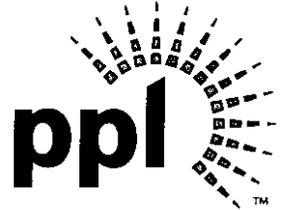


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**HAND DELIVERED**

November 3, 2008

James J. McNulty, Esquire  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, Pennsylvania 17120

RECEIVED  
2008 NOV -3 PM 4:07  
PA PUC  
SECRETARY'S BUREAU

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

Dear Mr. McNulty:

Enclosed for filing on behalf of PPL Electric Utilities Corporation ("PPL Electric") are an original and eight (8) copies of PPL Electric's Comments in the above-captioned proceeding.

These comments are being filed pursuant to the Public Utility Commission's ("Commission") letter dated October 21, 2008. Pursuant to the Commission's letter, PPL Electric also is enclosing an electronic version of its comments on disc, and has provided courtesy hard and electronic copies to the Commission's Bureau of Fixed Utility Services, Bureau of Conservation, Economics, and Energy Planning, and Law Bureau. In addition, PPL Electric has served copies of its comments upon the statutory parties.

If you have any questions regarding the enclosed comments, please call.

Very truly yours,

Paul E. Russell

Enclosures

cc:

Karen Oil Moury  
Robert F. Wilson  
Paul T. Diskin  
Mitchell A. Miller  
Bohdan R. Pankiw  
Robert F. Young  
Louise Fink Smith  
Wayne L. Williams  
Calvin Birge  
June Perry  
Tom Charles  
Veronica A. Smith  
David A. Salapa  
Cheryl Walker Davis  
Irwin A. Popowsky, Esquire  
William R. Lloyd, Esquire  
J. Edward Simms, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Energy Efficiency and Conservation :  
Program and EDC Plans : Docket No. M-2008-2069887  
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**Comments of PPL Electric Utilities Corporation**

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**RECEIVED**  
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**SECRETARY'S BUREAU**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

**I. Introduction**

On October 15, 2008, Governor Rendell signed HB 2200 into law as Act 129 of 2008 ("Act 129" or the "Act") with an effective date of November 14, 2008. The Act expands the oversight responsibilities of the Public Utility Commission ("PUC" or the "Commission") and imposes new requirements on Electric Distribution Companies ("EDCs") with the overall goal of reducing energy consumption and demand, enhancing procurement of generation supply for default service, and expanding alternative energy sources. In particular, the Act adds several new sections to and amends several existing sections of the Public Utility Code. The Act contains numerous time frames and deadlines, the earliest of which occurs in January 2009.

By Secretarial Letter dated October 20, 2008, the Commission has indicated that it intends to implement the Act in phases. To initiate the first phase, the Commission is soliciting comments, due November 3, 2008, on each of the individual aspects of the energy efficiency and conservation program that it

is required to adopt under Section 2806.1(a)(1)-(11) of the Act. The Secretarial letter also “seeks stakeholder input on likely procedural, technical, interpretive, and implementation issues; measurement of EDC compliance; and the level of detail required for providing adequate direction to EDCs in regard to their plans.”

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) is an EDC serving 1.4 million customers in central eastern Pennsylvania. PPL Electric was an active participant in the development of Act 129, and appreciates the opportunity to provide comments on implementation of the Act. PPL Electric looks forward to continuing to work with the Commission and all interested stakeholders to address issues associated with implementation of the Act. For the sake of efficiency, PPL Electric has divided its comments into two areas. First are comments on Sections 2806.1(a)(1) through 2806.1(a)(11). Second are comments on the other matters listed in paragraph 3 of the Secretarial Letter.

## **II. Comments on Sections 2806.1(a)(1)-(11)**

Section 2806.1(a) directs the Commission to adopt, by January 15, 2009, an energy efficiency and conservation program to require EDCs to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within the service territory of each EDC in this Commonwealth. The Act identifies eleven items that must be included in the program, and the Commission requests comments on these eleven items. The Company’s comments, below, are provided under headings that coincide with the numbered sections of Section 2806.1(a).

### **(1) Procedures for the approval of plans submitted under Subsection (b).**

- Approvals need to be timely otherwise the ability of EDCs to implement programs that assist customers’ conservation efforts and achieve targeted reductions may be compromised. The first such reduction target is a 1% reduction in retail consumption to be achieved over the 12-month period June 1, 2010 through May 31, 2011. Section 2806.1(c)(1). Section 2806.1(b)(1)(i) requires EDCs to file their plans with the Commission for

approval by July 1, 2009. Section 2806.1(e) describes a plan approval process that requires the Commission to conduct a public hearing on each plan and to provide approval of plans that have no deficiencies within 120 days of their submission. Assuming submissions on July 1, 2009 and a 120-day review, EDCs could not begin to act on their plans until early in November 2009; leaving only 7 months to solicit for and engage third-parties, to design and market programs, and to deliver efficiency and conservation measures to customers.

- Accordingly, PPL Electric recommends that the Commission adopt the following procedures:
  - Each EDC should serve copies of its proposed plan on the statutory parties and on each Electric Generation Supplier (“EGS”) located in its service area.
  - The Commission should publish notice of the EDC’s filing in the Pennsylvania Bulletin.
  - The possibility of piece-wise approvals; perhaps for an early submission of plan elements aimed at summertime use with other plan elements submitted for approval closer to the July 1 date.
  - An interpretation that the term “public hearing” means a “paper” hearing, and not evidentiary hearings. If evidentiary hearings are required, those hearings should be held on an expedited schedule.
  - The possibility of a staggered schedule of filings similar to the approach that was used with restructuring filings under the Competition Act. This would mean offering EDCs the opportunity to select, for example, a May 1, June 1, or July 1 filing date.

**(2) An evaluation process, including a process to monitor and verify data collection, quality assurance and results of each plan and the program.**

- The Act sets out target reductions in annual retail consumption and peak demand during the 100 hours during a year of highest demand. These reductions are relative to, in the case of annual consumption, a forecast of retail consumption for the period June 1, 2009 through May 31, 2010, and,

in the case of demand, actual demand during the period June 1, 2007 through May 31, 2008. Section 2806.1(c) and (d). PPL Electric anticipates filing a plan that consists of a portfolio of individual measures aimed at achieving the required level of sales reduction (in kwh) and the required level of demand reduction (in kw). Sections 2806.1(b)(1)(i). The Act requires, as part of the plan, a demonstration, using the Total Resource Cost Test, that the plan is cost-effective. Section 2806.1(b)(1)(i). The Company also understands there must be an annual evaluation of the plan's cost-effectiveness. Section 2806.1(i)(j). The evaluation process that the Commission adopts must, therefore, recognize that similar evaluations using the Total Resource Cost Test will be conducted at various stages of the plan's life and that, to be meaningful, those evaluations must be consistent.

- Accordingly, PPL Electric recommends that the Commission adopt the following procedures:
  - The evaluation of the plan and measures within the plan should rely, to the extent practicable, on existing standards for the benefit to be achieved by specific measures. As an example, the Company recommends the use of and expansion of the Technical Reference Manual developed by the Commission's Alternative Energy Portfolio Standards Working Group for establishing the benefit to be achieved by the implementation of certain standard measures such as compact fluorescent light bulbs, EnergyStar appliances, and efficient motors.
  - The appropriate target for retail sales reductions is the forecast for the period June 1, 2009 through May 31, 2010 multiplied by the reduction percentages (i.e., 1% for the period June 1, 2010 through May 31, 2011 and 3% for the period June 1, 2012 through May 31, 2013). The 2009-2010 forecast should be weather-normalized using methods that are consistent with the individual EDC's practice for weather-normalizing sales. Plans should be evaluated

on the basis of the measures proposed, forecasted reductions associated with those measures, and the cost-effectiveness of the measures. Results should be measured on the basis of whether the measures in the approved plan were implemented toward achieving reductions equal to the target kwh reduction.

- The appropriate target for demand reductions in the highest 100 hours of demand is the average kw demand during the 100 hours of highest demand during the period June 1, 2007 through May 31, 2008 multiplied by the reduction percentage (i.e., 4.5% for the period June 1, 2012 through May 31, 2013.) Plans should be evaluated on the basis of the measures proposed, forecasted reductions associated with those measures, and the cost-effectiveness of the measures. Results should be measured on the basis of whether the measures in the approved plan were implemented toward achieving reductions equal to the target amount of demand reduction.
- Evaluation of plans should recognize that many of the measures that EDCs may propose will involve the voluntary participation of customers. This means that, in the approval phase, plans must reflect reasonable estimates of participation. In the assessment of results, this means recognizing the reality that reductions may not be achieved through no fault of the EDC, but, rather, because customers chose not to participate.
- The Commission should develop and publish specific requirements for the annual report that each EDC must file setting forth the results of its plan and independent evaluation of its cost effectiveness.
- Commission rules should permit the EDC to engage an independent evaluator while the plan is being developed in order to assure that the plan can be properly evaluated and, also, to perform quality assurance functions. The rules should also permit

the recovery of the costs associated with an independent evaluator through the reconcilable adjustment clause.

- The Commission's Bureau of Audits should review, on a periodic basis, each EDC's procedures for data collection, quality assurance and assessment of results for its plan.

**(3) An analysis of the cost and benefit of each plan submitted under Subsection (b) in accordance with a Total Resource Cost Test approved by the Commission.**

- To provide guidance and assure that EDCs develop cost-effective plans, and that the Commission has the most effective and efficient basis to evaluate the plans, the Commission should undertake, with appropriate input from EDCs and others, the development of a clear and concise definition of Total Resource Cost ("TRC") Test. While a number of jurisdictions have such definitions and guidance (for example, the Ontario Electric Board (<https://ospace.scholarsportal.info/bitstream/1873/3005/1/255871.pdf>) and the California Energy Commission ([www.energy.ca.gov/greenbuilding/documents/background/07-J\\_CPUC\\_STANDARD\\_PRACTICE\\_MANUAL.PDF](http://www.energy.ca.gov/greenbuilding/documents/background/07-J_CPUC_STANDARD_PRACTICE_MANUAL.PDF) - 2005-03-22 ), the Commission will need to assure that a definition is established that is consistent with Pennsylvania's unbundled and deregulated environment, that properly reflects the EDCs' role as default service provider, and is consistent with Pennsylvania's ratemaking and cost recovery practices.
- The Company is concerned that the requirement to limit the analysis to a 15 year horizon may eliminate certain otherwise valuable programs. In this regard, it will be important to clearly define how grants affect the TRC analysis – both grants (and tax incentives) that may be available generally as well as grants that may be measure-specific inducements aimed at accelerating payback for the participant.
- Accordingly, PPL Electric recommends that the Commission adopt the following procedures:

- By January 15, 2009, the Commission should develop and publish a comprehensive definition of the TRC test, including one or more examples of how the TRC test would be applied.
- The Commission should clearly define what costs and benefits are to be included in the TRC test, specifically requiring that those costs and benefits be actual, quantifiable and directly related to the EDC's plan. In addition, the Commission should clearly state that identification of an economic consequence in the TRC test as a "benefit" or "cost" does not affect its recognition as an expense or revenue for ratemaking purposes. The guiding principle, consistent with the language of the Act, should be that EDCs must be able to fully recover all costs of programs net of any expense reductions that might be realized by the EDC.

**(4) An analysis of how the program and individual plans will enable each Electric Distribution Company to achieve or exceed the requirements for reduction in consumption under Subsections (c) and (d).**

- The plans filed by each EDC will, in fact, be an analysis of how that EDC proposes to achieve the required reductions and that analysis should be rooted in the TRC test. PPL Electric believes that no other analysis should be required of the EDC. To the extent that the Commission is required to demonstrate the cost effectiveness of the entire statewide program and, to the extent that the Commission's costs in developing such a demonstration are collected from the EDCs, the EDCs must be entitled to recover those assessed costs through the reconcilable adjustment clause.

**(5) Standards to ensure that each plan includes a variety of energy efficiency and conservation measures and will provide the measures equitably to all classes of customers.**

- The Commission should focus on overall reduction targets and avoid prescribing numbers of programs per customer class, program dollars per customer class, reductions per customer class, or other prescriptive

allocations. However, such an approach must recognize that the Act already establishes such targets for customers at or below 150% of the Federal poverty guideline and for a yet-to-be-defined group of governmental, school, and non-profit entities. Cost effectiveness and economies of scale are important attributes that need to be considered. PPL Electric is concerned that an arbitrary proration (or other allocation) of the available funds (which are limited) could impair the Company's ability to comply with the requirements of the Act. The Company recommends an approach that requires that programs be available to all customer classes, but leaves some flexibility to the individual EDCs in designing their plan filings.

- The Company believes that such flexibility is, in fact, consistent with the requirements of paragraph 11 regarding cost recovery by customer class (See comments below).

**(6) Procedures to make recommendations as to additional measures that will enable an electric distribution company to improve its plan and exceed the required reductions in consumption under Subsections (c) and (d).**

- PPL Electric has no concerns regarding the review of filed plans and recommendations for change prior to the approval by the Commission of filed plans. However, the Company is concerned that changes to approved plans may be disruptive, particularly in light of the requirement that EDCs competitively bid elements of their plan and contract with Conservation Service Providers ("CSPs") to deliver those elements. The contracts established on the basis of initial Commission approval may preclude such changes or, alternatively, include a risk premium to reflect the possibility of mandated changes and early termination. However, the Company also recognizes the desire to have sound, cost-effective plans. It also recognizes that it may want to propose changes in the event that plan elements are not achieving desired results and the Company believes that it may be at risk of not achieving the reduction targets. Accordingly, the Company recommends that the Commission establish a

process whereby, either in the context of the Commission's annual review or upon request of the EDC, parties can identify and review proposed plan changes. However, the Company believes that such a review process should not result in a Commission order to revise the plan unless the EDC requests such an order. The Company believes that any other approach will introduce uncertainty into the process of procuring services from CSPs that will introduce otherwise avoidable cost and inefficiency into the process.

**(7) Procedures to require that Electric Distribution Companies competitively bid all contracts with conservation service providers.**

- The Commission's procedures should permit EDCs to propose, as part of their plan for Commission approval, a solicitation and evaluation process as well as standard form contracts and agreements that would be put in place between the EDC and CSPs.
- The Commission's procedures should allow, at the EDCs' election, various forms of competitive solicitations including Requests for Proposal and auctions of various structures.
- The Commission's approval of the plan should include approval of these documents and procedures with assurance of full and timely cost recovery.
- The Commission should approve a process under which results of the competitive solicitations can be submitted for Commission approval on an expedited basis (e.g., within 2-5 days).

**(8) Procedures to review all proposed contracts prior to the execution of the contract with conservation service providers to implement the plan. The Commission may order the modification of a proposed contract to ensure that the plan meets the requirements for reduction in demand and consumption under Subsections (c) and (d).**

- PPL Electric believes that the approach described in response to paragraph (7), above, can greatly simplify and reduce the cost of the procurement process by introducing a clear set of expectations. Such an approach also has the benefit of reducing the burden that would otherwise be placed on the Commission for timely review of individual contracts prior to execution. The Company also anticipates that CSPs will require some sort of confidentiality regarding the terms and conditions of the contracts they enter into in order to protect their competitive interests.
- PPL Electric is concerned that an improperly narrow interpretation of the definition of CSP could severely limit the number of entities that could act as CSPs. Some stakeholders may contend that entities affiliated with a specific EDC should be precluded from acting as a CSP for that EDC. Such a position could be premised on a belief that an affiliated CSP would have an unfair advantage in bidding to help implement the EDC's energy efficiency and conservation plan. It also could be premised on concerns about cross subsidization between the EDC and its affiliate. PPL Electric does not agree with these concerns, but understands how, in some instances, others may believe these concerns exist. Act 129 itself addresses those concerns by mandating "competitive bidding" for selection of CSPs. This provision should eliminate such concerns completely. However, a broader interpretation of this definition is possible, but not appropriate. Under such an interpretation, an entity affiliated with an EDC would be precluded from acting as a CSP for its affiliated EDC or any other EDC in Pennsylvania. This interpretation makes no sense. An affiliate of one EDC acting as CSP for another EDC provides absolutely no basis for any lingering affiliate concerns summarized above. Moreover, such an interpretation would be counter-productive because it would reduce the number of entities competing to be CSPs, and would remove from the market entities likely to have significant expertise in the implementation of energy efficiency and conservation programs. The result could be higher costs for EDCs to comply with Act 129, with those

costs ultimately being paid by customers. Accordingly, PPL Electric recommends that the PUC adopt an interpretation of Act 129 under which an entity affiliated with an EDC would be precluded from acting as a CSP only for its affiliate, and would be permitted to act as a CSP for any other EDC in Pennsylvania.

**(9) Procedures to ensure compliance with requirements for reduction in consumption under Subsections (c) and (d).**

- PPL Electric's comments with regard to paragraph (2), above, address this issue.

**(10) A requirement for the participation of conservation service providers in the implementation of all or part of a plan.**

- The Company believes that the intent of requiring that plan elements be delivered, in part, by third-parties who are engaged through a competitive process is to introduce competitive forces and, thereby, achieve reductions at a lower cost than might otherwise be achieved. However, there may be instances where the EDC may be able to provide a certain program in the most cost-effective way. The Company does not believe that the Act precludes the EDC from providing the program itself and that rules and procedures should permit such approaches.
- The Act requires the Commission to establish a "registry" of CSPs. Section 2806.2 (a). The Company is concerned that the criteria that the Commission applies to developing such a list might not be the same criteria that any individual EDC applies in selecting an individual CSP. The Company recommends that the Commission establish a registry of third-party providers, but permit the individual EDCs to establish qualification criteria and to qualify individual providers relative to those criteria.

**(11) Cost recovery to ensure that measures approved are financed by the same customer class that will receive the direct energy and conservation benefits.**

- The Company recommends tracking programs and establishing cost recovery for broad classes (in its particular case, residential, small commercial and industrial, and large commercial and industrial). Requirements to provide programs for low income customers and the governmental/schools groups should be tracked separately, but cost recovery for customers in those groups should be handled through the broad classes identified above. This approach will facilitate billing and consumer education as the broad customer classes are consistent with the allocation and billing of distribution charges, transmission charges, and default service generation supplies.
- Accordingly, PPL Electric recommends that the Commission adopt the following procedures:
  - Each EDC's plan should include a proposed cost recovery mechanism consistent with the requirements of Act 129.
  - The Commission should approve the cost recovery mechanism as part of its approval of the plan.
  - The EDC should be allowed to implement the cost recovery mechanism upon approval by the Commission
  - The EDC should be permitted to recover through that mechanism both ongoing costs of its plan as well as costs previously incurred to design, create and obtain Commission approval of the plan.

### **III. Comments on Additional Matters**

The Commission's October 20 Secretarial letter also "seeks stakeholder input on likely procedural, technical, interpretive, and implementation issues; measurement of EDC compliance; and the level of detail required for providing adequate direction to EDCs in regard to their plans". Secretarial Letter at paragraph 3. Accordingly, the Company offers the following comments on such issues in addition to the above comments on Sections 2806.1(a)(1) through 2806.1(a)(11):

1. The Act establishes a cap on the amount that an EDC can spend on a plan of 2% of total revenues. Section 2806.1(g). PPL Electric interprets this cap on plan spending to be an annual amount and not a total amount for the five year term of a plan. If the cap is interpreted as an amount for the full five year period, the Company believes that many EDCs will have difficulty achieving the mandated reductions in consumption and peak demand. In PPL Electric's case, 2% of its total revenues will equal approximately \$60 million. If that amount were spread over five years, it would equate to \$12 million per year -- an amount clearly insufficient to fund all of the plan elements that will be needed to meet the requirements of Act 129.
2. The Act's selection of the period June 1, 2009 through May 31, 2010 as the base year for the sales reduction target creates a concern for PPL Electric and for its customers. PPL Electric's generation rate caps are scheduled to expire on December 31, 2009, one year earlier than those of the other major EDCs in Pennsylvania and during the period against which reductions will be measured. The Company has underway an extensive consumer education plan, approved by the Commission by Order entered on December 6, 2007, at Docket No. R-00072155, to help its customers manage their electricity use and the price increase that is expected to occur when the cap expires. That effort is expected to result in sales reductions that might otherwise be achieved later and contribute to PPL Electric's ability to comply with the reduction targets. The Company is concerned that, in the implementation of the Act, these early programs and reductions not disadvantage the Company with regard to its ability to comply with the requirements of the Act. The Company believes that the approach that it describes in its comments on Section 2806.1(a)(2) would avoid creating such a disadvantage.
3. The Act specifies that the base for sales reductions is to be a forecast by the Commission of sales for the period June 1, 2009 through May 31, 2010. PPL Electric believes that, because EDCs have extensive knowledge about their particular customers and their usage patterns, the forecast should be initially

prepared and submitted by the EDC and subject to Commission review and approval.

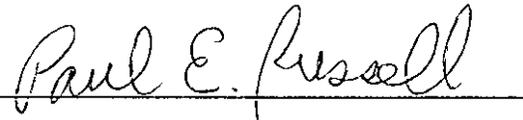
4. The Act specifies that the 100 hours that will be used to measure demand reductions should be the specific 100 hours that were the highest load hours in the 2007-2008 period. For PPL Electric, about 60% of those hours will be summertime hours and 40% of those hours will be wintertime hours. Accordingly, the Company expects that it will need to develop a plan that includes measures aimed at both summer and winter use. The Company is concerned that, as a result, its costs per unit of reduction may be higher than those of other companies and its compliance may be more challenging. The Company has no specific suggestions to offer at this time, but raises the issue now so that parties are aware of it should specific suggestions be made in this regard in the future. The Company believes that the approach described in its comments on Section 2806.1(a)(2) may be adequate to address this issue.
5. The Company believes that the Commission should address the procedures that will be permitted for the “marketing” of programs to customers. Issues such as the release of customer names, telephone numbers, usage information, SIC codes, rate schedule and other information to CSPs and other third-party providers are among the issues that should be addressed.
6. The Company believes that some criteria should be established to determine what qualifies as “experimental equipment or devices”. Section 2806.1(b)(ii). The establishment of such criteria will help EDCs develop plans that can be reviewed and approved more expeditiously.
7. The Act identifies certain customer segments (specifically, customers at or below 150% of the federal poverty guideline and a segment consisting of government/schools/non-profit entities) for whom separate reduction and/or spending targets are established. These segments should be further defined and guidance should be provided on tracking and compliance issues. The Company specifically notes that EDCs do not typically have information on the income levels of its customers and will have to rely on general census

information to allocate funds and programs to this group of customers. Accordingly, it will be difficult to "market" programs specifically to customers within this group because, other than those customers whom have been payment troubled and consequently have provided their income level, the Company simply does not know the names of a large number of the individuals in the designated group.

#### **IV. Conclusion**

For all of the reasons stated above, PPL Electric Utilities Corporation recommends that the Public Utility Commission proceed with implementation of Act 129 consistent with the foregoing comments.

Respectfully submitted,

A handwritten signature in cursive script that reads "Paul E. Russell". The signature is written in black ink and is positioned above a solid horizontal line.

Paul E. Russell

Associate General Counsel

PPL Electric Utilities Corporation

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(610) 774-4254

Dated: November 3, 2008  
at Allentown, Pennsylvania