BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF PECO ENERGY COMPANY ON THE PROPOSED EXPEDITED APPROVAL PROCESS FOR MINOR EE&C PLAN CHANGES

Pursuant to the April 1, 2011 Tentative Order entered by the Pennsylvania Public Utility Commission (the "Commission") in the above-referenced docket, PECO Energy Company ("PECO") hereby submits comments on the Commission's proposed expedited process for approval of minor changes to Act 129 Energy Efficiency and Conservation Plans ("EE&C Plans").

I. INTRODUCTION

PECO appreciates the Commission's efforts to develop an expedited approval process to facilitate timely and cost-effective EE&C Plan modifications and support Act 129's goals. PECO strongly agrees that a streamlined procedure for minor EE&C Plan changes will "benefit the program as a whole by reducing administrative costs, reducing the time it takes to end underperforming programs, implement or expand more effective programs, and [by] increasing the ability of the program to meet the mandated goals in a cost effective manner." Tentative Order, p. 4. After careful review of the Tentative Order, PECO believes that the proposed approval process should be further modified to facilitate even more timely and cost-effective EE&C Plan modifications. Therefore, PECO recommends four modifications to the proposed approval process: (1) the scope of "minor changes" that are eligible for expedited approval should include the addition of new measures that are included in the Technical Reference

Manual or Interim Technical Reference Manual[1] (collectively referred to herein as the "TRM"); (2) minor changes should become effective 10 days after a notification is filed by the electric distribution company ("EDC") unless a formal objection is filed; (3) if an objection is filed, then an expedited comment process similar to the Commission's proposal should be initiated; and (4) Commission staff should not have the authority to refer minor changes to the Office of Administrative Law Judge for hearings and a recommended decision. Each modification is described in detail below.

II. SPECIFIC COMMENTS

A. Scope Of Minor Changes Eligible For Expedited Approval

In the Tentative Order, the Commission proposes to delegate its authority to approve minor EE&C Plan changes to Commission staff and outlines an expedited timeframe for the submission of comments and reply comments and the issuance of a Secretarial Letter. *See* Tentative Order, p. 4. The proposed delegation of approval authority to Commission staff is limited to the following three categories of minor EE&C Plan changes:

1. Elimination of a measure that is underperforming or has exhausted its budgeted amount.
2. The transfer of funds from one measure to another measure within the same customer class.
3. A change in the conditions of a measure, such as the addition of new qualifying equipment or a change in the rebate amount that does not increase the overall costs to that customer class.

Id. at 5.

[1]The Commission contracts with a Statewide Evaluator ("SWE") to review the TRM and provide suggestions for possible revisions and additions. A Technical Working Group ("TWG") was formed to provide guidance to the SWE in clarifying savings measurement protocols and plans by recommending improvements to the existing TRM and other aspects of the EE&C program. The SWE, in collaboration with the TWG and Commission staff, proposes change and additions on an annual basis which are released for comment with the Commission's adoption of a Tentative Order (most recently on November 19, 2010). *See* Tentative Order, Docket No. M 00051865 (entered November 24, 2010). The TRM proposal released by the SWE constitutes the "Interim Technical Reference Manual."

PECO agrees that these types of changes are minor and should be eligible for expedited approval. The Company, however, believes that an additional item should be included in the third category: the addition of a new measure that is included in the TRM. Because "measures[2]" can include equipment, technology and practices, it is not clear whether the Commission intended to include new measures from the TRM when it cited "the addition of new qualifying equipment" as an example in the third category. To remove any doubt, PECO proposes that the third category be modified as follows: "A change in the conditions of a measure, such as the addition of new qualifying equipment or a change in the rebate amount that does not increase the overall costs to that customer class, **or the addition of a new measure that is included in the TRM**." The Company believes that it is appropriate to approve the addition of new measures included in the TRM on an expedited basis because the TRM itself is approved by the Commission for use in determining kilowatt-hour savings for EE&C measures and is updated by the Commission on an annual basis.[3]

B. Ten Day Notification For Minor Changes

In order to minimize delays in implementing minor EE&C Plan changes, PECO believes that such changes should become effective on 10 calendar days' notice unless an objection is filed during the notice period. The notification process would commence with the filing of the proposed change with the Commission and would allow the Company and other EDCs to efficiently implement minor EE&C Plan changes that are not controversial. The ability to quickly adjust EE&C Plans in order to capitalize on savings opportunities and eliminate

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[2] *See* 66 Pa. C.S. §2806.1(m)

[3] In the case of the Interim TRM, the Commission adopts a Tentative Order proposing revisions developed by the SWE, TWG and Commission staff as described in footnote 1.

underperforming measures will provide additional benefits to customers without additional administrative costs.

The notification process will also preserve the ability of interested parties to challenge EE&C Plan modifications. If an objection is filed during the 10-day notice period, then an expedited comment process (described below in Section C) would be initiated. Similar to the 10-day comment period proposed by the Commission in the Tentative Order, the Company believes that a 10-day notice period is sufficient for interested parties to determine whether or not a proposed minor change is objectionable. In addition, PECO would continue its practice of sharing possible EE&C Plan modifications with stakeholders before making a formal proposal to the Commission. Thus, interested parties would first receive informal notice of upcoming changes and could engage in discussions with the Company before a formal notice is filed and the 10-day period for objections begins.

C. Expedited Approval Process For Minor Changes Where An Objection Is Filed

If an objection is filed in response to a minor change notification, the Company proposes that an expedited comment process be initiated that is similar to the process the Commission proposed in the Tentative Order. Because interested parties will have already had the 10-day notice period to consider the minor change, PECO proposes that comments be due 5 calendar days after the expiration of the notice period. Consistent with the Commission's proposal, parties will then have 5 calendar days to file reply comments. Finally, Commission staff will have 7 calendar days from the close of the reply comment period to issue a Secretarial Letter approving or disapproving some or all of the proposed changes. Commission staff would have the discretion to extend its consideration period by an additional 7 days if necessary.

PECO firmly believes that its proposed notification process will provide a meaningful opportunity for interested parties to advocate their positions and also substantially reduce the time, costs and administrative burden associated with the existing process for EE&C Plan modifications. However, if the Commission disagrees with the Company concerning the notification process, the Company believes that, at a minimum, the Commission should utilize the expedited comment process described above for all minor EE&C Plan changes. Under this scenario, consistent with current practice, PECO would first share possible EE&C Plan modifications with stakeholders (including the parties of record) before making a formal proposal to the Commission. Once the modifications are filed, the expedited timeline for submission of comments and reply comments and issuance of a Secretarial Letter would be utilized.

D. Referral Of Minor Changes To The Office Of Administrative Law Judge

As noted earlier, the Commission proposes to delegate its authority to approve minor EE&C Plan changes to Commission staff and outlines an expedited approval process. *See* Tentative Order, p. 4. However, the Tentative Order also provides that Commission staff may "refer some or all of the proposed revisions to the Office of Administrative Law Judge (OALJ) for hearings and a recommended decision, if necessary." *Id.* at 5. No criteria or guidelines are provided concerning when the Commission believes such a referral would be appropriate.

PECO believes that providing Commission staff with an unrestricted ability to refer minor EE&C Plan changes to the OALJ for hearings and a recommended decision defeats the purpose of establishing an expedited process. If the Commission is satisfied that certain categories of minor changes can appropriately be considered by Commission staff, then it should require staff to render a final decision on those changes. The Commission's goals of reducing administrative costs and maximizing savings opportunities would be better served if the

expedited process was a certainty and not just a possibility. Further, removing the authority of Commission staff to refer these matters to the OALJ would not preclude meaningful participation by interested parties, as they would retain the ability to file comments and reply comments as well as appeal the staff action.

III. CONCLUSION

PECO appreciates the opportunity to comment on this important matter and believes that the Company's recommended revisions can further improve the efficiency and effectiveness of the approval process for EE&C Plan changes.

Respectfully Submitted

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For PECO Energy Company