BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY FOR AN EVIDENTIARY HEARING ON THE ENERGY EFFICIENCY BENCHMARKS ESTABLISHED FOR THE PERIOD JUNE 1, 2013 THROUGH MAY 31, 2016	)	**DOCKET NO. P-2012-2320334**

REPLY BRIEF OF CITIZENS FOR PENNSYLVANIA'S FUTURE

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Now comes Intervenor, Citizens for Pennsylvania's Future ("PennFuture"), by counsel, Heather M. Langeland, and submits the following brief in the above captioned proceeding.

INTRODUCTION

PECO Energy Company ("PECO") has submitted its main brief in this matter urging the Commission to lower its 2.9% consumption reduction target set forth in the *Implementation Order* at Docket Nos. M-2012-2289411 and M-2008-2069887. It bases this request on the premises that (1) there is no allocation of funds in the *Implementation Order* for direct load control ("DLC") programs; (2) PECO anticipates additional costs to fund future demand response ("DR") programs; and (3) the Pennsylvania Public Utility Commission ("Commission") overstated allowable spending. Each of PECO's arguments, as will be discussed below, is fundamentally flawed. Accordingly, PECO's request should be denied and the *Implementation Order* should be upheld in its entirety.

PECO IS PERMITTED TO USE ACT 129 FUNDS FOR DLC PROGRAMS

PECO initially argues for a lower consumption reduction target based on the unfounded assertion that the Commission does not allow for electric distribution companies ("EDCs") to utilize Act 129 funds for DLC programs. It argues that the Commission directs that EDCs must spend the full amount of funding on energy efficiency measures. (PECO Main Brief at 6).

This argument is fundamentally flawed. The Commission's *Implementation Order* specifically states, "EDCs may continue under the Act 129 [Energy Efficiency and Conservation](EE&C) Program, residential demand response curtailment measures, such as direct load control programs, that will be cost effective if continued." *Implementation Order* at 42.

The EE&C Program for Phase II is defined as only containing consumption reduction targets. Therefore, by allowing EDCs to continue DLC programs under the Act 129 EE&C Program, the Commission is permitting EDCs to spend their Phase II Act 129 EE&C budgets on DLC programs. For these reasons, the Phase II Act 129 budget, including any unused Phase I budget, can be used for the DLC program. Importantly, nowhere in the *Implementation Order* does the Commission state that Phase II consumption reduction targets should be reduced to continue DLC programs.

Because PECO can use Act 129 funds for DLC programs, it should not be permitted to reduce its Phase II consumption reduction target to accommodate the DLC programs. PECO has a budget of $256,185,476 for Phase II. This budget can accommodate both the continuation of the DLC program and achieving the 2.9% consumption reduction target.

As noted in the direct testimony of Glenn Reed, submitted on behalf of PennFuture, PECO's consumption reduction target is conservative. This conclusion is based on the combined effects of three factors: (1) the inflation of PECO's Phase I acquisition costs by 61% for Phase II, *Reed Testimony* at Answer to Question 26; (2) the Statewide Evaluator's ("SWE") underestimation of Phase II consumption reduction targets due to an overestimation of acquisition costs, *id.* at Answer to Question 27; and (3) PECO's ability to apply 83,000 megawatt-hours ("MWh") of excess Phase I savings towards its Phase II consumption reduction target. *Cross-Examination of PECO witness Frank Jiruska* at p. 66 lines 16-19.

Given these three factors, and the ability of PECO to utilize Act 129 funding for its DLC program, there is no need for PECO's consumption reduction target to be lowered. Indeed, Mr. Reed testified "PECO will be able to meet its Phase II consumption reduction target of 2.9% and continue its existing [DLC] program in Phase II." *Reed Testimony* at Answer to Question 13. PECO's argument to lower its consumption reduction target is based on the mistaken premise that PECO is unable to use Act 129 funds for its DLC program. Accordingly, the Commission should not lower PECO's Phase II consumption reduction target.

PECO'S ANTICIPATED ADDITIONAL COSTS TO FUND FUTURE DR PROGRAMS ARE COMPLETELY SPECULATIVE

Next, PECO argues that its consumption reduction target should be lowered based on anticipated additional costs to fund future DR programs. (PECO Main Brief at 12) This argument, however, is based on nothing more than speculation. PECO cannot determine its required set-aside for DR programs because the Commission has not yet ruled on the peak demand savings goals for Phase III. Indeed, the Commission has not ruled on whether the goals will be based on the 100 hours of greatest demand or an alternative reduction. Accordingly, PECO's budget in this regard is nothing but speculation.

PECO acknowledges the multiple uncertainties surrounding its future DR programs. In its Main Brief PECO states, "the Commission has not yet authorized EDCs to incur any costs related to future energy efficiency measures, let alone DR programs that will be implemented beyond the Phase II period. Indeed, the Commission is still conducting its Act 129 evaluation of Phase I DR programs." (PECO Main Brief at 13, 14). Because the costs of PECO's future DR programs are unknown, they provide no basis for the Commission to lower PECO's consumption reduction target.

THE COMMISSION DID NOT OVERSTATE ALLOWABLE SPENDING

Finally, PECO argues that its consumption reduction target should be lowered based on the Commission's overstatement of allowable spending. Under 66 Pa. C.S. §2806.1(g), the Commission has discretion to set an EDC's budget. The Commission simply exercised its discretion. The Commission decided that the benefits of Act 129 to ratepayers outweigh the costs, and that funding energy efficiency programs to the maximum extent possible is in the ratepayers' best interests.

The critical fact is that Act 129 programs have passed the Commission's Total Resource Cost ("TRC") test. This indictates that "the program is beneficial to the utility and its ratepayers" and that the benefits outweigh the costs. Energy efficiency is the least cost resource to meet Pennsylvania's electricity demand and creates numerous benefits to electric customers.

Any reduction in PECO's Phase II Act 129 budget is not in the best interests of electric customers. Limiting Act 129 funding would reduce program budgets and participation levels would decrease. As a result, fewer Pennsylvania businesses and residences would be able to participate in energy efficiency programs.

PennFuture will not belabor the arguments with respect to use of 2006 data to determine budgets, and use of amounts collected by EDCs as a billing agent for electric generation suppliers ("EGS") in its definition of "total annual revenue." Use of 2006 data is statutorily mandated. 66 Pa. C.S. §2806.1(g). Moreover, the Commission has already defined "total annual revenue" to include amounts collected as a billing agent. There is no reason for the Commission to reinterpret a term it already has construed. Indeed, to do so would simply create confusion and uncertainty. As such, the Commission acted well within its discretion in determining the amount of allowable spending. PECO has not offered any reason to support a contrary determination.

CONCLUSION

For all the foregoing reasons, PennFuture respectfully requests that PECO's request for reduction of its Phase II consumption reduction target be denied, and that the *Implementation Order* be upheld in its entirety.

Respectfully Submitted,

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO for an	)	
Evidentiary Hearing on the Energy	)	Docket No. P-2012-2320334
Efficiency Benchmarks Established for the	)	
Period of June 1, 2012 through May 31, 2016	)	

CERTIFICATE OF SERVICE

I hereby certify that I have this 30th day of October, 2012 served a true and accurate copy of PennFuture's **REPLY BRIEF OF CITIZENS FOR PENNSYLVANIA'S FUTURE** upon the parties listed below via electronic service, and further certify that a hard copy was deposited in the United State mail, postage prepaid, and addressed to:

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