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December 19, 2008

**HAND DELIVERED**

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

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

Dear Secretary McNulty:

Enclosed please find an original and fifteen copies of PennFuture's Reply Comments in the above-referenced proceeding.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Courtney Lane  
Policy Analyst  
Citizens for Pennsylvania's Future (PennFuture)  
Center for Energy, Enterprise and the Environment

Enclosures



Reducing peak demand also reduces the consumption of natural gas and other fossil fuels that are burned when power is generated. As a result, conserving electricity also decreases air pollution, greenhouse gases and other emissions that harm habitat for plants and animals.

These are the very real benefits and having the capacity to reduce peak, but not actually doing so, delivers none of these benefits to the consumer which is the intent of the legislation.

The language in Act 129 clearly demonstrates that this is the correct interpretation. Section 2806.1(b)(1)(I) on page 52, states that an EDC's energy efficiency and conservation plan shall include "specific proposals to *implement energy efficiency and conservation measures to achieve or exceed the required reductions* in consumption under subsections (C) and (D)."

Section 2806.1(d)(1) on page 56 further states that "The plans adopted under subsection (b) shall reduce electric demand as follows: (1) By May 31, 2013, the weather-normalized demand of the retail customers of each electric distribution company *shall be reduced by a minimum of 4.5% of annual system peak demand in the 100 hours of highest demand.*" This indicates that by May 31<sup>st</sup> the 100 hours of highest demand must be reduced. It does not infer that by May 31<sup>st</sup> the EDC should have the ability to reduce demand.

If the intent of Act 129 was to create a situation where the EDC only had to show the capability to reduce demand by 4.5%, terms such as "when needed" or "demonstrate the ability" would have been used. However, realizing the importance of actually creating real reductions in peak demand, the General Assembly did not pass the Act with such language.

In order for ratepayers to realize the benefits of the Act 129 peak demand reduction requirements, EDCs must be required to demonstrate that they have actually cut peak demand by 4.5% of the base year by May 31, 2013 regardless of the weather, economic or peak demand conditions.

### **3. EFFICIENCY TARGETS AND COMPLIANCE**

Comments presented at the December 10 Working Group Meeting indicate there is still uncertainty regarding how to calculate the reduction requirements of Act 129.

The proper interpretation of the efficiency targets and goals set forth in Act 129 is to require a fixed amount of decrease in electricity. As the Commission states on page 14 of the Working Group Draft Implementation Order, "if an EDC's forecasted load for June 1, 2009, through May 31, 2010, is 100 MWh, by May 31, 2011, that EDC must demonstrate that its plan conserved 1 MWh of electricity".

Requiring a fixed amount of MWh and MW decrease makes it easier to determine that reductions are occurring due to energy efficiency and conservation programs and not extraneous factors such as economic or weather conditions. For instance, if the EDC is required to conserve 1 MWh of electricity and the measures included in their plan after proper evaluation, measurement and verification techniques are proven to have saved 1 MWh, then the EDC has achieved its goal. Whereas, if the EDC was required to simply reach a reduction down to a fixed level, there are outside factors such as economics, weather and independent consumer conservation that could allow an EDC to reach these goals without the implementation of energy efficiency and conservation measures.

Once the goal is set, those required MWh and MW reductions should be final. The goal should not be adjusted due to any type of extraneous factor such as weather or the economy. If the EDC finds it is not on track to meet its goals it should revise its plan to ensure goals are met.

#### **4. DETERMINATION OF ALLOWABLE COSTS**

PennFuture agrees with the Commission's interpretation that the two percent limitation on spending in Act 129 is an annual amount, rather than an amount for the full five-year period.

In order for the EDCs to be able to meet the requirements set forth in the Act, it is necessary that they have the ability to spend up to the 2 percent limit each year.

#### **5. PROCESS TO ANALYZE HOW THE PROGRAM AND EACH PLAN WILL ENABLE EDCS TO MEET REDUCTION REQUIREMENTS**

As part of the requirement to determine whether an EDC plan will enable it to meet the requirements of Act 129, PennFuture urges the Commission to review the proposed incentive mechanisms set forth in each plan and not approve those plans that have weak incentive levels.

The reason being that for some customers, rebate only programs or those with minimal incentive levels may not be enough to entice participation. The customer may not have access to the needed capital to pay for the remaining cost of the energy efficiency or conservation measure, and they may not be able to qualify for a loan. If enough customers face these barriers, the EDC will not be able to install enough measures to meet the Act 129 requirements.

Therefore, EDCs should be encouraged to look for partnerships that can result in further incentive mechanisms for program participation. This could include partnering with the rebate programs that may be offered as part of the \$650 million Alternative Energy Investment Fund. For instance, if a customer wants to retrofit an HVAC system, that customer could receive a rebate from the EDC and from the Alternative Energy Investment Fund to help further reduce the cost of the measure. The EDC would then be able to claim the savings from that HVAC system.

We encourage the Commission and other stakeholders in the Act 129 proceedings to give thought to what possible financial partners, both public and private, might be available to help ensure that ratepayers can adequately overcome the cost barriers to participating in EDC programs.