



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE  
M-2012-2289411

**March 1, 2012**

TO ALL INTERESTED PARTIES:

Re: Act 129 Energy Efficiency and Conservation Program Phase Two  
Docket No. M-2012-2289411

On October 15, 2008, House Bill 2200 was signed into law as Act 129 with an effective date of November 14, 2008. Among other things, Act 129 required Energy Efficiency & Conservation (EE&C) programs for the Commonwealth's largest electric distribution companies (EDCs) and required that the Pennsylvania Public Utility Commission (PUC or Commission) evaluate the costs and benefits of the EE&C programs by November 31, 2013. Act 129 further directs that the Commission must set new incremental consumption and peak demand reductions, if the benefits of the Program and plans exceed the costs.<sup>1</sup> In accordance with these directives, the Commission has begun the process of evaluating the cost-effectiveness of the EE&C Programs and determining whether additional incremental consumption and peak demand reduction targets will be adopted and, if so, what those incremental reduction targets shall be.

The Commission believes that advanced planning will enable a smooth and coordinated transition from the Programs' initial phase to a possible second phase and will also minimize any harmful or disruptive breaks between programs, should the Commission set additional consumption and peak load reductions. At the same time, the Commission is interested in leveraging the knowledge and experience gained to-date to improve any future EE&C Programs, in order to maximize ratepayer benefits.

With this Secretarial Letter, we seek comments on a number of important topics that will be instrumental in designing and implementing any future phase of EE&C Programs. In addition, the Commission will be holding a stakeholder meeting on March 16, 2012, from 9 A.M. until Noon in Hearing Room 1, second floor of the Commonwealth Keystone Building, in Harrisburg, Pennsylvania. This meeting will provide interested parties an opportunity to identify additional issues and concerns regarding the design of any future EE&C programs and to address any questions regarding the topics and issues presented in this Secretarial Letter. Further, the Commission anticipates releasing a market potential study, conducted by the Statewide Evaluator, in the near future to inform the Commission and all interested parties of the energy savings potential remaining in the large EDCs' service territories. Finally, in May, the Commission expects to release a Tentative Implementation Order that will propose, among other things, any future incremental consumption and peak demand reduction targets and guidelines for future EE&C plans, if required.

Below are specific issues and topics for which we seek comments. We welcome comments on other issues and topics not discussed below.

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<sup>1</sup> See 66 Pa.C.S. §§ 2806.1(c) and (d).

## 1. Planning Timeline

The Commission is proposing the following timeline for consideration and comment:

March 1, 2012	<ul style="list-style-type: none"> <li>• Release of Secretarial Letter seeking comments on future EE&amp;C planning issues</li> </ul>
March 16, 2012	<ul style="list-style-type: none"> <li>• Commission stakeholder meeting</li> </ul>
April 17, 2012	<ul style="list-style-type: none"> <li>• Secretarial Letter Comment due date</li> </ul>
May 10, 2012	<ul style="list-style-type: none"> <li>• Tentative Implementation Order on Public Meeting agenda</li> <li>• Release of Statewide Evaluator's Pennsylvania Electricity Baseline Study Results</li> <li>• Release of Statewide Evaluator's Pennsylvania Electricity Market Potential Study Results</li> </ul>
June 25, 2012	<ul style="list-style-type: none"> <li>• Tentative Implementation Order Comment due date</li> </ul>
July 6, 2012	<ul style="list-style-type: none"> <li>• Tentative Implementation Order Reply Comment due date</li> </ul>
August 2, 2012	<ul style="list-style-type: none"> <li>• Final Implementation Order on Public Meeting agenda</li> </ul>
November 1, 2012	<ul style="list-style-type: none"> <li>• If necessary, EDCs file EE&amp;C Plans</li> </ul>
February 28, 2013	<ul style="list-style-type: none"> <li>• If necessary, Commission rules on EE&amp;C Plans</li> </ul>
June 1, 2013	<ul style="list-style-type: none"> <li>• EE&amp;C Programs begin</li> </ul>

## 2. Length of second EE&C Program

For planning purposes, the Commission must determine the number of years that a second EE&C Program should run. Several factors to consider when evaluating the length of an EE&C Program term are the accuracy of forecast data, the evolving energy efficiency marketplace, consumers' tendencies to adapt efficiency measures, changes in Federal legislation and regulations that set minimum efficiency standards, and the administrative costs incurred by all parties in designing, filing, litigating and implementing programs.

In general, a shorter term length enables the use of more accurate economic and energy forecasts that affect a consumer's ability to adopt energy efficiency (EE) measures.<sup>2</sup> The

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<sup>2</sup> For example, uncertainties arise regarding how to measure costs for new lighting equipment and their adoption rates over time, potentially decreasing the accuracy of the associated forecasts. These uncertainties are exacerbated by Federal code and standards changes that impact markets for high-impact EE measures, such as those contained in the Federal Energy and Independence Security Act (EISA), which impacts the availability of less efficient lighting.

Commission, however, must balance the need for accuracy in forecasts with the increased administrative costs associated with implementing EE&C plans of shorter lengths. The more frequently we engage in the EE&C Program design, planning, adoption and implementation process, the greater the associated administrative costs that are ultimately borne by the ratepayers.

Given the above contingencies, the Commission seeks input from interested parties on the optimal length of a possible future EE&C Program. Options include a three-, four- or five-year length.<sup>3</sup>

### **3. Inclusion of a Demand Response Curtailment Program**

The initial phase of EE&C programs included a multi-year EE program with what is essentially a one-year demand response program that will be implemented during the summer of 2012. For any subsequent plans, Act 129 requires the Commission to compare the total costs of each EE&C plan to the total savings in energy and capacity costs to retail customers in the Commonwealth or other costs determined by the Commission. If the Commission determines that the benefits of the plans exceed the costs, the Commission must set additional, incremental requirements for reductions in peak demand. Importantly, Act 129 gives the Commission latitude to set future reductions in peak demand for either the 100 hours of greatest demand or an alternative reduction that is approved by the Commission.<sup>4</sup>

Since Act 129 requires the Commission to conduct a cost-benefit analysis before establishing any additional peak demand reduction targets, the Commission has contracted with the Statewide Evaluator to conduct a study of the current peak demand program and to provide recommendations on whether the current or another future peak demand reduction program can be implemented cost-effectively. Because the Commission does not anticipate receiving this study until after the summer of 2012, the Commission is considering contingency plans for the inclusion or exclusion of a demand response program component in any next EE&C program depending on the outcome of the Statewide Evaluator study and the Commission's subsequent evaluation of its recommendations.

The contingencies that we seek input on pertain to the structure of future EE&C program budgets and the possible length of a second EE&C program, if required. If it is determined that a demand response program will be included in the next round of EE&C plans, an appropriate portion of each plan budget will need to be dedicated to implementing such a program. Further, if it is determined that a demand response program will be included in the next round EE&C plans, any required peak demand reductions must be met by May 31, 2017.

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<sup>3</sup> Act 129 requires the Commission to evaluate the costs and benefits of the EE&C Program at least every five years. See 66 Pa.C.S. § 2806.1(c)(3).

<sup>4</sup> See 66 Pa.C.S. § 2806.1(d)(2).

For discussion purposes, we have tentatively identified a number of options for dealing with these contingencies. One option is to establish a three-year EE&C Program with only consumption reduction budgets and targets through May 31, 2016, and await the receipt of the Statewide Evaluator's demand response study before deciding whether to include a demand response curtailment program in a potential third EE&C Program. Under this scenario, EDCs would need to meet prescribed peak demand reductions within the first year of a third EE&C program, if required.

Another option is to set multi-year demand response reduction targets for the duration of the second EE&C program, just as Phase One had a short-term consumption and a long-term consumption target.

In the event the Commission determines that there is not a cost-effective demand response curtailment program design, there would likely be no peak demand reduction program in either of these two scenarios.

A third option to deal with the demand response program contingency is to require EDCs to set aside a portion of their next round of EE&C Plan budgets to fund demand response programs in the event the Commission determines that there can be a cost-effective demand response program for the next round of plans. This option would allow for the next EE&C Program to run for 4 or 5 years, with any Commission-required peak demand reductions being met by May 31, 2017.

In the event that the Commission cannot identify a cost-effective demand response program for any subsequent EE&C Plan, the Commission could consider allowing EDCs to utilize all of its EE&C Plan funding for consumption reduction programs.

In addition to commenting on these options, the Commission seeks input on parties' positions regarding the inclusion of a demand response program in future EE&C plans. Specifically, assuming that the Statewide Evaluator's report indicates that the current demand response programs (based on a reduction in peak demand for the 100 hours of greatest demand) are not cost effective, should a demand response program be included in the next round of plans, if required? If so, how should these demand response programs be structured to be cost-effective?

#### **4. Aligning EDC Targets and Funding Using Dollars per MWh of Expected Reductions**

Act 129 restricts the total cost of any EDC plan to no more than 2% of that EDC's 2006 total annual revenue.<sup>5</sup> In addition, for the initial round of EE&C Plans, Act 129 set uniform percentage reduction targets to be achieved under that 2% revenue cap. Because of differences between the EDCs' 2006 revenues, the amount of funding available for each EDC EE&C plan varies, with some EDCs having significantly more dollars per megawatt hour (MWh) of expected reductions available than the others. Should the Commission address this imbalance in the next round of EE&C plans, if required? If so,

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<sup>5</sup> 66 Pa.C.S. §2806.1(g).

should this issue be addressed by reducing plan funding for those EDCs with larger budgets or by setting reduction targets among the EDCs based on an equal dollars per MWh of expected reductions?

The Commission has preliminarily identified two ways that EDC reduction targets could be more closely aligned with available funding. One option would be to vary each EDC's reduction targets to be consistent with the amount of funding available under each EDC's 2% revenue cap. For example, an EDC with more funding would have a higher consumption reduction target than an EDC with less available funding. Under this scenario, both targets and funding would be aligned by equalizing dollars per MWh of reduction.

Another option would be to set uniform percentage reduction targets across EDCs and vary EDC funding under the 2% revenue cap. This scenario could be implemented by setting the minimum target level for all EDCs based on the EDC with the least amount of funding available per MWh of reduction. For example, assume that the next EE&C plan target for the EDC with the lowest available funding is a 2% EE reduction. Under this scenario, the remaining EDCs' budgets would be reduced so that all the EDCs would have that same 2% reduction target and the same dollars per MWh funding. This scenario would result in uniform reduction target percentages and varied percent-of-annual-revenue budgets for all the EDCs, but with less total EE&C Program funding in the next round of plans, if required.

##### **5. Inclusion of a Reduction Target Carve-Out for the Government, Educational and Non-Profit Sector**

In Phase One, Act 129 required each EE&C Plan to obtain at least 10% of the required reductions in consumption from units of Federal, State and local government, including municipalities, school districts, institutions of higher education and non-profit entities.<sup>6</sup> Based on the EDCs' performance reports for Phase One, EDCs have generally met this requirement thus far. The Commission anticipates that the Statewide Evaluator's Market Potential Study will shed light on the amount of energy use attributable to this sector and the potential for future reductions from this sector.

The Commission has tentatively identified three alternatives for structuring a carve-out for the government, educational and non-profit sector, if continued in future EE&C plans. First, the carve-out could be structured as a percentage of the overall program savings, as it was for Phase One. The actual percentage of savings could be 10% as in Phase One or perhaps less than or greater than 10% depending on the Market Potential Study results, other relevant information and/or stakeholder input.

A second option would involve setting an EE&C Plan budget carve-out that would require a minimum amount to be spent on measures purchased or installed by this sector. Again, the Statewide Evaluator's Market Potential Study along with other data and

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<sup>6</sup> See 66 Pa.C.S. § 2806.1(b)(1)(i)(B).

stakeholder input would identify this sector's relative energy use and potential for reductions that could be used to set the specific budget carve-outs for this sector.

A third option would set the sector carve-out, whether it be budgetary or an energy savings, based on the sector's potential in each EDC's service territory. This option may result in different sector budget or energy savings carve-outs for each EDC.

The Commission also requests that interested parties comment on developing EDC on-bill financing programs to assist this sector, or requiring EDCs to partner with lending institutions to provide low-cost financing for these projects.

At this time, the Commission seeks input on whether a 10% (or some other percentage) carve-out for this sector should continue in any future EE&C plan, if required. Absent a specific carve-out, this sector would likely be included within EE&C plan offerings to commercial and industrial customers.

## **6. Inclusion of a Low-Income Sector Carve-Out**

In Phase One, Act 129 required each EE&C plan to include specific EE measures for households at or below 150% of the Federal Poverty Income Guidelines in proportion to that sector's share of the total energy usage in the EDC's service territory.<sup>7</sup> We are seeking comments as to whether this requirement should continue in the next EE&C Plan, if required.

In addition, assuming this carve-out will continue, we are seeking comments on whether we should expand the requirement to include low-income households at or below 250% of the Federal Poverty Income Guidelines. Considerations for potential expansion to 250% include overlapping eligibility with the existing Low-Income Usage Reduction Programs implemented under Chapter 28 of Title 52 of the Pennsylvania Code and the potential to make EE measures more affordable to households in the 151-250% range of the poverty guidelines.

A second option would be to structure the low-income carve-out as a percentage of the overall EE&C Plan budget. This budgetary carve-out could be based on an estimate of the percentage of energy this sector consumes in the EDC's service territory or some other indicator.

A third option for structuring the low-income carve-out would be to designate a percentage of energy savings to be achieved from this sector.

At this time the Commission seeks comments on whether it should continue to include a low-income element in future EE&C Plans, if required. If so, what form or requirements should the low-income element entail?

## **7. Transition Issues**

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<sup>7</sup> See 66 Pa.C.S. § 2806.1(b)(1)(i)(G).

In addition to the topics identified above, the Commission seeks comments on a number of anticipated issues regarding the transition from Phase One to a second round of EE&C plans, if required. The first transition issue is whether the Commission should give consideration in the potential next phase for an EDC that exceeds its Phase One EE targets. Specifically assuming that the Commission will require a second round of EE&C Plans, should an EDC that achieves more than its 3% reduction in its Phase One EE program receive credit toward achieving its incremental second target in the amount it exceeds its Phase One target? If so, should the EDC's next budget be reduced to account for the portion of the second target that it achieved in Phase One?

A second and related transition issue is whether an EDC that has met its Phase One EE target but has not spent all of its Phase One budget should continue its Phase One program implementation until its second EE&C Plan begins or until the Phase One funds are exhausted? Alternatively, should an EDC that has met its Phase One EE target but has not spent all of its Phase One budget be required to immediately reconcile the remainder of its Phase One budget to ratepayers? Why or why not?

A third transition issue for consideration is the way in which the Commission operationalizes the Act 129 requirement that it adopt additional required incremental reductions in consumption. In Phase One, the EE reductions in consumption of 1% and 3% were to be measured against the EDC's expected load as forecasted by the Commission for June 1, 2009, through May 31, 2010. One way to operationalize "additional required incremental reductions" is to maintain the same baseline 2009-2010 energy year forecast and have the next percentage reduction targets be added to, and cumulative, with the Phase One percentage reduction targets. For example, assuming that the Commission concludes that a second round of EE&C plans are necessary, if an EDC were required to have an additional required incremental reduction of 2% , the new target would be expressed as a total, cumulative, end-of-second plan target of 5% of the previously determined 2009-2010 energy year forecast. The 5% target would include the 3% reduction target from Phase One as well as the 2% increment for the second EE&C plan.

At this time, the Commission seeks comments on these and other potential issues involving the transition from the current EE&C Plans to future EE&C Plans, if required.

## **8. Other Act 129 Program Design Issues**

The Commission seeks comments on any adjustments to the reconciliation requirements of EE&C Plan Phase II programs, if the Commission decides to proceed with further programs. Under the current program, program costs and revenues are reconciled without any interest collected or charged. Comments on whether these plans should continue to reconcile costs without interest or to amend reconciliation procedures to charge or collect interest are requested. If interest is to be included, please offer comments on what interest rate should be used and what adjustments to these rates are appropriate for over and under recoveries. The Commission also solicits comments on

any modifications to the reconciliation procedures of Act 129 plans. Currently revenues are being reconciled to actual costs for some utilities, while other EDCs reconcile to budgeted costs. If interest is charged or credited, how should these reconciliation procedures be modified?

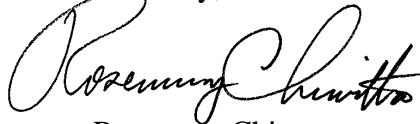
The Commission directs that this Secretarial Letter shall be published on the Commission's website and be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Commission's Bureau of Investigation and Enforcement and the large electric distribution companies covered under the Act 129 EE&C Program.

The Commission further directs that the Secretary shall deposit a notice of this Secretarial Letter with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

The Commission directs that all interested parties shall file an original and three (3) copies of written Comments by April 17, 2012, referencing Docket Number M-2012-2289411 to the Pennsylvania Public Utility Commission, Attention: Secretary, P.O. Box 3265, Harrisburg, PA 17105-3265.

If you have any questions regarding this Secretarial Letter, please contact Darren Gill at 717-783-5244 or [dgill@pa.gov](mailto:dgill@pa.gov).

Sincerely,



Rosemary Chiavetta  
Secretary

cc: Chairman's Office  
Vice Chairman's Office  
Commissioners' Office  
Jan Freeman, Executive Director  
Karen Oill Moury, Director of Regulatory Operations  
Bohdan R. Pankiw, Chief Counsel  
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Statement of Chairman Robert F. Powelson