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VIA MESSENGER

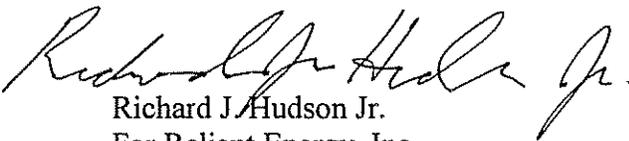
James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120

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

Dear Secretary McNulty:

Enclosed for filing are an original and sixteen (16) copies of the *Comments of Reliant Energy, Inc.* Kindly time-stamp the extra hard copy and return it to our messenger. Please contact me if you have any questions.

Very truly yours,


Richard J Hudson Jr.
For Reliant Energy, Inc.

Enclosures

cc: Act 129 e-mail account (ra-Act129@state.pa.us)

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

<i>Energy Efficiency and Conservation Program and EDC Plans</i>	Docket No. M-2008-2069887
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COMMENTS OF RELIANT ENERGY, INC.

Background

On October 15, 2008, Act 129 of 2008 was signed into law with an effective date of November 14, 2008 (“Act 129” or “Act”). Among other things, Act 129 imposes new requirements on electric distribution companies to file energy efficiency and conservation plans for Commission approval to meet certain consumption and peak demand reduction targets set forth in the Act.

On October 21, 2008, the Commission issued a letter order in Docket No. M-2008-2069887 requesting comments from stakeholders regarding implementation of the new energy efficiency and conservation programs required by Act 129. Specifically, the Commission has requested that stakeholders comment on “...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.” On November 3, 2008, Reliant Energy, Inc. (“Reliant”) submitted comments in response to this request (Initial Comments). On November 19, Reliant through its trade association, the Retail Energy Supply Association, participated in the Commission’s *En Banc Hearing on Alternative Energy, Energy Efficiency and Conservation and Demand*

Response. On December 2, 2008, Reliant submitted Reply Comments in response to the testimony presented at the *En Banc* Hearing (*En Banc* Reply Comments). On November 26, 2008, the Commission issued a draft staff proposal defining the energy efficiency and conservation program required by Act 129. Reliant respectfully submits the following comments in response to the draft Act 129 proposal. Attached to these comments are Reliant's responses to the additional questions attached to the Commission's November 26 Secretarial Letter.

The Draft Proposal Should Require an Independent Entity to Competitively Select an EDC's Portfolio of EE&C Measures

Reliant respectfully submits that the draft proposal provides too much discretion to the EDCs to unilaterally select the EE&C measures to be included in their plans, including measures to be self-supplied by the EDCs. Under the draft proposal, EDCs must merely provide a justification for why it chose not to competitively bid an EE&C plan function.¹ It also appears that the draft proposal would permit an EDC to select the specific portfolio of measures to be included in its plan and design the parameters, terms and conditions for the individual EE&C measures that the EDC will competitively bid out.

Reliant has previously recommended adoption of a program design where individual market participants (EGSs or CSPs) could design and propose the EE&C measures to be considered as part of an EDC's Act 129 plan. In its *En Banc* Hearing Reply Comments, Reliant noted how adoption of this recommendation would provide for a comprehensive way to address other concerns such as the need for meaningful stakeholder engagement in the plan development process and the need for independent

¹ Draft Implementation Order at fn 12.

review of EDC program compliance. Reliant continues to believe that independent initial selection of EE&C measures is the best way to enable the EDCs to meet their obligations in a cost effective manner while also stimulating innovation and creating a market for a variety of conservation and efficiency products and services.

Without competitive selection of EE&C measures by an independent entity, disputes regarding selection of specific EE&C measures (and CSPs selected to implement those measures) are more likely. The staff proposal appropriately affords stakeholders an opportunity to contest an EDC's plan during the plan approval process.² However, the expedited approval process will make consideration of alternative program proposals difficult. Reliant recognizes that interested parties will have the opportunity to propose plan changes during the annual review process. However, initial independent evaluation and selection of EE&C measures will significantly reduce contentious litigation during the plan approval and annual review processes.

Finally, Reliant believes that the Commission, as a matter of policy, should limit the EE&C measures that can be self-supplied by the EDCs to programs in place prior to Act 129 passage. EDCs should be required to present compelling reasons why their provision of an EE&C measure is appropriate, such as lack of bid proposals from third-party CSPs or failure by a CSP to meet the required consumption/demand reductions.

Conclusion

In conclusion, Reliant appreciates this opportunity to provide these comments regarding implementation of the energy efficiency and conservation programs required by Act 129. Reliant looks forward to working with the Commission and other interested

² Draft Implementation Order at 9 Stakeholders only have 20 days to file an initial response to an EDC plan and only 70 days between filing of a plan and an evidentiary hearing

parties to ensure that Act 129 is implemented in a way that will complement the development of competitive retail markets in the Commonwealth.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard J. Hudson Jr.", written in a cursive style.

Richard J. Hudson Jr.
Director State Regulatory Policy
Reliant Energy, Inc.

**Additional Questions Related to the Commission's
Energy Efficiency and Conservation Program at 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?

No response.

- 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)?

No response.

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?

No response.

- 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?

If not properly implemented, Act 129 programs could negatively impact the development of the competitive EE&C services market. As RESA noted in its testimony to the Commission at the en banc hearing, the competitive retail market has been delivering alternative energy, demand response, efficiency/conservation services as well as innovative commodity electricity products to customers well before passage of Act 129. If EDCs are allowed to self supply EE&C measures paid for through non-bypassable charges, then the EDC programs could potentially crowd out the competitive EE&C market. Additionally, if EDCs are

allowed to unilaterally design the EE&C programs that they will competitively bid out, innovation and competitive market development for these services will be stifled. The Commission should adopt a program design that fosters innovation and fully taps into the power of the competitive market in meeting the EDC's Act 129 obligations. As Reliant has recommended previously, the Commission should adopt a program design that allows third party CSPs to propose a wide range of programs for consideration in an EDC's Act 129 plan. This would require either the Commission or the EDCs to retain an independent third party entity to solicit EE&C programs from CSPs. This independent entity would objectively evaluate the various proposals submitted by CSPs and make a fair and unbiased selection of the specific EE&C measures that would comprise an EDC's plan. This would allow existing providers of EE&C programs to potentially expand their programs as part of an EDC's Act 129 plan. It would also allow new innovative programs to compete on equal footing for funding that may be available through the EDC's Act 129 plan.

- 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?

No response.

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?

No response.

- 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?

Yes. The costs to be factored in to the TRC should only include the costs passed onto ratepayers to fund an Act 129 EE&C measure. This would include costs incurred by the EDC to support the EE&C measure that are recovered through the Act 129 surcharge. If a CSP is able to off-set the costs (through existing tax incentives or other mechanisms) related to a program that it wishes to provide under an EDC's Act 129 plan, then the CSP should be able to do so without having those costs factored into the TRC evaluation. For example, a CSP may wish to provide an EE&C service, such as a direct load control program, bundled with other energy services, such as commodity electric service. A CSP could

propose such a product as an Act 129 EE&C program and propose to provide a bill credit to customers as an incentive to participate in the direct load control program. A CSP could propose to fund the cost of the bill credit through an EDC's Act 129 program but the CSP may be willing to cover the up front cost of the load control equipment "out of pocket" as a marketing incentive to attract customers. In such a scenario, only the cost of the bill credit should be factored into the TRC test because the cost of the load control equipment would not be recovered through the EDC's Act 129 surcharge.

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

Yes. If a CSP can demonstrate and quantify other societal benefits, these should be factored into the TRC evaluation.

- 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?

No response.

- 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?

Participant costs that are not recovered from EDC ratepayers to support an EE&C measure should not be factored into the TRC test.

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

The avoided monetary cost of supplying electricity should include at a minimum, the direct marginal costs of generation (including capacity), losses, transmission, ancillaries, and distribution costs.

- 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?

Yes. Where consumption and demand reductions can be measured across specific time intervals, the avoided monetary costs should be valued at marginal cost for the period where there is a measurable reduction. As an example, reducing the demand in the off-peak period has no marginal effect on the cost of capacity, so no benefit associated with capacity cost reductions should be included.

- 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?

No response.

- 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?

No response.

- 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?

No response.

- 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?

No response.

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?

Reliant has no comment on whether a statewide versus an EDC-specific third party entity is more appropriate. However, Reliant supports the Commission retaining an independent third party entity to review EDC compliance. However, the independent entity should also be responsible for initially soliciting EE&C program proposals from interested CSPs. Third party CSPs should be able to submit proposals for specific EE&C measures designed by market participants, not the EDC. The independent entity would evaluate the range of CSP proposals and select the portfolio of programs that would be included in an EDC's plan.

- 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?

No response.

- 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?

No response.

- 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.

No response

- 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?

No response

- 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?

No response.

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?

No response

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?

The 2% of revenue cost cap should be calculated and applied on a system wide basis, rather than on a customer class basis

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?

No response

- 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?

Yes. Existing barriers to CSP market development are similar to existing barriers to EGS market development, including having to compete with an incumbent monopoly utility that has certain inherent competitive advantages over new entrants. The Commission can best propose CSP market development by limiting the EDC's involvement in the provision of EE&C services. As discussed previously, this includes limiting the EDC self-supplied EE&C measures and requiring independent initial selection of EE&C measures to be included in an EDC's plan

Timely and efficient access to meter and other customer data is critical for CSPs and EGSs. Reliant refers the Commission to specific recommendations that it submitted in the Retail Market Working Group proceeding (Docket No. M-00072009) on information and data access issues. These recommendations include:

- *The publication and standardization of customer lists³*
- *Streamlined and improved processes for obtaining historical usage information for customers*
- *The creation of a customer identifier database*
- *Streamlined and improved Letter of Authorization processes and requirements for obtaining customer-specific information*
- *No cost access to customer-specific information for customers and their authorized agents (CSPs or EGSs)*

³ Reliant recommends that the customer lists include the following data elements, if applicable, in a standardized format: account number, customer name and address (both service address and mailing address and including zip+4), phone number (unless the customer has elected to restrict this), an identifier for the customer's rate code, municipal tax codes, meter read cycle date, an identifier for meter type (e.g. summary or interval), an identifier for the customer's load profile if applicable, historical usage (kWh) in the most recent 12-month period along with 12 individual months' data on both usage, registered demand (kW) and the date the most recent update was made.

Reliant believes that these issues and recommendations are equally germane to CSPs and Act 129 implementation.

Additionally, the lack of smart meter and smart grid infrastructure is a significant barrier to entry for many EE&C programs and other innovative energy services. As Reliant recommended in our Initial Comments in this docket, the Commission should encourage EDCs to deploy smart meters more rapidly than the 15 year timeline required in Act 129. The Commission should clarify that the cost of smart meter deployment will not be counted against the Total Resource Cost test used in evaluating EE&C programs that utilize such enabling infrastructure. Improperly designed smart meter capabilities and standards can also present a barrier to entry. Reliant refers the Commission to the smart meter functionality standards presented in RESA's En Banc Hearing testimony (also attached to these comments). As mentioned by several parties at the hearing a key standard that should be required for smart meter plans is open, non-proprietary access to smart meters and associated data and communication systems. This is necessary to enable CSPs or EGSs to directly control and communicate with smart energy devices within a customer's home or facility.

- 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?

The Commission should require to the maximum extent possible, that EE&C measures are provided by third-party CSPs. EDC self supplied EE&C measures should be limited to EE&C programs in place prior to passage of Act 129.

<u>Recommendations for Minimum Smart Meter Functionality Standards</u>	
Meter Functionality	
Capability	Why is this important
15 minute reads (or match ISO settlement standard) and capability to support ISO settlement off of this interval data	Customer load must be settled on the same interval as ISO resources so that cost savings achieved by customer load changes can be realized.
Remote meter read and remote disconnect/reconnect	These features create utility cost savings. Will facilitate better customer service and easier processing of move-in/move-outs. Important that remote read capability be available to EGSs and conservation service providers (CSP) in addition to the utility. This will allow EGSs to perform real time enrollments.
Meter should be able to store reads for a certain period of time and the register should be accessible by the Home Area Network (HAN)	This will speed up the utility's process of validating, editing and estimating the usage data and will allow the utility to provide more accurate billing data in a quicker manner. Also allows an in-home smart energy device to pull data directly from the meter.
Standard communication protocol allowing the meter to communicate directly to HAN devices.	Fosters innovation by allowing multiple devices (non-proprietary) to communicate between various in-home devices and the meter (i.e. a smart thermostat or smart appliance could respond by curtailing usage based on pre-set triggers)
Meter firmware should be upgradeable over the communications network	Optimizes cost effectiveness and fosters innovation by supporting technology evolution over time.
Communication System	
Capability	Why is this important
Open, non-proprietary 2-way access for EGSs and CSPs to send/receive information to/from in-home devices	Allows service providers to directly control smart energy devices in the home or provide customers the information necessary for them to choose to change their usage, thus supporting a wider range of products and services. Open access yields maximum utilization of system capabilities (sort of like the internet) and provides for product innovation.
Ability to send signals up to maximum bandwidth (e.g., kilobytes/Day/Meter)	Ensures consistent customer service by allowing service providers to design products around the bandwidth capabilities of the system
Ability to communicate and set event triggers through meter and to HAN	Allows service providers to offer products that directly control in-home devices, such as changing the thermostat or curtailing a specific appliance.
Ability to remotely join a HAN Device to the AMS meter and register the HAN Device with a service provider	Allows customers to install a HAN Device (such as a smart thermostat) so the device can begin communicating with the smart meter and provides for the HAN Device to register with a service provider who is offering a product that requires communication with a HAN Device. For example, a supplier could offer a product that automatically adjusts the customer's

	thermostat when prices reach a certain level.
Ability to obtain real-time information from the meter such as usage, demand reads within a specified service level (e.g., 6 seconds)	Allows HAN Devices to display real time information and allows a customer to potentially take action.
Databases	
Capability	Why is this important
Open, non-proprietary systems interface for accessing customer usage information and individual customer meter capabilities	Allows the customer and service provider to access the utility's meter information database. Allows service provider to download historical data for a customer to offer better pricing and service options matched to the customer's unique usage history. Allowing service providers to know a potential customer's specific meter capabilities will enable screening for whether customers are eligible for certain AMI products.
Interval usage data should be available	Granular historical usage data enables a wider range of products such as real time and time of use pricing
Prior day interval usage and meter register reads taken daily at midnight and sent within a specified service level, such as next day at 6 AM.	Allows for product innovation by giving customers an indication of their usage and bill to date. Having this knowledge will allow customers to better manage their electrical expenses. Will also enable new products, such as pre-paid electricity (similar to pre-paid cell-phone plans)
Data maintained for at least 13 months	Allows customer and service providers access to at least a year of historical information needed to offer the most accurate pricing and products matched to customers specific usage patterns