend the entire budgeted amount on programs specifically benefitting low‑income customers, and will achieve the maximum amount of savings for the broadest low‑income customer base. The OCA asserts that this will ensure that low‑income customers continue to receive the benefit of the program.[[147]](#footnote-147)

On May 30, 2017, PPL submitted a letter in response to the OCA Answer. In the letter, PPL states that the purpose of its Petition is not to alter or reduce the project spending for low‑income programs under its Phase III EE&C Plan. PPL further states that the intent of the Petition is to preserve the status quo for the low‑income programs offered under the Phase III EE&C Plan as approved by the Commission.

The Commission will deny PPL’s Petition. To begin with, the Commission did not adopt in the Phase III Implementation Order, by omission, PPL’s position. In section B. 1. c. above, we discuss what the Commission did adopt in the Phase III Implementation Order and will incorporate that discussion here by reference. Regarding PPL’s assertion that the Commission adopted PPL’s position by approving its Phase III EE&C Plan that referenced carryover, this argument is also without merit. First, PPL’s EE&C Plan is simply that, a plan, which is nothing more than a projection with estimates on how PPL can meet the requirements of the EE&C Program, it is not a final determination as to whether PPL has met the requirements for Phase II or Phase III. Second, the numbers referenced by PPL relating to projected G/E/NP and low‑income carryover, were estimates of what might or might not occur and that would be definitively determined at the end of Phase II after the prescribed review process. Finally, by approving PPL’s Phase III EE&C Plan, the Commission was making a determination as to whether PPL had an adequate program design, management and resource allocation in place to meet the required reduction requirements in a cost‑effective manner. In fact, as PPL acknowledges, PPL’s plan indicated that PPL could meet all requirements, including the G/E/NP and low‑income carve‑outs, without any carryover from Phase II. Therefore, there was no requirement for the Commission to direct PPL to revise its plan to meet these carveouts without the carryover, for the plan already meet that condition.

Regarding PPL’s assertion that the Commission’s decision to deny PPL the carryover for the G/E/NP and low‑income sectors is bad policy, the Commission is not persuaded by PPL’s arguments. In particular, the Commission does not agree that this determination would drive EDCs to “slow down” G/E/NP and low‑income programs and reallocate its focus and funding toward programs that would be most effective in achieving the overall savings requirement. The EDCs already have a $1,000,000 to $20,000,000 incentive to allocate funds to achieve the overall savings requirement.[[148]](#footnote-148) The Commission continued the G/E/NP and established the low‑income carve‑outs to ensure that these customer segments, which have limited or no access to capital to fund the installation of energy efficient equipment, are given reasonable access to the EE&C Program to counter act the significant incentive to focus funding toward programs that are most effective in achieving the overall savings requirement. In this particular case, as the OCA points out, the Commission’s decision preserves the low‑income carve‑out of 5.5% as opposed to 4.8%, which actually encourages PPL to continue the programs for these customer segments.

Regarding PPL’s alleged arbitrary outcome, in which an EDC that has more G/E/NP and low‑income carryover than portfolio level carryover is able to apply all of the carve‑out carryover into the next phase, this scenario is nothing more than a red herring. The Commission is not dealing with this fictional scenario in the present case and is in no way endorsing that outcome by the decision being made today. There are other rational outcomes that can be applied to the scenario presented by PPL, which the Commission will address at the appropriate time, if necessary. For these reasons, we will deny PPL’s Petition.

 **g. West Penn**

 In its PY7 Final Annual Report, West Penn reports it attained the portfolio‑level TRM-verified electric consumption carryover savings amount of 20,540 MWh, and low‑income reduction requirement excess savings of 3,354 MWh; however, it was not able to attain excess savings from the G/E/NP reduction requirement.[[149]](#footnote-149) In its Amended Phase II Final Annual Report, the SWE validates West Penn’s portfolio‑level electric consumption carryover of 20,540 MWh and low‑income reduction requirement excess savings of 3,354 MWh; and that West Penn is not able to carry over G/E/NP reduction requirement excess savings.[[150]](#footnote-150) The Commission agrees with the TRM-verified carryover savings reported by West Penn, confirmed by the SWE, and accepts a portfolio‑level carryover total of 20,540 MWh to be credited against West Penn’s Phase III portfolio‑level electric consumption reduction requirements and an excess savings total of 3,354 MWh to be credited against West Penn’s Phase III low‑income reduction requirements.

**2. Phase III Savings**

 As indicated above, the Commission initially accepts each EDC’s megawatt-hour carryover and excess savings total that was confirmed by the SWE as of the SWE’s Amended Phase II Final Annual Report date. The Commission will credit this megawatt‑hour amount against each EDC’s Phase III electric consumption reduction requirement. At the end of Phase III, an EDC will have an opportunity to present evidence demonstrating that the Phase II carryover should be higher during a compliance proceeding if necessary.

**CONCLUSION**

With this Order, the Commission releases the Statewide Evaluator’s Amended Phase II Final Annual Report. The Commission also provides its determinations regarding EDC compliance with the mandates of Act 129 and regarding the level of accumulated savings from Phase II that may be applied to Phase III consumption reduction requirements. Finally, the Commission grants the Petition of Duquesne, as set forth in this Order, and denies the Petitions of PECO and PPL; **THEREFORE,**

 **IT IS ORDERED:**

1. That the Statewide Evaluator’s Amended Phase II Final Annual Report be released to the public.

2. That a copy of this Order shall be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Commission’s Bureau of Investigation and Enforcement, and the jurisdictional electric distribution companies subject to the Energy Efficiency and Conservation Program requirements.

3. That the Commission deems Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power Company, PPL Electric Utilities Corporation, and West Penn Power Company are in compliance with the May 31, 2016, electric consumption reduction requirement in Section 2806.1(c)(3) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 2806.1(c)(3).

4. That the Commission deems Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power Company, PPL Electric Utilities Corporation and West Penn Power Company are in compliance with the requirement to obtain a minimum of ten percent of the required reductions in electric consumption from units of Federal, State and local government, including municipalities, school districts, institutions of higher education and nonprofit entities in Section 2806.1(b)(1)(i)(B) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 2806.1(b)(1)(i)(B).

5. That the Commission deems Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power Company, PPL Electric Utilities Corporation and West Penn Power Company are in compliance with the requirement to include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines in proportion to those households’ share of the total energy usage in Section 2806.1(b)(1)(i)(G) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 2806.1(b)(1)(i)(G).

6. That the Commission deems Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power Company, PPL Electric Utilities Corporation and West Penn Power Company are in compliance with the requirement to obtain a minimum of four-and-a-half percent (4.5%) of its consumption reduction requirements from households at or below 150% of the Federal poverty income guidelines.

7. That the verified Phase II carryover and excess savings validated by the Statewide Evaluator in the Amended Phase II Final Annual Report for Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company as stated in this Order shall be credited against each electric distribution company’s Phase III electric consumption, G/E/NP, and low‑income reduction requirements.

8. That the Petition of Duquesne Light Company for Reconsideration Nunc Pro Tunc of Energy Efficiency and Conservation Program Compliance Order is granted as set forth in this Order.

9. That the Petition of PECO Energy Company Regarding Initial Determinations in the Phase II Compliance Order is denied.

10. That the Petition of PPL Electric Utilities Corporation for Reconsideration in the Energy Efficiency and Conservation Program proceeding is denied.

11. That this Order and the Statewide Evaluator’s Amended Phase II Final Annual Report be published on the Commission’s public website at <http://www.puc.pa.gov/filing_resources/issues_laws_regulations/act_129_information/energy_efficiency_and_conservation_ee_c_program.aspx>.

12. That the contact person for technical issues related to this Order and the Statewide Evaluator’s Amended Phase II Final Annual Report is Joseph M. Sherrick, Bureau of Technical Utility Services, 717-787-5369 or josherrick@pa.gov. The contact person for legal and process issues related to this Order is Kriss Brown, Law Bureau, 717-787-4518 or kribrown@pa.gov.

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**BY THE COMMISSION**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: August 3, 2017

ORDER ENTERED: August 3, 2017

1. The EDCs subject to the EE&C Program provisions are Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power Company, PPL Electric Utilities Corporation and West Penn Power Company. [↑](#footnote-ref-1)
2. GDS Associates, *et al*. [↑](#footnote-ref-2)
3. The EDCs’ PY7 Final Annual Reports are available at <http://www.puc.pa.gov/filing_resources/issues_laws_regulations/act_129_information/electric_distribution_company_act_129_reporting_requirements.aspx>. [↑](#footnote-ref-3)
4. Because the Commission did not have information on the cost-effectiveness of the EDC’s Phase I demand response programs at the time of the Phase II Implementation Order, the Commission do not have the information needed to definitively determine if the Phase I or another peak demand reduction program design was cost-effective, at that time. Accordingly, the Commission did not set peak demand reduction targets for the Phase II EE&C program period. *See* *Phase II Implementation Order* at 32‑45. [↑](#footnote-ref-4)
5. *See* *Phase II Implementation Order* at 24‑26. [↑](#footnote-ref-5)
6. *See* *Phase II Implementation Order* at 45‑51. [↑](#footnote-ref-6)
7. *See* *Phase II Implementation Order* at 53‑58. [↑](#footnote-ref-7)
8. *See* *Phase II Implementation Order* at 11‑43. [↑](#footnote-ref-8)
9. *See* *Phase II Implementation Order* at 78. [↑](#footnote-ref-9)
10. *See Energy Consumption Reduction Targets* Order, at Docket No. M-2012-2289411, (*Phase II Targets Order*), at 24, entered August 2, 2012. [↑](#footnote-ref-10)
11. Hereafter referred to as “TRM-verified savings.” [↑](#footnote-ref-11)
12. *See* *Final Annual Report to the Pennsylvania Public Utility Commission: For the period June 1, 2015 to May 31, 2016*, at Docket No. M-2012-2334399, (Duquesne PY7 Annual Report), at 1, prepared by Navigant Consulting, Inc. for Duquesne Light Company, filed November 16, 2016. [↑](#footnote-ref-12)
13. *See* Table 2-3: Phase II Compliance Summary by EDC of the SWE Final Report. [↑](#footnote-ref-13)
14. Duquesne filed its Petition under Docket Nos. M-2012-2289411 and M-2012-2334399. [↑](#footnote-ref-14)
15. *See* Duquesne Petition at 5. [↑](#footnote-ref-15)
16. *See* Table 2-3: Phase II Compliance Summary by EDC of the SWE Amended Phase II Final Annual Report. [↑](#footnote-ref-16)
17. *See Phase II Targets Order* at 24. [↑](#footnote-ref-17)
18. *See* *Final Annual Report to the Pennsylvania Public Utility Commission: For the period June 1, 2015 to May 31, 2016*, at Docket No. M-2012-2334387, (Met-Ed PY7 Annual Report), at 1, prepared by ADM Associates, TeraTech MA, and Met-Ed, filed November 15, 2016. [↑](#footnote-ref-18)
19. *See* Table 2-3: Phase II Compliance Summary by EDC of the SWE Final Report. [↑](#footnote-ref-19)
20. *See Phase II Targets Order* at 24. [↑](#footnote-ref-20)
21. *See Final Annual Report to the Pennsylvania Public Utility Commission: For the period June 1, 2015 to May 31, 2016*, at Docket No. M-2012-2333992, (PECO PY7 Annual Report), at 1, prepared by Navigant Consulting, Inc. for PECO Energy Company, filed November 15, 2016. [↑](#footnote-ref-21)
22. *See* Table 2-3: Phase II Compliance Summary by EDC of the SWE Final Report. [↑](#footnote-ref-22)
23. *See Phase II Targets Order* at 24. [↑](#footnote-ref-23)
24. *See Annual Report to the Pennsylvania Public Utility Commission: For the period June 1, 2015 to May 31, 2016,* at Docket No. M-2012-2334392, (Penelec PY7 Final Annual Report), at 1, prepared by ADM Associates, TeraTech MA, and Penelec, filed November 15, 2016. [↑](#footnote-ref-24)
25. *See* Table 2-3: Phase II Compliance Summary by EDC of the SWE Final Report. [↑](#footnote-ref-25)
26. *See Phase II Targets Order* at 24. [↑](#footnote-ref-26)
27. *See Annual Report to the Pennsylvania Public Utility Commission: For the period June 1, 2015 to May 31, 2016,* at Docket No. M-2012-2334395, (Penn Power PY7 Final Annual Report), at 1, prepared by ADM Associates, TeraTech MA, and Penn Power, filed November 15, 2016. [↑](#footnote-ref-27)
28. *See* Table 2-3: Phase II Compliance Summary by EDC of the SWE Final Report. [↑](#footnote-ref-28)
29. *See Phase II Targets Order* at 24. [↑](#footnote-ref-29)
30. *See Annual Report to the Pennsylvania Public Utility Commission: For the period June 1, 2015 to May 31, 2016,* at Docket No. M-2012-2334388, (PPL PY7 Final Annual Report), at 5, prepared by Cadmus Group, Inc., filed November 15, 2016. [↑](#footnote-ref-30)
31. *See* Table 2-3: Phase II Compliance Summary by EDC of the SWE Final Report. [↑](#footnote-ref-31)
32. *See Phase II Targets Order* at 24. [↑](#footnote-ref-32)
33. *See Annual Report to the Pennsylvania Public Utility Commission: For the period June 1, 2015 to May 31, 2016,* at Docket No. M-2012-2334398, (West Penn PY7 Final Annual Report), at 1, prepared by ADM Associates, TeraTech MA, and West Penn, filed November 15, 2016. [↑](#footnote-ref-33)
34. *See* Table 2-3: Phase II Compliance Summary by EDC of the SWE Final Report. [↑](#footnote-ref-34)
35. *See* *Phase II Implementation Order* at 45. [↑](#footnote-ref-35)
36. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-36)
37. *See* Duquesne PY7 Final Annual Report at 5. [↑](#footnote-ref-37)
38. *See* Table 2-5: GNI Carve-Out Goal Performance, Summary by EDC, of the SWE Final Report. [↑](#footnote-ref-38)
39. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-39)
40. *See* Met-Ed PY7 Final Annual Report at 4. [↑](#footnote-ref-40)
41. *See* Table 2-5: GNI Carve-Out Goal Performance, Summary by EDC, of the SWE Final Report. [↑](#footnote-ref-41)
42. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-42)
43. *See* PECO PY7 Final Annual Report at 4. [↑](#footnote-ref-43)
44. *See* Table 2-5: GNI Carve-Out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-44)
45. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-45)
46. *See* Penelec PY7 Final Annual Report at 4. [↑](#footnote-ref-46)
47. *See* Table 2-5: GNI Carve-Out Goal Performance, Summary by EDC, of the SWE Final Report. [↑](#footnote-ref-47)
48. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-48)
49. *See* Penn Power PY7 Final Annual Report at 4. [↑](#footnote-ref-49)
50. *See* Table 2-5: GNI Carve-Out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-50)
51. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets, of the SWE Final Report. [↑](#footnote-ref-51)
52. *See* PPL PY7 Final Annual Report at 10. [↑](#footnote-ref-52)
53. *See* Table 2-5: GNI Carve-Out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-53)
54. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-54)
55. *See* West Penn PY7 Final Annual Report at 4. [↑](#footnote-ref-55)
56. *See* Table 2-5: GNI Carve-Out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-56)
57. *See* *Phase II Implementation Order* at 53-58. [↑](#footnote-ref-57)
58. *See Report of the Act 129 Low‑Income Working Group* at Docket No. M‑2009‑2146801, Table 1, at 6, that was adopted by the Commission in an April 27, 2010, Secretarial Letter at the same Docket. [↑](#footnote-ref-58)
59. *See* Duquesne PY7 Final Annual Report at 4. [↑](#footnote-ref-59)
60. *See* Table 2-6: EDC Achievement of Act 129 Low-Income Requirements in PY7 of the SWE Final Report. [↑](#footnote-ref-60)
61. *See Report of the Act 129 Low-Income Working Group* at Docket No. M-2009-2146801. Table 1, at 6, that was adopted by the Commission in an April 27, 2010, Secretarial Letter at the same Docket. [↑](#footnote-ref-61)
62. *See* Met-Ed PY7 Final Annual Report at 4. [↑](#footnote-ref-62)
63. *See* Table 2‑6: EDC Achievement of Act 129 Low‑Income Requirements in PY7 of the SWE Final Report. [↑](#footnote-ref-63)
64. *See* *Report of the Act 129 Low-Income Working Group* at Docket No. M-2009-2146801, Table 1, at 6, that was adopted by the Commission in an April 27, 2010, Secretarial Letter at the same Docket. [↑](#footnote-ref-64)
65. *See* PECO PY7 Final Annual Report at 5. [↑](#footnote-ref-65)
66. *See* Table 2‑6: EDC Achievement of Act 129 Low‑Income Requirements in PY7 of the SWE Final Report. [↑](#footnote-ref-66)
67. *See* *Report of the Act 129 Low-Income Working Group* at Docket No. M-2009-2146801, Table 1, at 6, that was adopted by the Commission in an April 27, 2010, Secretarial Letter at the same Docket. [↑](#footnote-ref-67)
68. *See* Penelec PY7 Final Annual Report at 4. [↑](#footnote-ref-68)
69. *See* Table 2‑6: EDC Achievement of Act 129 Low‑income Requirements in PY7 of the SWE Final Report. [↑](#footnote-ref-69)
70. *See* *Report of the Act 129 Low-Income Working Group* at Docket No. M-2009-2146801, Table 1, at 6, that was adopted by the Commission in an April 27, 2010, Secretarial Letter at the same Docket. [↑](#footnote-ref-70)
71. *See* Penn Power PY7 Final Annual Report at 4. [↑](#footnote-ref-71)
72. *See* Table 2-6: EDC Achievement of Act 129 Low-Income Requirements in PY7 of the SWE Final Report. [↑](#footnote-ref-72)
73. *See* *Report of the Act 129 Low-Income Working Group* at Docket No. M-20090-2146801, Table 1, at 6, that was adopted by the Commission in an April 27, 2010, Secretarial Letter at the same Docket. [↑](#footnote-ref-73)
74. *See* PPL PY7 Final Annual Report at 9. [↑](#footnote-ref-74)
75. *See* Table 2‑6: EDC Achievement of Act 129 Low‑Income Requirements in PY7 of the SWE Final Report. [↑](#footnote-ref-75)
76. *See* *Report of the Act 129 Low-Income Working Group* at Docket No. M-20090-2146801, Table 1, at 6, that was adopted by the Commission in an April 27, 2010, Secretarial Letter at the same Docket. [↑](#footnote-ref-76)
77. *See* West Penn PY7 Final Annual Report at 4. [↑](#footnote-ref-77)
78. *See* Table 2‑6: EDC Achievement of Act 129 Low‑Income Requirements in PY7 of the SWE Final Report. [↑](#footnote-ref-78)
79. *See* *Phase II Implementation Order* at 53-58. [↑](#footnote-ref-79)
80. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-80)
81. *See* Duquesne PY7 Final Annual Report at 4. [↑](#footnote-ref-81)
82. *See* Table 2-4: Low‑Income Carve-Out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-82)
83. Duquesne filed its Petition under Docket Nos. M-2012-2289411 and M-2012-2334399. [↑](#footnote-ref-83)
84. *See* Duquesne Petition at 5. [↑](#footnote-ref-84)
85. *See* Table 2-4: Low‑Income Carve-Out Goal Performance, Summary by EDC of the SWE Amended Phase II Final Annual Report. [↑](#footnote-ref-85)
86. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-86)
87. *See* Met-Ed PY7 Final Annual Report at 3. [↑](#footnote-ref-87)
88. *See* Table 2-4: Low‑Income Carve-Out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-88)
89. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-89)
90. *See* PECO PY7 Final Annual Report at 5. [↑](#footnote-ref-90)
91. *See* Table 2-4: Low‑Income Carve-Out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-91)
92. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-92)
93. *See* Penelec PY7 Final Annual Report at 3. [↑](#footnote-ref-93)
94. *See* Table 2-4: Low‑Income Carve-Out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-94)
95. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-95)
96. *See* Penn Power PY7 Final Annual Report at 3. [↑](#footnote-ref-96)
97. *See* Table 2-4: Low‑Income Carve-Out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-97)
98. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-98)
99. *See* PPL PY7 Final Annual Report at 9. [↑](#footnote-ref-99)
100. *See* Table 2-4: Low‑Income Carve-Out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-100)
101. *See* Table 2-2: Act 129 Phase II Three-Year Low-Income and GNI Energy Efficiency Reduction Targets of the SWE Final Report. [↑](#footnote-ref-101)
102. *See* West Penn PY7 Final Annual Report at 3. [↑](#footnote-ref-102)
103. *See* Table 2-4: Low‑Income Carve-Out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-103)
104. *See Phase II Implementation Order* at 58-60. [↑](#footnote-ref-104)
105. *See Energy Efficiency and Conservation Program* Implementation Order at Docket No. M‑2014‑2424864, (*Phase III Implementation Order*), at 83-86, entered June 19, 2015. [↑](#footnote-ref-105)
106. *See* Duquesne PY7 Final Annual Report at 6. [↑](#footnote-ref-106)
107. *See* Table 2-3: Phase II Compliance Summary by EDC of the SWE Final Report. [↑](#footnote-ref-107)
108. *See* Table 2-4: Low-Income Carve-out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-108)
109. *See* Duquesne PY7 Final Annual Report at 4. [↑](#footnote-ref-109)
110. *See* Duquesne Petition at 5. [↑](#footnote-ref-110)
111. *See* Tables 2-3 and 2-4: Phase II Compliance and Low-Income Carve-out Goal Performance, Summary by EDC of the SWE Amended Phase II Final Annual Report. [↑](#footnote-ref-111)
112. *See* Met-Ed PY7 Final Annual Report at 5. [↑](#footnote-ref-112)
113. *See* Tables 2-3 and 2-4: Phase II Compliance and Low-Income Carve-out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-113)
114. *See* PECO PY7 Final Annual Report at 8. [↑](#footnote-ref-114)
115. *See* Table 2-5: GNI Carve-out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-115)
116. *See* Table 2-4: Low-Income Carve-out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-116)
117. *See* April 6, 2017 Order at 25. [↑](#footnote-ref-117)
118. PECO filed its Petition at Docket Nos. M-2012-2289411 and M-2012-2333992. [↑](#footnote-ref-118)
119. PECO Petition at 1. [↑](#footnote-ref-119)
120. PECO Petition at 6. [↑](#footnote-ref-120)
121. PECO Petition at 7-8. [↑](#footnote-ref-121)
122. PECO Petition at 8-9. [↑](#footnote-ref-122)
123. OCA Answer at 3. [↑](#footnote-ref-123)
124. *See* *Phase II Implementation Order* at 45. [↑](#footnote-ref-124)
125. See *Phase III Implementation Order* at 76. [↑](#footnote-ref-125)
126. *Id*. [↑](#footnote-ref-126)
127. *See* *Phase II Implementation Order* at 53. (The Commission adopted this carve‑out, *see*, Phase II Implementation Order at 55.) [↑](#footnote-ref-127)
128. *See* *Phase III Implementation Order* at 62. (The Commission adopted this carve‑out, *see*, Phase III Implementation Order at 68-70.) [↑](#footnote-ref-128)
129. *See Phase III Implementation Order* at 85. [↑](#footnote-ref-129)
130. *Id*. [↑](#footnote-ref-130)
131. PPL’s Comments to the Phase III Tentative Implementation Order at 64-65. [↑](#footnote-ref-131)
132. *Id*. [↑](#footnote-ref-132)
133. *See* Penelec PY7 Final Annual Report at 5. [↑](#footnote-ref-133)
134. *See* Tables 2-3, 2-4, and 2-5: Phase II Compliance; Low-Income Carve-out Goal Performance, and GNI Carve-out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-134)
135. *See* Penn Power PY7 Final Annual Report at 5. [↑](#footnote-ref-135)
136. *See* Tables 2-3, 2-4, and 2-5: Phase II Compliance; Low-Income Carve-out Goal Performance, and NI Carve-out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-136)
137. *See* PPL PY7 Final Annual Report at 12. [↑](#footnote-ref-137)
138. *See* Table 2-3: Phase II Compliance Summary by EDC of the SWE Final Report. [↑](#footnote-ref-138)
139. *See* Table 2-5: GNI Carve-out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-139)
140. *See* Table 2-4: Low-Income Carve-out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-140)
141. *See* April 6, 2017 Order at 27. [↑](#footnote-ref-141)
142. PPL Petition at 2. [↑](#footnote-ref-142)
143. PPL Petition at 6-7. [↑](#footnote-ref-143)
144. PPL Petition at 7-8. [↑](#footnote-ref-144)
145. PPL Petition at 8-9. [↑](#footnote-ref-145)
146. PPL Petition at 9-11. [↑](#footnote-ref-146)
147. OCA Answer to PPL Petition at 2-3. [↑](#footnote-ref-147)
148. *See* 66 Pa. C.S. § 2806.1(f) (referring to penalties). [↑](#footnote-ref-148)
149. *See* West Penn PY7 Final Annual Report at 5. [↑](#footnote-ref-149)
150. *See* Tables 2-3 and 2-4: Phase II Compliance and Low-Income Carve-out Goal Performance, Summary by EDC of the SWE Final Report. [↑](#footnote-ref-150)