

December 8, 2008

VIA Hand Delivery

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

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

Dear Secretary McNulty:

Enclosed for filing are an original and fifteen (15) copies of Comments on Draft Staff Proposal and Further Questions of November 26, 2008 on Behalf of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company in the above-referenced docket. Please date stamp the additional copy and return it as evidence of filing. Also enclosed is an electronic version of the filing on disk. An electronic copy of this document has also been e-mailed to re-Act129@state.pa.us.

As indicated on the attached Certificate of Service, copies have been served in the manner indicated.

Please contact me at the above phone number should you have any questions.

Sincerely,



Stephen L. Feld, Esquire

Enclosures

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant) and the Secretarial Letter of November 26, 2008 in this docket.

Service by hand delivery and electronic mail, as follows:

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Dated: December 8, 2008



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Energy Efficiency and Conservation Programs and EDC Plans	:	Docket No. M-2008-2069887
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**COMMENTS ON DRAFT STAFF PROPOSAL and FURTHER QUESTIONS
OF NOVEMBER 26, 2008
ON BEHALF OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY AND PENNSYLVANIA POWER
COMPANY**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

I. INTRODUCTION

By Secretarial letter of November 26, 2008, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) circulated a working group draft proposal (“Draft Proposal”) and further questions (“Staff Questions”) in the above docket. Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company (“FirstEnergy” or “Companies”) hereby submit their Comments to both of these staff documents.

The Commission and its staff are to be commended for proceeding as quickly as they have in developing the reasonable and balanced requirements as contained in the Draft Proposal. The Companies look forward to continuing to work with the Commission and interested stakeholders through the stakeholder process to further develop a reasonable and effective Commission Energy Efficiency and Conservation Program.

The first part of these Comments addresses a number of issues in the Draft Proposal that are not addressed in the Companies’ response to the Staff Questions. Attached hereto as

Appendix A are the Companies' responses to the Staff Questions which have some overlap with certain of the matters contained in the Draft Proposal.

II. APPROVAL PROCESS

On pages 7-8 of the Draft Proposal the Commission has set forth the contents of the Act 129 plan filings of electric distribution companies ("EDCs"). Item 3 of the required contents is "Approved contract(s) with one or more CSPs...." The CSP contract approval process is set forth on pages 18-20 of the Draft Proposal. This process anticipates that EDCs will bid and enter into such contracts following the Commission's creation of the list of CSPs by March 1, 2009 under Section 2806.2(a). These provisions point out the need for the Commission to distinguish among the different types of entities that could fall within the umbrella of "CSPs" as broadly defined in Act 129. First, there are consulting entities which may assist an EDC in the development and preparation of its plan filing. This first type of entity could also serve as a project managers/evaluators during implementation of the EDC's approved plan. A second type of entity will be one with which an EDC will be contracting to deliver energy efficiency and peak load reduction measures to customers. A third type of entity is one which will be soliciting customers directly and potentially outside of EDCs' programs to provide energy efficiency services, such as HVAC and insulation contractors. Act 129 is not clear as to which of these types of entities which fall into the broad definition of a CSP or which ones are to be listed in the Commission's registry as provided in Section 2806.2(a). The Companies recommend that the Commission clarify that the second and third types described above are the CSPs encompassed by Act 129 and the Draft Proposal.

Items 7, 8 and 9 of the EDC's plan filings require information about the forecasted load for 2009-10 and the historic load for 2007-08. The Draft Proposal restates on pages 21 and 22

that the energy forecast, weather adjustment, extraordinary load and historic peak load forecast be provided as part of the EDC's plan filing. However, the Draft Proposal (page 13) also creates a requirement that EDCs petition the Commission to approve the EDC's forecast at least six months prior to a yet to be determined Commission forecast completion date. The Companies are unclear and request that the Commission clarify its intent as to whether the amounts of the energy and peak load reductions will be determined as part of the plan filings or in a separate proceeding.

III. DETERMINATION OF REDUCTION REQUIREMENTS

The Draft Proposal contains a discussion (pages 12-15) of whether the amounts of energy and peak load reductions are "absolute reductions" in usage or "savings" in usage. The discussion concludes with a determination that the "savings" approach is the appropriate interpretation – an interpretation which the Companies believe is mandated by the language and goals of Act 129. However, much of discussion beginning with the first full paragraph in the middle of page 12 and continuing with the first paragraph on page 13 of the Draft Proposal is contradictory to the ultimate determination that the savings approach is what is required by Act 129. These paragraphs should be revised or deleted so that the overall section is consistent with the Commission's decision on the appropriate approach. (We also note that the footnote on page 14 refers to a maximum \$5 million penalty – the final legislation created a maximum penalty of \$20 million.)

IV. PROCESS FOR CHANGES OR ADDITIONAL MEASURES

The Draft Proposal (pages 17-18) establishes a process for EDCs and others to propose plan changes as part of the annual report review process under section 2806.1(i)(1). Although the Companies support such a process, they also recommend that EDCs be permitted to propose

changes in their plans during the course of a year. This is especially critical for 2010 and the first part of 2011 when the first reduction target must be met. Delaying plan changes until the annual report for 2010 is filed and reviewed will allow little or no time for implementation before this first compliance date. EDCs should be able to propose plan changes in late 2009 and throughout 2010 as they and the Commission gain experience with the approved programs and measures and be able to make interim adjustments on a prompt basis to better ensure that results will be achieved. Such changes could involve changing the incentive payment for a particular measure, changing eligibility requirements, increasing targeted advertising or other components of an EDC's plan.

In their November 3 comments (page 12), the Companies proposed that EDCs be allowed to file such interim, proposed changes with the Commission outside of the annual filing. The filing should detail the rationale for the change(s) as well as the anticipated costs and benefits. The EDC would serve the filing on those parties who participated in the original plan proceeding. The changes would then become part of the EDC's plan unless within 15 days the Commission determines through issuance of a Secretarial letter to not allow the changes to become effective. Stakeholder comments would be considered within this 15 day period and could result in the Commission deciding to not allow the changes to be implemented until further review, not to exceed 30 days. This process provides for the prompt consideration and implementation of plan changes so that interim plan adjustments may be made to ensure that measures are as effective as possible at all times.

V. COST RECOVERY

The Draft Proposal discusses cost recovery issues on pages 23-30. While the Companies are generally in agreement with the points discussed in this section, they do have a concern about

the review process and the standard used for potential disallowance of program costs. As stated on page 26 of the Draft Proposal, the Commission clearly has the authority to terminate or modify any part of an approved plan if it determines that a measure will not or does not achieve the required reductions in a cost-effective manner. However, it does not necessarily follow that costs associated with such terminated or modified programs or measures should not be recovered. The failure of a measure to achieve the projected level of savings or cost-effectiveness is not *per se* unreasonable or imprudent. (See OCA's November 19, 2008 Testimony in Docket M-00061984, Appendix. P.6) The implementation of the measures in an approved plan will no doubt be an iterative process in which all stakeholders will learn which programs and measures work better than others and how they should be adjusted based on actual experience, customer acceptance and external events. If an EDC implements and adjusts its approved plan in accord with the plan's and Commission's requirements, then it should fully recover its costs and not be subjected to retrospective disallowance. The success or failure of a measure should be relevant only in determining whether to terminate or modify the measure, not whether cost recovery should be allowed. The Commission should make clear that the wording used in the Draft Proposal in the middle of page 26 does not create a standard that a measure's success is determinative of cost-recovery.

IV. CONCLUSION

FirstEnergy appreciates the opportunity to provide this reply to the other parties' comments to the CEEP questions concerning the implementation of Act 129 of 2008. The Companies look

forward to continued participation in the process.

Respectfully submitted,

Dated: December 8, 2008



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APPENDIX A

FirstEnergy Companies' Responses
to
Further Staff Questions Related to the Commission's
Energy Efficiency and Conservation Program
Docket No. M-2008-2069887

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?**

RESPONSE:

The FirstEnergy Companies (Penn Power, Met-Ed and Penelec) recommend the use of the 100 highest hours during the summer cooling season, between the beginning of June and running through the end of September, as the basis to develop the target MW amounts for compliance with Act 129. There are several reasons to use this methodology.

First, the Regional Transmission Organizations serving the Commonwealth are summer peaking and both RTOs ensure through market mechanisms and financial settlement practices that transmission and generation facilities are ready and in place to meet the summer peaking season, which is June through September. It should also be the goal of the Commonwealth to meet this same goal by basing the calculation of the Act 129 demand response target on only the summer peaks.

Second, specifically in reference to PJM related market mechanisms, customer Peak Load Shares (PLS) and the Reliability Pricing Model (RPM) are operated and developed based on the five summer peaks in the months of June through September. Therefore, the Commonwealth's Act 129 demand response targets should align with PJM processes.

Third, the highest prices or locational marginal prices (LMPs) of both RTOs servicing the Commonwealth on average are seen in the summer months. Using only summer hours ensures that also a proper representation of the most expensive hours from a cost perspective are represented in the development of the Act 129 demand response targets.

Therefore, the Companies recommend the use of only summer hours (June through August) for the development of the Act 129 demand response targets. These targets should be developed using data at the meter (not grossed up for losses) as this number represents the actual amount of MWs available for a customer to curtail.

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)?

RESPONSE:

The intent of the Act 129 targets is to require fixed amounts of energy and demand savings through the implementation of energy efficiency and conservation measures. The intent is clearly not to require absolute reductions from historical consumption levels as this would:

- Be contrary to one of the Act's stated goals – to promote economic growth
- Produce an uncertain and unknowable standard of kWh and kW reductions that could not be precisely determined until after the compliance deadlines
- Have the effect of doubling or tripling the stated goals due to the growth in consumption that would otherwise be expected by the compliance deadlines

The fixed amounts of energy (kWh) savings should be calculated by multiplying the specified percentages of 1% and 3% by the Electric Distribution Companies' (EDCs) forecasted load for the June 1, 2009 through May 31, 2010 period, with any necessary adjustments for extraordinary loads and weather. The fixed target for demand (kW) savings should be calculated by multiplying the specified percentage of 4.5% by the average of the top 100 hours of the EDCs' peak summer demand between the June 1, 2007 through August 31, 2008 period.

The Commission should utilize the Technical Reference Manual as the appropriate means of determining the amount of energy and peak load reductions achieved by the implementation of measures supported by the EDCs' programs. This Manual should be supplemented as appropriate to include information on additional measures (particularly demand reductions) and additional information gained from actual program implementation and the experience in other states. Changes to the Manual should be adopted on a prospective basis and not be used to adjust the reductions determined from past implemented measures. For customized measures not addressed in the TRM (e.g., industrial application), the Commission should rely on verified savings.

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

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 EDCs implement consistently across the state?

RESPONSE:

One of the overriding goals of Act 129 is to secure the benefits of energy conservation and peak load reductions for customers throughout Pennsylvania. The objective of this Commission should be to further this goal by creating a structure that makes the best and most cost-effective use of all resources, regardless of the source. While the Companies do not want a Commission mandate for a statewide approach to programs, there is potential that certain programs may be beneficial to both EDCs as well as customers across the state. However, EDCs should have flexibility to determine what works best for their customers. A statewide approach for some programs has the advantages of consistent messages, state support and equity across customer classes. A statewide approach has been supported in other states such as Vermont, New York and New Jersey. For example, in the residential sector, home energy audits may be a program that merits consideration. The Companies support identification of a statewide standard for home energy audits (Building Performance Institute or BPI for existing homes and Residential Energy Services Network or RESNET for new construction), but the implementation of those programs should be tailored to reflect the unique characteristics for each EDC.

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?

RESPONSE:

To the extent practical, the Commission's rules should encourage EDCs and third parties to coordinate and collaborate on their energy efficiency and conservation measures to avoid a potentially detrimental competitive environment in which third parties¹ and EDCs seek to make their respective programs successful at the expense of the other's programs. Coordination between EDC programs, state and 3rd party programs will have substantial synergistic effect in maximizing the design and delivery of conservation measures which get them to the most appropriate customers, in the shortest reasonable time and at the most economical cost.

Act 129 defines "energy efficiency and conservation measures" as those that, inter alia, have costs that are "directly incurred in whole or **in part** by the electric distribution company." (emphasis added) (Section 2806.1(m)) Coordination with, for example, state-funded programs or sustainable energy fund initiatives could involve a rebate in addition to a state grant or loan, funding of a lower interest rate on a customer's state loan, as well as customer education or

¹ The term, "third parties" used throughout this section is meant to refer to local, state, and federal government entities, as well as by private (profit or non-profit) entities that offer funding for or other support of energy efficiency programs.

marketing. EDC program collaboration could also be in the context of providing audit services as an “on-ramp” for participation in EDC or others’ programs, identifying specific customers or groups of customers who would benefit from particular state programs, contacting those customers and then assisting them with the application process. These types of EDC support “in part” can make the state programs much more effective and lower the overall costs of achieving the goals of Act 129. The energy and or peak demand reductions achieved in this fashion must be appropriately credited toward the EDC’s achievement of the Act 129 goals.

A Commission or other state agency determination that EDCs may not take any reduction credits for their participation and support of third parties’ energy efficiency programs could have a number of adverse consequences. First, there will be little or no incentive for EDCs to become or continue to be involved in state-funded programs. For example, the Companies’ and other EDCs’ support in subsidizing loans to eligible customers under the Treasury Department’s Keystone HELP Loan Program, or supporting audits that lead to participation in state programs would not be cost-effective for the EDCs if they incur costs but receive no credit for the energy reductions achieved. Conservation Service Providers (“CSPs”) who bid for and receive pay-for-performance contracts to implement measures under an EDC’s energy efficiency approved program will not desire to spend time or resources on getting customers to enroll in 3rd parties programs because the CSP will not get credit for energy reductions achieved under those programs. In addition, a myriad of uncoordinated EDC and third parties programs will create consumer confusion over eligibility requirements, incentives, application process, etc. In such a situation, there will be duplicative advertising, implementation and verification expenses which will increase the overall costs of achieving energy efficiency for the state. The lack of coordination and collaboration between EDC programs and state-funded programs could create a detrimental competitive environment in which third parties and EDCs seek to make their respective programs successful at the expense of the other’s programs. Such a situation is not in the interest of customers, the Commonwealth or EDCs.

This potential conflict may be resolved by incenting EDCs to support state or third parties’ programs to make their programs mutually beneficial, coordinate reporting of savings for joint or collaborative initiatives, and address the manner and level of collaboration in the EDC program filings. Act 129 encompasses such a synergistic relationship in the way conservation measures are defined. Act 129 expressly provides that incurring partial costs for a measure allows an EDC to count the savings as part of the required amount of reduction. In cases where an EDC’s program provided funding in whole or in part as part of a collaborative effort with state, federal, or other separately funded programs, the EDC should be able to take appropriate credit for the energy and peak demand savings achieved. The EDC’s program filing should propose its manner and level of involvement in state, federal or other separately-funded programs and the amount of energy or peak load savings expected to be achieved toward its Act 129 targeted reduction levels.

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?

RESPONSE:

Please see the response to 2(b). The Companies further would advocate for a statewide approach for developing and documenting what efforts are underway for development of energy efficiency and demand response programs that would not fall under programs or plans created under Act 129. From a project benefit perspective (outside of direct energy bill reduction savings), this would include known State and Federal tax incentives, RTO sponsored revenues, manufacturer rebates, EDC sponsored programs and rebates and city/borough or other local government rebates.

3. Total Resource 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?

RESPONSE:

As indicated in their comments of November 3rd, the Companies support the Commission's adoption of the California Standard Practice Manual ("California Manual"), with a commitment to "modify it as necessary to meet this Commonwealth's particular needs".

The "simplification" sought in this request should focus on reducing the diversity of basic assumptions and inputs used in performing the TRC, at minimum for the first round of filings. This would involve simplifying the mechanics of the TRC test through development of "draft summary guidelines" similar to guidelines the California commission developed² in implementing the California Manual for its first round of filings.

The Companies would propose to support this development effort through a joint effort among EDCs and other stakeholders.

Guidelines would:

- provide summary definitions for the key inputs to the modeling process in Pennsylvania.
- build on the discussion of benefits and costs as described on the Working Group Draft page 11,
- define an appropriate discount rate (see response to question 3(i)),
- as EDCs will not necessarily be energy suppliers, specify an appropriate basis, or source for energy and capacity pricing forecasts (see response to question 3(b),
- define effective useful lives of measures (up to 15 years), and default net-to-gross values.

The development of standard list of the useful lives of energy efficiency measures, persistence, and the cost of the energy efficiency measures could be useful.

² See http://docs.cpuc.ca.gov/published/FINAL_DECISION/11474-13.htm .

Commission guidelines would provide a foundation for streamlining the review process of utility filings and reducing conflicting perspectives.

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?

RESPONSE:

See response to 3(a).

As demonstrated by Duquesne's and Penn Power's experience in customers choosing market-based energy suppliers, and restructured models in other states like New Jersey, EDCs will be in the business of energy delivery after 2011, but with some uncertainty as to the amount of default energy supply to customers. Very few programs are likely to be cost effective if the avoided generation costs associated with some estimated percentage of shopping load is excluded from the calculation. The Companies recommend including as a benefit the avoided monetary costs associated with energy and capacity irrespective of energy supplier.

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

RESPONSE:

In Act 129 the TRC only includes "the net present value of avoided monetary cost of supplying electricity". Environmental costs are implicitly reflected in market prices and a component of avoided generation costs. If societal avoided costs were intended by legislation, the Act would have referenced the Societal Test, which includes other societal considerations.

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?

RESPONSE:

The TRC is designed to assess the cost effectiveness of energy efficiency measures, including consideration of program administrative costs and benefits. The definition of the TRC requires consideration of monetary costs (or savings) to the EDC or participant. If the commission were to limit costs considered under the TRC to only those incurred by the EDC, it would not consider participants' costs (or benefits) related to the measure and would be a significant variation from the California TRC test.

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?

RESPONSE:

The formula for benefits includes consideration of tax credits. However, some percentage should apply to the tax credit to account for the complexities of the tax code, and the eligibility of segments (e.g. government, non-profits, etc.) for tax credits.

f) What elements of the "avoided monetary cost of supplying electricity" should be included in the TRC test?

RESPONSE:

The avoided monetary supply costs included in the TRC test should include the net present value of the reduction in transmission, distribution, generation and capacity costs valued at the estimated direct cost for the periods when there is a load reduction using net program kWh and kW savings and a discount rate equivalent to the EDCs weighted average cost of capital. Please also see response to question 3(g).

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?

RESPONSE:

The issue of how to value these costs should be considered and determined in a working group among EDCS and other stakeholders which is convened to specifically deal with this and other detailed matters in the TRC.

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

RESPONSE:

Yes. A net present value and B/C ratio provide appropriate means of presenting TRC results related to energy efficiency measures. However, as indicated in the Companies' Comments of November 3, the cost-effectiveness assessments of residential, commercial, and industrial program measures should be reviewed as portfolios for each class and also considered in the context of the entire plan.

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?

RESPONSE:

This is another issue which is more appropriately considered and determined in a working group among EDCS and other stakeholders which is convened to specifically deal with this and other detailed matters in the TRC.

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 cost of supplying electricity" under the TRC test?

RESPONSE:

See the response to 3 (g) and (i) relating to a TRC 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?

RESPONSE:

Yes. [The Companies note that the question as worded appears to have reversed the proposed fuel switch described by the gas industry.] The formula for costs includes consideration of increasing utility supply costs (UIC) and net participant costs (PCN) that would include the added cost of alternative fuels, as well as any increase or decrease in maintenance costs. Similarly, cost savings associated with the installation of energy efficiency measures (e.g. smart thermostats, insulation, etc.) supported by EDC programs that cause energy savings for other fuels (e.g. oil, propane or natural gas) those savings should be considered as well.

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?

RESPONSE:

Yes, the Commission should utilize an independent evaluator across the state to review EDC compliance with Act 129. The key advantages would include consistency in rule interpretation and the opportunity to share best practices among the EDCs for future program improvements.

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?

RESPONSE:

The use of standard kWh savings approach ("deemed savings") for prescriptive energy efficiency and conservation measures is a generally accepted method throughout the EE&C industry such as in New Jersey, Vermont, Connecticut, New York and Illinois. The use of experienced averages account for differences in hours used, how many are installed and customer behavior. Such averages provide an efficient and sufficiently accurate measurement of conserved energy attributable to a measure. Therefore, the Companies believe that most programs will lend themselves to a "deemed" savings approach. Without detailed analysis by the Companies of potential programs at this point in time, the Companies judge that customized programs, most

likely for large industrial customers, would be those programs that may not fully utilize the "deemed" savings approach.

The Commission should establish a means to solicit possible changes and additions to the TRM ongoing; however, changes to the TRM should be approved and implemented on a prospective basis and not be used to alter the reductions determined from past Commission approved measures.

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 to seek comments on this and subsequent updates to the TRM in the future? What timetable would be optimal for periodically updating the TRM?

RESPONSE:

Yes, the Commission should utilize a Secretarial letter to seek comments on the revised draft of the TRM as well as for subsequent updates in the future. Comments could assist the Commission in identifying needed updates and additions in an effort to make the TRM as robust as possible for calculating the amount of the energy and peak load reductions achieved by the implementation of an EDC's energy efficiency and peak load reduction measures. Insights from other states that have adopted similar prescriptive approaches for tracking energy efficiency savings should provide insights on possible additions/enhancements.

The Commission should establish a process whereby TRM updates can be implemented promptly on an as needed basis to reflect additional information gained from actual program implementation, insights from other states, technological changes, code changes, etc. The Commission should also establish a standard process to solicit suggested changes and additions to the TRM for regular annual updates. Changes to the TRM should be adopted on a prospective basis and not be used to adjust the reductions determined from past approved measures.

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 custom 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.

RESPONSE:

The issue of adoption of these or other protocols as part of the TRM should be considered and determined in a working group among EDCS and other stakeholders which is convened to specifically deal with this and other detailed matters in the TRM.

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?

RESPONSE:

Reliance on the TRM will streamline and clarify processes related to monitoring and verification by prescribing unit savings, reducing the complexities of M&V to review of tracking and reporting and sample inspections to verify the reported measures. As recommended in the Companies' Comments of November 3, utility tracking systems should be designed with sufficient information to enable audits, surveys or other evaluation-related activities by authorized EDC or Commission agents.

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

RESPONSE:

Yes, the Commission should adopt standard data collection formats and data bases for the evaluation of all EDC program benefits and results. Common reporting practices should simplify the Commission's evaluation process. The Companies suggest the rigor of annual reporting of compliance with Alternative Energy Portfolio Standards Act ("AEPS") is sufficient to support the reporting requirements of Act 129. Rather than create a materially different report and reporting process, the Companies promote use of the PJM's Generation Attribute Tracking System ("GATS") for the final reporting of compliance to the Commission.

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?

RESPONSE:

Total revenue paid by **retail** customers is the appropriate amount reflected in the Act 129 requirements. These retail revenues would include the state tax surcharge, gross receipts tax, any non-bypassable tariff riders as well as generation, transmission and distribution charges.

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 charges remain below 2% of revenues for the utility as a whole?

RESPONSE:

Yes. Although the Companies have not yet completed analysis of potential programs, there is a likelihood that some customer classes may have charges in excess of 2% of the class revenues.

The clear intent of Act 129 is to develop the most cost effective energy efficiency and demand response programs, and as stated in the Draft Proposal (page 16), "It is entirely possible that the most cost effective EE and DR programs may not come proportionally from each customer class". The Draft Proposal (page 17) further states, "While we do not require a proportionate distribution of measures among customer classes, we shall require that each customer class be offered at least one EE and one DR program, but we will leave the initial mix and proportion of programs to the EDCs."

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?

RESPONSE:

No, customers should be allowed to contract directly with CSPs of their own choosing to support energy decisions and perform work in their facilities, independent of CSPs under contract with EDCs. Customers in the market for conservation services would benefit from as many participants as possible. Therefore, EDC affiliates should not be barred from developing and providing conservation services directly to customers or non-affiliated 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 goal achievement?

RESPONSE:

The Companies are not aware of any specific barriers to entry to the market for CSPs. However, programs should be designed to support program delivery services by customers' CSPs with reasonable, authorized access to customer information among CSPs, EDCs, RTO, LSEs and customers regardless of what entity is handling load information as it pertains to customer metering, energy efficiency and demand response reductions. This information should be shared among the interested parties as all should be partners in serving the customer properly and efficiently. Further, this should also not eliminate any consumer protections such as seeking the proper authorizations to gather customer information, work on customer metering/EDC metering equipment and alerting proper parties to material alterations in customer load patterns.

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?

RESPONSE:

The Companies note that Act 129 contains no requirement that EDC self-supplied programs be more "cost-effective" than CSP provided programs. The Commission can evaluate the merits of

an EDC's self-supplied EE&C programs compared to similar programs offered by CSPs as part of its normal program review process.