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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLY COMMENTS OF THE ENERGY ASSOCIATION OF PENNSYLVANIA FOLLOWING DECEMBER 10, 2008 WORKING GROUP MEETING

I. INTRODUCTION

Pursuant to Act 129 of 2008, the Pennsylvania Public Utility Commission ("PUC" or "Commission") issued a Secretarial Letter on October 21, 2008 to begin the process of implementing the law which requires, inter alia, electric distribution companies ("EDCs") to reduce energy consumption and peak demand by mandated target dates. The Secretarial Letter sought comments on issues related to the statutory requirement that the PUC adopt an Energy Efficiency and Conservation Program ("EE&C Program") by January 15, 2009.

Following the submission of comments, the PUC issued a draft implementation order and questions for consideration to all stakeholders. Comments to the draft order and questions were submitted by stakeholders on December 8, 2008 and then on December 10, 2008, the PUC conducted a working group meeting to discuss the implementation order so as to assist the PUC in development of its EE&C Program. These Reply Comments are filed by the Energy Association of Pennsylvania ("EAPA")[1]

[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.

on a discrete number of issues raised in written comments and during the discussion on December 10, 2008.

II. REPLY COMMENTS

Initially, EAPA commends the Commission's efforts to move the Act 129 implementation forward expeditiously inasmuch as the statutory timeframes for compliance are tight. Further, EAPA strongly supports and recommends adoption of the comments filed on December 8 by its member companies particularly wherein they make suggested modifications to the Draft Implementation Order so as to avoid internal inconsistencies (See, e.g., PECO December 8 Comments at pp.15-18 and FirstEnergy December 8 Comments at p.3).

A. PUC Approval of a Total Resource Cost Test and Technical Reference Manual.

After considering the discussion on December 10, EAPA revises its suggestion to establish an additional working group to address issues relating to the Total Resource Cost Test ("TRC test"). EAPA recommends that the Commission adopt the widely used and accepted TRC test as set forth in the California Standard Practice Manual. The manual provides a straight-forward description of the TRC test and defines each variable. The Commission need only establish a discount rate to use in the analysis and, as has been previously suggested, EAPA recommends that the discount rate be the individual EDC's post-tax weighted-average cost of capital.

EAPA further recommends that the 2005 Technical Reference Manual ("TRM") as revised be issued for comments via a Secretarial Letter as soon as possible with the goal of finalizing the TRM no later than March 1. If necessary, a working group may be convened following receipt of comments, again with the goal of completing the TRM by

March 1, 2009. The finalized TRM with identified deemed savings for energy efficiency and conservation measures and deemed reduction for programs aimed at reducing peak demand will be crucial for the development of individual EDC plans. It is critical that the Commission approve a TRC test and finalize a TRM as early as possible to provide guidance to the EDCs and Conservation Service Providers as they develop conservation, energy efficiency and demand reduction measures.

B. PUC Support for Coordinated Programs.

Additionally, based on written comments and discussion in the working group meeting, EAPA urges the Commission to provide a definitive direction on coordination and leveraging of existing energy efficiency and conservation measures in the context of Act 129 implementation. The statutory definition of "energy efficiency and conservation measures" includes:

> (1) Technologies, management practices or other measures employed by retail customers that reduce electricity consumption or demand if all of the following apply:
>
> > (i) The technology, practice or other measure is installed on or after the effective date of this section at the location of a retail customer.
> >
> > (ii) The technology, practice or other measure reduces consumption of energy or peak load by the retail customer.
> >
> > (iii) The cost of the acquisition or installation of the measure is directly incurred in whole or in part by the electric distribution company.

66 Pa.C.S. §2806.1(m)(1)(iii). Emphasis added.

Thus, to the extent an EDC supports a program with funding or other assets, provides equipment or a rebate to customers for technologies, management practices or other measures to reduce electricity consumption or demand through an existing federal, state or third party program, any deemed reduction in consumption or peak demand attributable to that technology, management practice or other measure should apply towards meeting the EDC's statutorily mandated reduction targets.

Any other interpretation would result in duplicative competitive programs which could confuse customers, leading to inaction, and/or could encourage customers to seek double the incentive, one from a government program and one from the utility program, to obtain a single energy efficiency and conservation measure. Such action would clearly impact the cost-effectiveness of all programs and frustrate the public policy objective of changing customer behavior to incorporate energy efficiency and conservation measures in the everyday use of energy. Accordingly, EAPA respectfully urges the Commission to permit EDCs to include in their plans existing programs and, most importantly, receive credit for the deemed savings and/or reduction that will result through consumer participation.

C. EDC Programs Can and Should Include Opportunities for Both Consumption and Peak Demand Reduction.

A primary purpose of Act 129 is to secure consumer savings through greater use of conservation, demand management, and energy efficiency measures. The EDC programs developed to reduce consumption and peak demand so as to achieve savings are mandated by statute to be "cost effective". Cost effectiveness can not be obtained if separate programs are necessary for consumption reduction and peak demand reduction as suggested by the Department of Environmental Protection ("DEP").

As the Commission has heard from many commentators, likely programs for inclusion in EDC plans are Energy Star® appliance programs, Energy Star® office programs and Energy Star® Homes. All such programs have benefits that meet both the demand goal and the energy savings goal. Support of such programs in EDC plans will result in reductions of both consumption and peak demand and should be approved to meet both targets.

For example, a more efficient refrigerator will have less demand for electricity, reducing summer peaks and providing savings derived from less reliance on the expensive peaking facilities deployed during the summer. The greater overall efficiency of the Energy Star® appliance also leads to less energy use every hour of every day, all year long. This leads to less reliance not only in peak hours but on mid-cost intermediate units and occasionally base load units as well. Therefore, there are savings of energy (consumption) as well as peak demand reduction related to programs that aim to replace appliances with Energy Star® equipment.

The same is true of Energy Star® Office Equipment which lowers demand in the summer, but also reduces energy use year round. Computers are the clearest example, but other commercial equipment can also have the dual impact of consumption and peak demand reduction.

DEP's attempt at cost segregation is apparently based upon some misplaced notion of double counting. Yet the corresponding cost savings derived from reduced consumption and lesser reliance on expensive peaking units, lesser use of mid-priced units and capital investment savings illustrate that program benefits can include and be counted as savings to meet both the targeted reduction in consumption and the targeted reduction of peak demand.

The Association would also draw the Commission's attention to Title XIII of the Energy Independence and Security Act of 2007 ("EISA") which strongly encourages regulatory innovation and consumer engagement to promote a smart grid and achieve demand and consumption reductions. EISA, as well as Act 129, are attempting to dramatically change the attitude of consumers to energy consumption. Such change is not easy due to historical usage patterns.

Since 1990, electricity demand has increased 25% and is expected to double by 2050. Public Utilities Fortnightly, "Policies Get Smart", p.28, June 2008. To facilitate the goals of Act 129, both the Commission and EDCs will need to significantly alter consumer behavior and engage or educate the consumer to adopt conservation and energy efficiency as a lifestyle commitment. Programs which provide a means to reduce individual consumption and impact wholesale cost by reducing peak demand will be attractive to all classes of consumers, enabling EDCs to meet the aggressive goals established under Act 129. EAPA urges the Commission to approve programs which provide the dual benefit of consumption reduction and load shifting as cost-effective and supportive of legislative intent.

D. Peak Demand Reduction Can be Measured by Demonstrated Capacity Adjustment Capability.

Just as energy reduction goals can be met with deemed savings, peak demand reduction goals can be measured by demonstrated capacity adjustment capability. In developing plans under Act 129, EDC will need to introduce programs which reduce the peak demand by a set percentage against the average 100 highest peak demand hours in the base year. EDCs request that the Commission approve plans as meeting reduction goals which demonstrate capacity adjustment capability such that when actual demand reaches the calculated peak demand trigger, an EDC can demonstrate that measures are available and implemented to reduce demand.

The Association would ask the Commission to recognize that the anticipated benefits of the demand response program emerge from the value of the capacity and energy reductions and the aggregate effects of those reductions on capacity clearing prices in the PJM Reliability Pricing Model (RPM) Base Residual Auction and location marginal prices for energy. The Association would offer that direct benefits are those that arise from a customer participating in the program; whereas, indirect benefits are benefits that are derived from improvements in the operation of the PJM markets that result from greater demand elasticity. Both indirect and direct benefits accrue to both participants and non-participants in the form of lower overall capacity and energy prices in the PJM markets, and therefore lower default service costs.

Recognizing the voluntary nature of these programs for consumers and weather factors such as heat and humidity which impact demand, it is crucial that plan success in meeting demand reduction targets is measured on demonstrated capacity adjustment capability.

E. The TRC Test Should Not Be Complicated by Modifications Which Seek to Include "Benefits" That Can Not be Monetized.

Contrary to the position offered by DEP, Act 129 specifically defines the TRC Test in a straight forward fashion devoid of reference to non-monetized benefits. The language used in Act 129 provides that the TRC test is calculated by comparing avoided monetary costs with the monetary cost of energy efficiency and conservation measures. The use of the adjective "monetary" to describe "costs" clearly underscores the legislative intent to focus on tangible costs which can be monetized.

The language contained in Act 129 was the subject of seven separate amendments during the bill's passage. The legislature modified the Total Resource Cost Test multiple times as to the number of years to be used in the test ranging from 5 years to the 15 years finally selected. The inclusion of environmental costs and/or societal costs were not included in the final version.

Indeed, DEP's own comments suggest that not only would consideration of environmental costs be difficult to monetize but it would also be subject to dramatic change in the future. (DEP December 8 Comments at p.5). DEP references that mercury regulations are not fully in force. DEP could also have raised the recently passed legislation requiring a study on global warming or the President-elect's statements in favor of a strong carbon policy reducing carbon emissions as examples of environmental policy that if implemented will impact the price of generating electricity. All of these potential changes to environmental policy will impact the cost of supplying electricity and the cost of energy efficiency/conservation measures if adopted and need not be included as separate components in a cost/benefit analysis, particularly where, as here, the "benefits" can not be readily monetized.

The Association contends that the (1) clear language of the statute and, (2) the legislative history do not support an attempt to broaden the TRC test to encompass possible environmental or societal benefits which cannot be monetized.

III. CONCLUSION

EAPA has provided a number of reply comments aimed at simplifying the Phase I implementation process so as to enable the Commission to meet its January 15, 2009 deadline. Suggestions include approval of the California TRC test; revision of the 2005 TRM via a Secretarial Letter, coordination of programs so as to ensure continuity of successful energy efficiency and conservation measures while providing savings, which the EDCs can count towards mandated reduction; approval of EDC programs which provide both savings and peak demand reductions; and a TRC test which is not complicated by illusory benefits which can not be separately monetized.

EAPA looks forward to working with the Commission and other stakeholders as the implementation process moves forward.

Respectfully Submitted,

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