

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Energy Efficiency and Conservation Program : Docket No. M-2008-2069887
And EDC Plans :
: Phase 1 Implementation

Comments of
The Energy Association of Pennsylvania

RECEIVED
2008 DEC -8 PM 4:08
PA P.U.C.
SECRETARY'S BUREAU

J. Michael Love
President and CEO
E-Mail: mlove@energypa.org

Donna M. J. Clark
Vice President and General Counsel
E-Mail: dclark@energypa.org

ENERGY ASSOCIATION OF PENNSYLVANIA
800 North Third Street, Suite 301 APC Building
Harrisburg, PA 17102
Phone: (717) 901.0600
Facsimile: (717) 901.0611

Date: December 8, 2008

RECEIVED
2008 DEC -9 PM 1:33
PA P.U.C.
LAW BUREAU

**COMMENTS OF
THE ENERGY ASSOCIATION OF PENNSYLVANIA**

I. Introduction

On October 15, 2008, Governor Rendell signed into law HB 2200 as Act 129 of 2008, expanding the oversight responsibilities of the Pennsylvania Public Utility Commission (“PUC” or “Commission”) with respect to new requirements imposed on electric distribution companies (“EDCs”) to, *inter alia*, reduce energy consumption and demand. Recognizing its anticipated role in implementation, the Commission had adopted a Joint Motion at its public meeting of October 9, 2008, which ordered the Director of Operations to convene a working group to develop an implementation plan as soon as the Governor signed HB 2200 into law. A Secretarial Letter was then issued on October 21, 2008, seeking public comment on the Commission’s obligation to initiate an Energy Efficiency and Conservation Program (“EE&C Program”) by January 15, 2009.

Comments were filed by various stakeholders on November 3, 2008 and on November 26, 2008, the Commission issued a draft implementation order for comment and posed a series of additional questions concerning the development of the EE&C Program. In reply to the request for comments, the Energy Association of Pennsylvania (“EAPA”)¹ provides the following responses.

¹ EAPA is a trade association representing the interest of the major regulated electric and natural gas distribution companies in Pennsylvania. These comments are submitted on behalf of the electric distribution company members subject to Act 129, including Allegheny Power, Duquesne Light Co., Metropolitan Edison Co., PECO Energy Co., Pennsylvania Electric Co., Pennsylvania Power Co., and PPL Electric Utilities Corp., as well as Electric Division of UGI Utilities, Inc.

II. Response to Additional Questions

1. Efficiency Targets/Goals:

- a) *Should the Commission use the average usage during the 100 highest peak hours during the entire reference year, or the average usage during the 100 highest summer peak hours when calculating the peak demand reduction targets for each EDC?*

EAPA recommends that the Commission use the average usage for each EDC during the 100 highest summer peak hours using the PJM definition of summer months which is June 1 through September 30.

- b) *Does Act 129 require reductions down to a fixed level, or require a fixed amount of decrease? How should this be calculated? Should the consumption reduction requirements contained in Section 2806.1(c) be treated the same as the demand reduction requirements contained in Section 2806.1(d)?*

The statute requires a fixed amount of energy and demand reduction savings. The achievement of these targets should be based upon deemed savings or demonstrated capability for the standardized and energy efficient and demand reduction programs and measured savings for customized programs as appropriate.

The consumption reduction requirements contained in Section 2806.1(c) and the demand reduction requirements contained in Section 2806.1(d) should be treated the same.

2. Program Design:

- a) *Statewide vs. EDC specific: Should the Commission encourage, by policy, a statewide approach to some programs that are likely to be effective across Pennsylvania? For example, should rebate programs be harmonized across the state? Should specific programs, such as Energy Audits, PJM load reduction programs, Home Performance with Energy Star, and Energy Star Homes be consistently available in all EDC service territories? If so, what programs should the EDC implement consistently across the state?*

Initially, the legislation provides for individualized programs for each EDC to achieve specific targeted reductions. Thus, before the Commission considers a policy which encourages a statewide approach, EAPA believes that the initial EDC plans should be developed, filed and approved. Once EDC plans are in place, opportunities may arise for synergy between EDC plans or programs offered by CSPs. At this point however, EAPA respectfully asks that the Commission refrain from considering policies which may expand legislative intent.

- b) *Can Act 129 programs have negative impacts on existing cost effective energy efficiency and demand side programs by 3rd parties? If so, how can this Commission avoid damaging existing 3rd party efforts when socializing Act 129 energy efficiency and demand side programs through non-bypassable charges to all customers, while increasing customer participation in these services?*

Act 129 programs will serve to promote and to enhance existing cost-effective energy efficiency and demand side programs offered by third parties as consumers become increasingly aware of the need to conserve and use fuel efficiently. At this point, prior to the development and implementation of EDC plans, it should not be assumed that cost-effective third party programs will be harmed by the introduction of additional options for consumers. In fact, EAPA believes there will be opportunities for EDCs to participate in existing cost-effective programs (i.e., Keystone HELP Loan Program or PA Home Energy)

with Act 129 dollars so as to meet targeted reductions through proven cost-effective third party programs. This may also provide a means to “harmonize” EDC Act 129 programs with existing cost-effective third party offerings. EAPA believes the key is to promote collaboration and flexibility rather than mandate further requirements in an attempt to prevent unproven negative impact.

- c) *Should the Commission seek to harmonize Act 129 programs with other Federal, State, local, RTO or other group programs? If so, what specific programs should this Commission encourage EDCs to replicate, incorporate, or leverage as part of their compliance filings? How can this best be achieved?*

The harmonization between old and new energy efficiency and conservation programs should be encouraged, but not mandated. Until EDC plans are in place and stakeholders have more experience with Act 129 programs and can measure success, it is premature to encourage or mandate that EDCs offer specific programs that may already be available from third parties. The Commission should first allow EDCs to “harmonize” or “leverage” existing cost-effective programs in their filings.

3. Total Resource Cost Test

- a) *How can the Total Resource Cost Test that must be approved by the Commission under Sections 2806.1(a)(3) and 2806.1(b)(1)(i)(I) be simplified?*

Start with the original California Standard Practice Model. This has been the most widely used model for the last two decades. Next, EAPA strongly recommends the formation of a separate working group to define appropriate input parameters for the Total Resource Cost Test for the Commonwealth. As noted below, EAPA also believes that a separate working group to resolve questions concerning the modification of the Technical Reference Manual would be appropriate. Finalization of both the Total Resource Cost Test and the

Technical Reference Manual must be completed in an expedited time frame.

EAPA suggests completion by March 1 would work to allow for input by stakeholders and to permit EDCs to use these tests in developing their July 1 filings.

- b) *The Act defines “Total Resource Cost Test” (TRC test) as “a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures.” Under this definition, may the Commission limit consideration of monetary costs to the costs incurred by the EDC?*

No. TRC incorporates the total costs (EDC and participant).

- c) *Can the TRC test include avoided environmental costs or other avoided societal costs?*

No. Such inclusion as a separate cost would transform the TRC into a societal benefits test that is not required by statute and indeed would alter the cost/benefit analysis. Moreover, avoided environmental costs, such as AEPS compliance costs, are reflected in projections of avoided generation cost inasmuch as environmental costs impact the market price of energy. Thus, environmental costs will be a component of avoided generation costs. The legislation does not reference avoided societal costs and accordingly, it can not be inferred that the legislature intended to include this separate test.

- d) *If the Commission limits costs considered under the TRC Test to those incurred by the EDC, should the Commission exclude costs not incurred by the EDC from the test?*

See b.

- e) *If participant costs that are not paid by the EDC are included, should these costs be reduced by tax credits or credits under the AEPS Act received by the participants?*

Yes. Make this part of the net benefits.

- f) *What elements of the “avoided monetary costs of supplying electricity” should be included in the TRC test?*

Based on the California Standard practice manual, the components of the avoided cost should include, avoided generation costs (energy and capacity costs), as well as marginal transmission and distribution costs. EAPA believes further discussion of issues relating to the TRC test should be conducted in a working group focused on this topic.

- g) *Should these costs be valued at the marginal costs for the periods when there is a load reduction” as required by the draft Implementation Order? What does this mean precisely?*

Again, this topic is appropriately addressed in a focused working group.

- h) *Should the methodology for calculating the Net Present Value (NPV) and B/C ratio set forth in the California Standard Practice Model- Economic Analysis of Demand-Side Programs and Projects (July 2002) be used, or is there a better alternative?*

The California Standard Practice Model should be used as may be appropriately modified to suit circumstances in Pennsylvania.

- i) *What discount rate should be used in the calculation of NPV? How frequently should it be reevaluated? Should it be established for each EDC service territory, or for the Commonwealth as a whole?*

Initially, EAPA suggests that the discount rate that could be used in the NPV calculation of the TRC test is the individual discount rate of each EDC. This rate would be based on each EDC’s unique weighted average of after tax cost of capital. This topic is appropriately discussed in a working group established to resolve issues related to the Total Resource Cost Test.

- j) *Should the elements used in the calculation of an EDC's total annual revenue be the same elements used to calculate the "avoided monetary costs of supplying electricity under the TRC Test?"*

The elements that are used in the calculation of the EDC's total annual revenue are Generation (E&C), Transmission and Distribution. These elements should be used to calculate the "avoided monetary supply cost of electricity" under the TRC test. Further discussion is warranted through a working group.

- k) *The gas industry raised some interesting points on the net impact of displacing natural gas heating equipment (space and water) with electricity heating equipment. Should the TRC test include parameters to capture the consequences of net energy gains or losses in delivering alternative fuels to consumers?*

Initially, the presentations offered by the PA Gas Association through two expert witnesses focused on the direct use of natural gas to reduce electric consumption and demand in the context of Act 129 compliance. The witnesses testified to potential benefits of replacing electric powered systems with those using natural gas in some circumstances. The presentations were not restricted to replacement of heating equipment, but sought to present direct use of natural gas as an energy efficiency and conservation program under Act 129. The TRC test should account for the cost to substitute fuel under such circumstances and any modified Technical Reference Manual could include savings for replacing electric appliances (space and water heaters, cooking, etc.) with models using natural gas.

4. Evaluation, Measurement and Verification:

- a) *Should the Commission use a statewide, independent evaluator hired by the Commission to review EDC compliance with Act 129, pursuant to 2806.1(b)(1)(i)(J)? What would be the advantages and disadvantages of consolidating this review process?*

Generally, EAPA supports the use of a statewide, independent and knowledgeable evaluator. In considering whether to use a statewide evaluator

hired by the Commission for purposes of evaluation, measurement and verification, EAPA is concerned that such a task may not be timely accomplished by a single evaluator and recommends the use of subcontractors. EAPA does recognize that cost-savings are conceivable by using a single evaluator and a uniform review process would allow for symmetry between programs.

- b) *What programs lend themselves to a “deemed savings” approach, and what programs require more rigorous pre- and post-verification processes? How often should savings estimates be reviewed and how?*

Programs that lend themselves to a “deemed savings” approach are standard measures that can be calculated using assumptions and customer data in industry-accepted algorithms to provide a defined savings amount and whose savings would be difficult to measure without separate metering devices. Some examples are, residential compact fluorescent lamp (CFL) replacements, energy efficient appliances and HVAC system upgrades. In addition, commercial lighting system upgrades, energy efficient motor replacements and HVAC system upgrades, among others, fit this category.

Programs that would require a more rigorous pre- and post installation verification process would be larger, more complex customized programs, such as energy efficient process improvements in an industrial facility, time-of use pricing programs, certain demand reduction programs and elimination of master meter accounts.

As with the TRC test, EAPA recommends the use of a working group to finalize the Technical Reference Manual (“TRM”).

- c) *The Commission has a revised draft update to the 2005 Technical Reference Manual (TRM) that provides energy savings calculations for standard measures. The draft update is ready to be reviewed by interested parties. Should the Commission use a Secretarial Letter process to seek comments on this and subsequent updates to the TRM in the future? What timetable would be optimal for periodically updating the TRM?*

A Secretarial Letter process may be used initially, coupled with a working group whose task is to finalize the 2005 Technical Reference Manual in an expedited process. As provided earlier, the TRM should be “final” on or before March 1 to allow time for development of the EDC plans due July 1, 2009.

The Commission should establish a method for possible changes and additions to the TRM going forward (perhaps annually); however, changes to the TRM should be approved and implemented on a prospective basis and not be used to alter the reductions previously approved and implemented.

- d) *In addition to the TRM for standard measures, should the Commission adopt a standard measure and evaluation protocol for determining the energy savings from the installation or adoption of non-standard or customer measures not addressed in the TRM? If so, what protocols should be adopted? Comments to date have included the following protocols; 1) International Performance and Measurement Verification Protocol; 2) ISO New England Protocol; and 3) DOE Energy Star Portfolio Manager.*

This is a topic that should be determined following further discussion and study in a working group. In addition to the protocol listed above, there may be others that may be appropriate to consider.

- e) *How might the Commission simplify and streamline the monitoring and verification of data so as to maximize resources for program measures but enable a thorough evaluation of program results consistent with Act 129 requirements?*

We would suggest that the Commission maximize the use of the “deemed savings” methodology for standard measures and use/develop measurement and verification protocols for non-standard or custom measures.

- f) *Should the Commission adopt standard data collection formats and databases for the evaluation of program benefits and results that would be used across all EDC service territories?*

Yes, although standardization for collection of data may be better tracked following development and approval of EDC plans. Further, EDCs will need flexibility in data collection for specialized customer programs.

5. Revenue Requirement:

- a) *The Act defines "Electric Distribution Company Total Annual Revenue" as amounts paid to the EDC for "generation, transmission, distribution, and surcharges" by retail customers. What "surcharges" should be included in the calculation of an EDC's total annual revenue?*

The surcharges that should be included in the calculation of an EDC's total annual revenue should be only those paid by "retail customers". Amounts that would not be included are charges and/or revenues that are not collected from retail customers like "sales for resale" or "PJM wholesale payments for the transmission of electricity". As a result of including only the appropriate surcharges and revenues, the total annual revenue for some of the EDCs is overstated. Further, the Commission needs to address the issues raised by Nancy Krajovic of Duquesne in the En Banc testimony.

6. Cost Recovery Issues:

- a) *Can one class of customers have EE&C charges in excess of 2% of class revenues, due to an abundance of cost effective opportunities relative to other customer classes, while overall EE&C charge remain below 2% of revenues for the utility as a whole?*

EAPA agrees with the Commission, "...that the most cost effective EE and DR programs may not come proportionally from each customer class" and as such EAPA believes that EDCs may develop measures that result in one class of

customers having charges in excess of 2% of class revenues while overall EE&C charges would not exceed 2% of revenues for the utility as a whole.

7. CSP Issues:

- a) *Does the definition of “Conservation Service Provider” (CSP) in the Act prohibit an affiliated company of an EDC from serving as a CSP to an EDC other than its affiliate?*

The CSP definition permits an affiliate of an EDC to assist another EDC.

Likewise, the gas affiliate of one EDC can work with other EDCs.

- b) *Are there existing barriers to CSP market development that the Commission should address in the context of Act 129? For example, what data access, meter access or other barriers should the Commission accelerate resolution of in order to enhance Act 129’s goal achievement?*

Initially, it is important to note that data collected from customers is customer property and cannot be shared without customer permission. EAPA is not aware generally of any issues which will impede CSP market development and notes that CSP issues are currently being addressed before the Commission in a separate docket.

EAPA would offer that it will be important to encourage CSP involvement with customers enrolled in EDC Customer Assistance Programs (“CAP”). CAP programs can encourage conservation and Act 129 requires additional measures for this customer group.

- c) *How should the Commission ensure that EDC self supplied EE&C programs are more cost effective than similar services offered by CSPs? Should this Commission require EDCs to demonstrate in their implementation filing that their self supplied program is more cost effective than similar CSP provided services?*

Nothing in Act 129 requires that EDC self supplied EE&C programs be more cost effective than similar services offered by CSPs. There should not be a higher

standard set by the Commission, particularly where as here, there is no basis for assuming that EDCs will promote less cost-effective programs.

III. Working Group Draft Implementation Order

With respect to the Working Group Draft Implementation Order issued by the Commission on November 26, 2008, EAPA initially notes that its individual EDC members will be filing comments and the EDCs, as well as EAPA, will participate in the Working Group Meeting scheduled for December 10, 2008 to discuss the draft Implementation Order and additional questions.

Second, EAPA repeats its suggestions to form sub-groups to specifically address issues relating to the TRC test and the TRM. EAPA asks that such working groups finalize both the parameters for the TRC test and any modification for the TRM by March 1, so as to allow maximum input from stakeholders and sufficient time for EDC plan development.

EAPA commends the Commission's decision to conduct evaluations using a savings approach. See, Working Group Draft Implementation Order at p. 12. EAPA and its members recognize the importance of the EDC role to offer programs which will achieve the deemed savings established in the TRM "and other metric resources to measure the effect of various energy efficiency and conservation measures." *Id.* at p. 15.

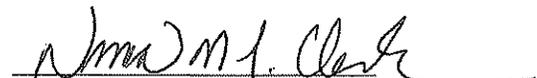
EAPA believes that the key to success as stakeholders work collaboratively to achieve the goals established under Act 129 in an extremely attenuated time frame will be to promote flexibility in EDC plan development, approval and implementation. Flexibility is possible because the legislation allows for modification and improvement mid-stream as

experience is gained and as consumers embrace the need for conservation and energy efficiency as demonstrated through changed behavior.

EAPA looks forward to working with the Commission and all stakeholders to achieve the mandated reductions set by the legislature in Act 129.

Respectfully Submitted,


Michael Love
President & CEO
mlove@energypa.org


Donna M. J. Clark
Vice President & General Counsel
dclark@energypa.org

Energy Association of Pennsylvania
800 North Third Street, Suite 301
Harrisburg, PA 17102

Date: December 8, 2008