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November 3, 2008

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA HAND DELIVERY

**RE: Energy Efficiency and Conservation Program and EDC Plans; Docket No.
M-2008-2069887**

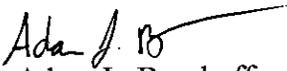
Dear Secretary McNulty:

Please find enclosed the original and fifteen (15) copies and a diskette in Word Format of the Comments of Industrial Energy Consumers of Pennsylvania ("IECPA"), Duquesne Industrial Intervenors ("DII"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Penn Power Users Group ("PPUG"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customer Alliance ("PPLICA") and West Penn Power Industrial Intervenors ("WPPII") to the Secretarial Letter issued on October 21, 2008, in the above-referenced proceeding.¹

Please date stamp the extra copy of this transmittal letter and kindly return it for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Adam L. Benshoff

Counsel to Industrial Energy Users Group of Pennsylvania, Duquesne Industrial Intervenors, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance and West Penn Power Industrial Intervenors

¹ The Commission issued a subsequent Secretarial Letter on October 28, 2008, extending the due date for comments to November 3, 2008.

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Enclosures

- c: Bureau of Fixed Utility Services (via Hand Delivery w/ diskette in Word Format)
- Bureau of Conservation, Economics, and Energy Planning (via Hand Delivery w/ diskette in Word Format)
- Law Bureau (via Hand Delivery w/ diskette in Word Format)
- Chairman Cawley (via Hand Delivery)
- Vice Chairman Christy (via Hand Delivery)
- Commissioner Powelson (via Hand Delivery)
- Commissioner Pizzigrilli (via Hand Delivery)
- Commissioner Gardner (via Hand Delivery)
- Karen Oill Moury, Director of Operations (via Hand Delivery)
- Robert F. Wilson, Director, Bureau of Fixed Utility Services (via Hand Delivery)
- Paul Diskin, Manager, Bureau of Fixed Utility Services (via Hand Delivery)
- Mitchell A. Miller, Director, Bureau of Consumer Services (via Hand Delivery)
- Bohdan Pankiw, Chief Counsel (via Hand Delivery)
- Louise Fink Smith, Assistant Counsel (via Hand Delivery)
- Wayne L. Williams, Director CEEP (via Hand Delivery)
- Cal Birge, CEEP (via Hand Delivery)
- June Perry, Director Legislative Affairs (via Hand Delivery)
- Tom Charles, Manager, Office of Communications (via Hand Delivery)
- Chief Administrative Law Judge, Veronica A. Smith (via Hand Delivery)
- Administrative Law Judge, David Salapa (via Hand Delivery)
- Cheryl Walker Davis, Director, Office of Special Assistants (via Hand Delivery)
- Parties Listed on Service List of Docket No. M-00061984 (via E-mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Energy Efficiency and Conservation Program
and EDC Plans**

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Docket No. M-2008-2069887

**COMMENTS OF INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA,
DUQUESNE INDUSTRIAL INTERVENORS, MET-ED INDUSTRIAL USERS GROUP,
PENELEC INDUSTRIAL CUSTOMER ALLIANCE, PENN POWER USERS GROUP,
PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP, PP&L INDUSTRIAL
CUSTOMER ALLIANCE, AND WEST PENN POWER INDUSTRIAL INTERVENORS**

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Customer Alliance, Penn Power Users Group,
Philadelphia Area Industrial Energy Users Group,
PP&L Industrial Customer Alliance, and West Penn
Power Industrial Intervenors

Dated: November 3, 2008

I. INTRODUCTION

On October 15, 2008, Governor Rendell signed into law House Bill 2200, or Act 129 of 2008 ("Act"). Among other things, the Act expands the Pennsylvania Public Utility Commission's ("PUC" or "Commission") oversight responsibilities and sets forth new requirements on electric distribution companies ("EDCs") for energy conservation, default service procurements, and the expansion of alternative energy sources.

On October 21, 2008, the Commission issued a Secretarial Letter seeking public comment on the initial phase of implementation, which includes aspects of the energy efficiency and conservation program required under 2806.1(a)(1)-(11).¹ Specifically, the Commission seeks comment on: (1) procedural, technical, interpretive, and implementation issues; (2) measurement of EDC compliance; and (3) the level of detail required for providing adequate direction to EDCs. *See* October 21, 2008 Secretarial Letter, p.1.

Industrial Energy Consumers of Pennsylvania ("IECPA") is an association of energy-intensive industrial companies operating facilities across Pennsylvania. IECPA's members annually consume in excess of 25% of the industrial electricity in Pennsylvania and employ approximately 75,000 workers at nearly 120 facilities across the Commonwealth. Also sponsoring these Comments are coalitions of industrial customers receiving service from most of the Commonwealth's electric distribution companies: Duquesne Industrial Intervenors ("DII"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Penn Power Users Group ("PPUG"), Philadelphia Area Industrial Energy Users Group

¹ The Commission issued a subsequent Secretarial Letter on October 28, 2008, extending the due date for comments to November 3, 2008.

("PAIEUG"), PP&L Industrial Customer Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrial Customers").

Because the Industrial Customers use substantial volumes of electricity in their manufacturing and operational processes, electric costs represent a sizeable component of overall operating costs, and therefore energy efficiency and conservation programs are important aspects of their energy management portfolios. In light of this direct and substantial impact, the Industrial Customers submit these brief Comments in order to highlight areas of concern to large commercial and industrial customers with respect to the implementation of EDC run energy conservation and energy efficiency programs. The Industrial Customers look forward to working with the Commission and the other stakeholders to develop the procedures and requirements for the plans.

II. COMMENTS

Given the preliminary stage of the development of the implementation procedures, the Industrial Customers seek to highlight general areas of concern for the Commission as it commences the process of establishing energy efficiency and conservation program guidelines. The Industrial Customers look forward to seeing the concerns raised by the various stakeholders and will have more detailed comments upon review of the Commission Staff's anticipated proposal.

- A. **Consistent With The Mandates Under Sections 2801.6(A)(5) and (11), The Commission's Regulations Should Seek to Ensure that Energy Efficiency and Energy Conservation Programs Are Available "Equitably To All Classes of Customers" and That Costs Are Appropriately Recovered on a Class-by-Class Basis.**

Consistent with the mandate of the Act, it is important that the programs developed through this process, and eventually approved by the Commission, are offered "equitably to *all*

classes of customers." 66 Pa. C.S. § 2801.6(A)(5) (*emphasis added*). The Industrial Customers have long recognized the importance of energy efficiency and conservation, and many have already incorporated energy efficiency and conservation initiatives into their overall cost containment strategies. That said, consistent with the statutory directive, it is important for the Commission to ensure that all Pennsylvania customers are provided an equitable opportunity to participate in the forthcoming programs.

Because the greatest benefits can be achieved only through voluntary, appropriately designed programs, it is imperative that any Commission guidelines require the EDCs to appropriately tailor the programs to each of the customer classes. It will be important for the programs, as well as the metrics and tests used to evaluate those programs, to be class specific. The Commission should carefully review the various proposals to ensure that the test and evaluations are consistent with the statutory directives.

In addition, given the need for such program diversity, it is essential that the Commission ensure that costs are appropriately tracked and recovered on a customer class basis. *See* 66 Pa. C.S. § 2801.6(A)(11). Specifically, the Act charges the Commission with ensuring that any measures implemented "are financed by the same customer class that will receive the *direct energy and conservation benefits*." *Id.* (*emphasis added*). In other words, before any costs are passed through to a class of customers, the Commission should have identified the direct benefits on a class-by-class basis. Any contrary result would potentially result in inappropriate inter-class subsidization and be contrary to the statutory directive.

B. When Possible, The Commission Should Try to Maximize The Use of Available Funding Before Collecting Costs From Customers.

In July 2008, Governor Rendell signed into law Special Session House Bill 1 ("SSB 1"), or the Alternative Energy Investment Act, which included approximately \$650 million in

subsidies for renewable and energy efficiency projects. Unless the Commission or the legislature takes necessary and prudent actions to extend the electricity rate caps, the new energy efficiency and conservation programs will be introduced at a time when electricity prices are anticipated to significantly escalate. As a result, it is imperative that the Commission seek to maximize the use of available funding from State and Federal sources, wherever possible, before foisting additional costs onto any customer class for energy efficiency and conservation programs.

C. Industrial Customers Would Highly Recommend That The Commission Adopt an Alternative Acronym for Conservation Service Provider Than "CSP."

Although not in response to a specific request, the Industrial Customers wish to alert the Commission of one practical issue that may lead to customer confusion. Specifically, the Commission preliminarily adopted the acronym of "CSP" for Conservation Service Provider. Large customers in Pennsylvania have widely come to recognize the acronym "CSP" as signifying a Curtailment Service Provider that offers customers the opportunity to participate in the PJM Interconnection, L.L.C.'s ("PJM") load response programs. Because PJM has been using "CSP" for a number of years, the Commission's adoption of the same acronym for the Conservation Service Provider may cause customer confusion. The Industrial Customers recognize that the Act has in fact established the term "Conservation Service Provider," but given the early stages of the Commission's implementation of the Act, the Industrial Customers highly recommend the use of an alternative acronym to avoid any unnecessary customer confusion.

III. CONCLUSION

WHEREFORE, Industrial Energy Consumers of Pennsylvania, Duquesne Industrial Intervenors, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, the foregoing Comments.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By Adam J. B.

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