



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET
HARRISBURG, PENNSYLVANIA 17120

IN REPLY PLEASE
REFER TO OUR FILE
M-2020-3020820
M-2020-3020821
M-2020-3020822
M-2020-3020823

August 11, 2023

Mr. Devin T. Ryan, Esquire
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101

**Re: FirstEnergy Companies (Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company) – Phase IV Energy Efficiency and Conservation Plan Petition for Minor Modification
Docket Nos. M-2020-3020820, M-2020-3020821, M-2020-3020822, M-2020-3020823**

Dear Mr. Ryan:

On July 7, 2023, the Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (FirstEnergy or Companies) filed a *Phase IV Energy Efficiency and Conservation Plan Petition for Minor Modification Docket Nos. M-2020-3020820, M-2020-3020821, M-2020-3020822, M-2020-3020823* (Petition). The Petition seeks approval of minor changes to the programs contained in its Act 129 Phase IV Energy Efficiency and Conservation Plan (EE&C Plan) through the Commission's expedited process set forth in its June 10, 2011, Final Order at Docket No. M-2008-2069887 (Expedited Process Order). For the reasons discussed below, the Bureau of Technical Utility Services (Staff) denies FirstEnergy's Petition.

In the Expedited Process Order, the Commission delegated its authority to review, approve or disapprove minor EE&C Plan changes to Staff, with assistance from staff of the Law Bureau.¹ The Expedited Process Order directs Staff to issue a Secretarial Letter approving, denying, or transferring to the Office of Administrative Law Judge for hearings, some, or all of a petition's proposed minor plan changes. FirstEnergy served the Petition on all parties of record.

An explanation for the change requested in FirstEnergy's Petition is provided below. Comments were due by July 22, 2023. Reply comments were due by August 1, 2023. No comments were filed and no hearings were held.

¹ In the Expedited Process Order, the Commission delegated its authority to staff of the Bureau of Conservation, Economics and Energy Planning, with assistance from staff of the Bureau of Fixed Utility Services and the Law Bureau. See, Expedited Process Order at 22. In a Final Procedural Order entered on August 11, 2011, at Docket No. M-2008-2071852, the Commission transferred the staff and functions of the Bureaus of Fixed Utility Services and Conservation, Economics and Energy Planning to the Bureau of Technical Utility Services. See *Implementation of Act 129 of 2008 Organization of Bureaus and Offices*, Final Procedural Order at 4.

Modify Section 1.6 of the Phase IV Plan, as set forth in the black line EE&C Plan page attached hereto as Appendix A.

In its Petition, FirstEnergy asserts that currently Section 1.6 of its Phase IV Plan states that for the measures offered under the EE&C Plan, the Companies assume that they “retain all Phase IV Plan Program Capacity Rights to support their offered EE resources and to ensure no double counting of EE resources by third parties.” The Companies request Commission approval to modify that provision and, as a result, change the conditions of their EE&C measures that have capacity rights associated with them that can be bid into the PJM Interconnection, LLC (PJM) Forward Capacity Market (FCM). Specifically, the Companies propose modifying Section 1.6 to enable commercial and industrial customers, who have existing contracts with third party demand response service providers that were executed before June 1, 2021 (the start of Phase IV of Act 129), to have the option of retaining the PJM capacity rights associated with EE&C projects. For customers to retain those capacity rights under the proposed change, their project applications must: (a) be submitted to the Companies after the effective date of the Commission’s Order approving this Petition; and (b) provide proof of the relevant contract with a third-party demand response service provider.

The Companies believe that this proposed change will allow customers with such contracts to participate in the Phase IV Plan programs without potentially impairing their existing contractual relationships with their demand response service providers. The Companies state that customers with such contracts may be reluctant to participate in the Phase IV Plan programs because to do so they must relinquish their PJM capacity rights associated with their EE&C measures to receive incentives from the Companies. The Companies further state that if those customers did participate in the Phase IV Plan, they may be concerned about breaching their contracts with the third-party demand response service providers, given that those contracts may require the providers to bid the PJM capacity rights associated with the customers’ EE&C measures.

The Companies assert that by implementing the proposed change, the Companies would increase the potential participants in the Phase IV Plan programs without negatively effecting the Companies’ ability to meet all of their required savings and peak demand reduction targets. The Companies will still retain the PJM capacity rights associated with EE&C measures implemented by customers without such contracts or who choose to decline this option. Additionally, the Companies assert that they have been and will continue to comply with their obligation to bid a portion of the projected peak demand reductions associated with their EE&C measures into the PJM FCM.

Conclusion

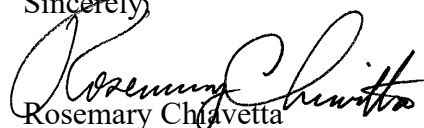
In view of the above, Staff has determined that the *FirstEnergy Companies – Phase IV Energy Efficiency and Conservation Plan Petition for Minor Modification*, filed on July 7, 2023, at Docket Nos. M-2020-3020820, M-2020-3020821, M-2020-3020822, M-2020-3020823, does not satisfy the requirements of the Expedited Process Order. In the Expedited Process Order, the Commission stated that Electric Distribution Companies are required to file sufficient

documentation to support the proposed minor EE&C Plan change. Staff also finds that the minor change to Section 1.6 of the Phase IV Plan proposed in the Petition discriminates against commercial and industrial customers without existing contracts with third-party demand response service providers and would not have the option to retain the PJM capacity rights associated with EE&C projects.

As discussed above, the Companies failed to provide sufficient rationale to support the proposed minor EE&C Plan change and did not demonstrate that the Petition is in the best interest of its customers. Or that it complies with the Commission's *Energy Efficiency and Conservation Program*, Implementation Order at Docket No. M-2020-3015228, entered June 18, 2020. As the Companies failed to meet their burden, the Petition is denied.

Therefore, Staff finds that the July 7, 2023, minor EE&C Plan change Petition submitted by the Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company is denied.

As directed in the Commission's Expedited Process Order, petitions for appeal from this Staff action must be filed within ten (10) days after service of this Secretarial Letter in accordance with 52 Pa. Code § 5.44.²

Sincerely,

Rosemary Chavetta
Secretary

cc: Chairman Brown Dutrieuille
Vice Chairman DeFrank
Commissioner Yanora
Commissioner Zerfuss
Commissioner Coleman
Parties of Record
Paul Diskin, TUS
Darren Gill, TUS
Joseph Sherrick, TUS
Cornelia Schneck, TUS
Kris Brown, LAW
Kim Hafner, OSA

² Expedited Process Order at 19.

APPENDIX A

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1.5. Summary description of the EDC implementation strategy to acquire at least 15% of its consumption reduction target in each program year.

This Phase IV Plan is designed to achieve savings throughout the Phase IV Period. As indicated in Appendix B, PUC Table 2 and PUC Table 3, the Phase IV Plan is designed to achieve at least 15% of the consumption reduction and peak demand reduction targets in each year of the plan. In addition, the design of the Phase IV Plan and programs, along with the inclusion of incentive ranges rather than fixed incentive levels, provides the Companies with the flexibility to react quickly to changing market conditions and program performance to support meeting this requirement.

1.6. Summary description of the programs or measure categories from which the EDC intends to nominate peak demand reductions (PDR) into PJM's Forward Capacity Market (FCM) along with a projected range of MW totals to be bid by year.

The Companies plan to offer a portion of the peak demand reductions from its Phase IV Plan into PJM's Forward Capacity Market from the portfolio of programs and measures that are eligible for PJM. The Companies will base their actual offer values on their experience evaluating programs for PJM capacity market participation, taking into account capacity ownership rights, EM&V results and costs, changing PJM market rules, and other variables to balance the risk and cost of capacity market participation with the anticipated revenue.

The Companies anticipate measures being offered from primarily lighting, HVAC equipment, refrigeration, water heating and custom project programs. See Sections 3.2, 3.3 and 3.4 for the Companies' program and measure offerings from which resources will be considered in determining its offers into PJM's Forward Capacity Market. The Companies provided estimated ranges of the PJM Summer and Winter MW EE potential for each PJM delivery year as shown in Appendix C, Table C-3 based on the MWh savings as projected in the EE&C Plan, with the following assumptions and modifications:

- Identified and removed energy savings of all measures not eligible for PJM including:
 - online audits; ○ appliance recycling;
 - building lighting controls and occupancy sensors; ○ smart thermostats, energy management systems or smart homes; ○ behavioral programs; ○ educational programs;

***Energy Efficiency and Conservation Plan
Overview of Plan***

- Assumed utilities retain all Phase IV Plan program Capacity Rights to support their offered EE resources and to ensure no double counting of EE resources by third parties¹⁰;
- Assigned an initial savings load shape to each PJM eligible EE measure;
- Estimated the potential kW savings values for each measure for the PJM defined Summer and Winter periods using the appropriate load shape curve; and □
Included T & D line losses to adjust retail kW values to wholesale kW values.

The Companies anticipate participation of Phase IV Plan resources installed starting June 1, 2021 in the 2023/24 Base Residual Auction (“BRA”). All EE sell offer values and buy bids shall remain confidential because they are considered market sensitive information; however, they can be provided to Commission Staff via confidential submission and after the applicable auction results are available. The Companies’ considerations and processes to further evaluate the potential values provided in Appendix C, Table C-3 for their participation in the PJM Capacity Auctions also include, but are not limited to, the following:

- Adjustment of the PJM kW estimates for any Point of Sales (POS), Mid-Stream, and Up-Stream Programs. Measures from these programs require additional PJM EM&V and annual persistence studies to ensure offered EE measures are initially installed in the applicable PJM zone and remain in service during each applicable delivery year.
- The Initial PJM EM&V Plan values are based on many assumptions including adoption/installation rates, more generic or composite measure savings curve shapes, initial incentives or rebate levels, line losses and current measure baselines. Adjustments to each must be considered for actual EE offers.
- Adjustments to recognize that EE resources have a limited offer duration of four years with additional installation period limitations and PJM auction parameter changes which will require true-up of market positions.
- Consideration of Capacity Market rule changes like the pending PJM Minimum Offer Price Rules (MOPR) and FERC Order 2222 – DER Aggregation which includes Energy Efficiency Resources.

1.7. Summary description of the EDC implementation strategy to manage EE&C portfolios and engage customers and program allies.

As discussed above, the Companies will contract with CSPs with expertise in specific programs and program implementation services, including program operations and

¹⁰ Commercial and industrial customers, who have existing contracts with third party demand response service providers that were executed before June 1, 2021 (i.e., the start of Phase IV of Act 129 EE&C), have the option of retaining the PJM capacity rights associated with EE&C projects. For customers to retain those capacity rights, their project applications must: (a) be submitted to the Companies after the effective date of the Commission's Order approving the Companies' July 7, 2023 Petition to Modify the EE&C Plan; and (b) provide proof of the relevant contract with the third party demand response service provider.

~~March 1, 2024~~July 7, 2023

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