


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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January 4, 2021

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Joint Petition for Consolidation of Proceedings
and Approval of the Phase IV Energy Efficiency
and Conservation Plan of Metropolitan Edison
Company, Pennsylvania Electric Company,
Pennsylvania Power Company, and West Penn
Power Company
Docket Nos. M-2020-3020820
M-2020-3020821
M-2020-3020822
M-2020-3020823

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceedings.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Christy M. Appleby
Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAppleby@paoca.org

Enclosures:

cc: The Honorable Mark A. Hoyer (**email only**)
Certificate of Service

*301717

CERTIFICATE OF SERVICE

Re: Joint Petition for Consolidation of Proceedings : Docket Nos. M-2020-3020820
and Approval of the Phase IV Energy Efficiency : M-2020-3020821
and Conservation Plan of Metropolitan Edison : M-2020-3020822
Company, Pennsylvania Electric Company, : M-2020-3020823
Pennsylvania Power Company, and West Penn :
Power Company :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 4th day of January 2021.

SERVICE BY E-MAIL ONLY

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/s/ Christy M. Appleby
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Dated: January 4, 2021
*301247

Aron J. Beatty
Senior Assistant Consumer Advocate
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Joint Petition for Consolidation of Proceedings	:	Docket Nos. M-2020-3020820
and Approval of the Phase IV Energy Efficiency	:	M-2020-3020821
and Conservation Plan of Metropolitan Edison	:	M-2020-3020822
Company, Pennsylvania Electric Company,	:	M-2020-3020823
Pennsylvania Power Company, and West Penn	:	
Power Company	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. Section 333, and in response to the December 30, 2020 Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. Introduction

On October 15, 2008, Act 129 of 2008 (Act 129 or the Act) was signed into law by Governor Edward G. Rendell. Act 129 made numerous amendments to Chapter 28 of the Public Utility Code and required the seven major electric distribution companies (EDCs) to file energy efficiency and conservation plans (EE&C Plans), which occurred in the summer of 2009. The Phase I Plans expired on May 31, 2013. Phase II of the EE&C Plans began on June 1, 2013 and expired on May 31, 2016. Phase III of the EE&C Plans began on June 1, 2016 and will continue until May 31, 2021. The Commission has now established the requirements and process for Phase IV of the EE&C Plans to operate from June 1, 2021 through May 31, 2026. Energy Efficiency and Conservation Program, Docket No. M-2020-3015228 (June 18, 2020) (Phase IV

Implementation Order). This proceeding concerns the Phase IV Plan filing of the four FirstEnergy operating companies including Met-Ed, Pennsylvania Power Company (Penn Power), Pennsylvania Electric Company (Penelec), and West Penn Power Company (West Penn) (collectively the FirstEnergy Companies).

The Phase IV Implementation Order directed that each EDC meet a consumption reduction target and a demand response target. Phase IV Implementation Order at 8. The Phase IV Implementation Order also established that 5.8% of the consumption reduction target must be met through the low-income customer sector programs. Phase IV Implementation Order at 35-37.

The Total Resource Cost (TRC) test will continue to be used to evaluate each EDC's EE&C Plan. Phase IV Implementation Order at 104, citing 66 Pa. C.S. § 2806.1(a)(3). Act 129 caps annual spending on the Plan at 2% of the EDC's total revenues for the calendar year 2006. 66 Pa. C.S. § 2806.1(g). The Act provides for full and current cost recovery of the Plan costs through an automatic adjustment rider, but it prohibits the recovery of lost revenues by the EDC through the automatic adjustment rider. 66 Pa. C.S. § 2806.1(k). The costs incurred are to be allocated to the classes that directly benefit from the program measures implemented, unless a system wide benefit can be shown.

Met-Ed, Penn Power, Penelec, and West Penn are each required to file a Plan under Act 129 and the Phase IV Implementation Order. Under the timeline set forth in the Phase IV Implementation Order, the FirstEnergy Companies' EE&C Plans must be ruled upon within 120 days of the Companies' filing, or by March 30, 2021.

II. Procedural History

On November 30, 2020, the FirstEnergy Companies filed a Joint Petition for the Met-Ed, Penelec, Penn Power, and West Penn's Energy Efficiency and Conservation Plan (EE&C Plan or

Plan), pursuant to Section 2806.1 of the Public Utility Code and pursuant to the Implementation Order entered by the Commission at Docket No. M-2020-3015228 on June 18, 2020. With respect to residential customers, the FirstEnergy Companies proposed the following three residential customer energy efficiency programs: (1) Energy Efficient Products Program; (2) Energy Efficient Homes Program; and (3) the Low-Income Energy Efficiency Program. Met-Ed, Penelec, Penn Power, and West Penn EE&C Plans at 35-36.

The Plan set forth the five-year costs and proposed energy and demand reduction targets. The five-year cost of Met-Ed's EE&C Phase IV Plan is projected to be \$124,334,470. Met-Ed EE&C Plan at 21. Met-Ed plans to reduce annual energy consumption by 463, 215 MWh and reduce demand by 76 MW by May 31, 2026. Met-Ed EE&C Plan at 21. The five-year cost of Penelec's EE&C Phase IV Plan is projected to be \$114,873,710. Penelec EE&C Plan at 21. Penelec plans to reduce annual energy consumption by 437,676 MWh and reduce demand by 80 MW by May 31, 2026. Penelec EE&C Plan at 21. The five-year cost of Penn Power's EE&C Phase IV Plan is projected to be \$33,298,945. Penn Power EE&C Plan at 21. Penn Power plans to reduce annual energy consumption by 128, 909 MWh and reduce demand by 20 MW by May 31, 2026. Penn Power EE&C Plan at 21. The five-year cost of West Penn's EE&C Phase IV Plan is projected to be \$117,813,010. West Penn EE&C Plan at 21. West Penn plans to reduce annual energy consumption by 504,951 MWh and reduce demand by 86 MW by May 31, 2026. West Penn EE&C Plan at 21.

The FirstEnergy Companies' filings were assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judge Mark A. Hoyer for investigation. On December 30, 2020, ALJ Hoyer issued a Prehearing Conference Order. On January 5, 2020, the telephonic Prehearing Conference will be held.

On December 21, 2020, the OCA filed Notices of Intervention and Public Statements in each of the respective dockets for the FirstEnergy Companies.

On January 2, 2020, the matter was published in the *Pennsylvania Bulletin*. The OCA will file an Answer/Comments on January 22, 2020 in accordance with the Phase IV Implementation Order and the directive included in the publication of the filing in the *Pennsylvania Bulletin*.

III. Issues and Sub-issues

Based upon a preliminary analysis of the Companies' filing and participation in the stakeholder meetings, the OCA has compiled a list of issues and sub-issues that it anticipates will be included in its investigation of the filings. It is anticipated that other issues may arise and may be pursued during the course of these proceedings.

The following list sets forth the issues at this time that the OCA anticipates it will examine:

(1) Whether the proposed energy conservation plan and the individual program design meets the requirements of Section 2806.1 of the Code and the Commission's Phase IV Implementation Order;

(2) Whether the portfolio of programs proposed is reasonably balanced and whether the programs are distributed across rate classes;

(3) Whether the Plan is reasonable and meets the requirements of Section 2806.1 and the Phase IV Implementation Order for low-income customers;

(4) Whether the design of the proposed demand reduction measures included in the Peak Demand Reduction program are reasonable and appropriately meet the requirements of the Phase IV Implementation Order's identified demand reduction targets;

(5) Whether the Companies have a reasonable plan to nominate a portion of their peak demand savings into PJM's FCM.

(6) Whether the proposed cost recovery mechanisms, including the proposed budgets, are reasonable;

(7) Whether the proposal to extend the cost recovery for its Phase III Plan through the Phase IV rider is reasonable;

(8) Whether the proposed program measures, including the cost-effectiveness of the Plan, are reasonable as measured by the Total Resource Cost (TRC) test;

(9) Whether the proposed measurement and verification and evaluation plan is appropriate and reasonable; and

(10) Whether the frequency of the stakeholder meetings is sufficient.

The OCA reserves the right to raise additional issues as may be necessary.

IV. Witnesses

The OCA intends to present the direct testimony of the following witness in this proceeding. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, comments and answers to interrogatories be mailed directly to the expert witness as well as to counsel for the OCA.

EE&C Plans and Cost Recovery

Geoffrey Crandall
MSB Energy Associates
Suite 162
6907 University Ave.
Middleton, WI 53562-3135
Telephone: (608) 831-1127
Fax: (608) 836-1290
E-mail: Crandall@msbnrg.com

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined if an additional witness or witnesses will be necessary for any portion of its case, all parties of record will be notified.

V. Service on the OCA

The OCA will be represented in this case by Assistant Consumer Advocate Christy M. Appleby and Senior Assistant Consumer Advocate Aron J. Beatty. Two copies of all documents should be served on the OCA as follows:

Christy M. Appleby
Assistant Consumer Advocate
Aron J. Beatty
Senior Assistant Consumer Advocate
Office of Consumer Advocate
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VI. Discovery

In order to effectively investigate and adequately develop a record on these issues in the limited timeframe for this proceeding, the OCA also agrees with the Companies' proposed discovery rule modifications, as set forth below:

1. Answers to written interrogatories shall be served in-hand within five (5) calendar days of service of the interrogatories.
2. Objections to interrogatories shall be communicated orally within two (2) calendar days of service of the interrogatories. Unresolved objections shall be served in writing within three (3) calendar days of service of the interrogatories.
3. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

5. Rulings on such motions shall be issued, if possible, within seven (7) calendar days of the filing of the motions.

6. Requests for admissions will be deemed admitted unless answered within five (5) calendar days or objected to within three (3) calendar days of service of the requests.

7. Any discovery served after 12:00 PM on a Friday will be deemed to have been served on the following business day.

The OCA reiterates that all time periods established in the foregoing discovery schedule should be calculated using calendar days.

VII. Schedule

The OCA can agree to the Companies' proposed procedural schedule:

Intervenor Direct testimony	January 13, 2021
Rebuttal Testimony	January 21, 2021
Evidentiary Hearing	January 22, 2021
Answers due	January 22, 2021
Main Briefs due	January 29, 2021
Revised Plan	February 10, 2021
Certification of the Record	February 11, 2021

Respectfully Submitted,

/s/ Christy M. Appleby
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DATE: January 4, 2021