

610-929-3601

Linda R. Evers, Esq.
(610) 921-6658
(610) 939-8655 (Fax)

November 26, 2008

VIA OVERNIGHT UNITED PARCEL SERVICEJames J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120**Re: Implementation of Act 129 of 2008**
Phase 2 – Registry of Conservation Service Providers
Docket No. M-2008-2074154

Dear Secretary McNulty:

As per the Secretarial Letter dated November 14, 2008, enclosed for filing are an original and sixteen (16) copies of Comments of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company (collectively, "FirstEnergy") in the above-referenced docket. Please date stamp the additional copy and return it to me in the enclosed, postage-prepaid envelope.

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

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

Sincerely,



Linda R. Evers, Esquire

dlm
Enclosures

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Act 129 of 2008 :
Phase 2 – Registry of Conservation Service : **Docket No. M-2008-2074154**
Providers :

**COMMENTS ON BEHALF OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY AND
PENNSYLVANIA POWER COMPANY**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

I. INTRODUCTION

Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”) and Pennsylvania Power Company (“Penn Power”), collectively referred to as “FirstEnergy” or the “Companies”, submit comments to the above-captioned docket in response to the Pennsylvania Public Utility Commission’s (“Commission” or “PaPUC”) Secretarial Letter dated November 14, 2008, requesting comments on the experience and qualification requirements the Commission must establish for conservation service providers (“CSPs”) as part of the implementation of Act 129 or 2008. The Energy Association of Pennsylvania (“EAPA”) has also filed comments. To the extent not specifically addressed herein, FirstEnergy supports EAPA’s comments.

Since the range of activities performed by CSPs could vary greatly, the Companies recommend that the qualifications and requirements not be too restrictive to limit the number of potentially qualified candidates. Ultimately, the qualifications and requirements of the CSP

applicable to the specific activity under an EDCs' Plan should be defined through the RFP and vetting process. Additionally, the EDCs should have the ability to place additional qualifications and requirements, above and beyond the minimum requirements, as specified in the EDC's Plan and as necessary for a specific activity under the EDC's Plan.

II. QUESTIONS

1. **What are the minimum qualification standards that the Commission should require to allow a person to be listed on the registry to be established under Section 2806.2(a)?**

Response:

The Companies would recommend consideration of the basic business elements of the application process used for electric generation services (EGS)

http://www.puc.state.pa.us/general/onlineforms/pdf/EGS_Licen_App.pdf.

Referencing EGS requirements, key elements of that process that should be adapted to CSP energy efficiency services include:

- Identity and affiliations
- Present operations and experience (suggest menu of categories)
- Proposed operations (suggest menu of categories and customer segments)
Service area
- Tax Certification Statement
- Compliance
- Standards/Billing/Terms
- Bonding
- Financial Fitness
- Technical fitness

Other requirements should include certifications as to holding applicable licenses to provide services, and that installations comport with applicable codes and standards.

The accreditation process used by the Building Performance Institute (BPI) might also serve as a model for reference. (See <http://www.bpi.org/documents/BPI%20Accreditation%20Policies%20and%20Procedures%20v.2008.03.pdf>)

Required experience and qualifications should depend on the program and services offered. Given the wide range of potential services, the Companies do not have specific recommendations, other than:

- Certain certifications (e.g., BPI certification and/or accreditation) should suffice for services in existing homes, and Residential Energy Services Network (Resnet) certification should suffice for contractors supporting residential new construction.
- Contractors working under contract with utilities will have gone through a screening process as part of a competitive bid process and should be presumed to have applicable experience for the services offered by virtue of the EDC screening process.

2. **Should the minimum qualification standards include factors such as: technical training, professional experience, industry certifications, financial integrity, and/or history of lawful operations?**

Response:

See response to Question 1. Additionally, a clear and transparent process should be in place for removing CSPs from the list in the event material misrepresentations are discovered, or for violations of terms related to being included in the registry (e.g., insurance requirements, license revocations).

3. **Should qualification standards, application materials, application requirements, and a contractor/dealer agreement similar to those used by Pennsylvania's Keystone HELP program (www.keystonehelp.com) be adopted, and if so, what revisions to the Keystone HELP program would be needed?**

Response:

The Keystone Home Loan Program has a list of registered contractors for home remodeling or HVAC services and is a good starting point. However, these contractors may or may not have "professional certification" to do all the types of energy conservation work in customer homes. The current list of contractors have submitted applications and shown proof of insurance. Additional classifications of services will be needed to make the list more useful; and if the State deems it appropriate, contractor qualifications could be added. For contractors who will be working in residential homes for a utility program, FirstEnergy would recommend that they be tested and certified by the Building Performance Institute as a certified Building Analyst or HVAC specialist.

4. **Should certain training or certifications be permitted to substitute for some or all minimum experience requirements?**

Response:

It would depend on the activity that the CSP is performing under the EDCs' Plan. Flexibility should be allowed with the specific requirements defined in the RFP process.

5. **What effect, if any, should be given to entities approved as conservation service providers in other jurisdictions?**

Response:

None. Work performed in other states can serve as additional information the contractors may provide in the certification/application process.

6. Should bonding or a letter of credit be required? If so, what should be the minimum amount?

Response:

Yes, but the minimum requirement should be predicated on the scope of work being performed. EDC's should have the flexibility to include certain conditions as a precedent to participation in RFPs.

7. Should insurance be required? If so, what type and what minimum amounts?

Response:

Yes, insurance should be required. FirstEnergy's minimum insurance requirements are as follows:

- Comprehensive General Liability (CGL) including Contractual Liability, and if any work is to be performed by Subcontractor, Contractors Protective Liability with minimum limits of \$2,000,000 per occurrence, combined single limit, for bodily injury and property damage.
- Comprehensive Auto Liability insurance including non-ownership and hired car endorsement with minimum limits of \$1,000,000 per occurrence combined single limit, for bodily injury and property damage.
- Workers' Compensation coverage in the statutory amounts under the worker's compensation act of Pennsylvania for the current period.
- Employer's Liability with a minimum limit of \$1,000,000 per occurrence.
- If applicable, Builder's Risk Insurance on a special cause of loss form in an amount not less than the total amount to be paid to Contractor under the specific agreement.

8. Should background checks be performed? If so, what type?

Response:

The CSP shall make best efforts to ensure the CSP's employees assigned do not have criminal records and are not involved in criminal activity. Upon actual knowledge of a criminal record or criminal activity, CSP shall immediately remove employee from

Work. The EDC, at any time, may request that CSP verify that an employee or employees does not possess a criminal record.

Regarding background checks of the CSP, the rigor of verification of contractor certifications should be proportional to the accountability for their performance. The Companies recommend verification of state licenses and registrations, and verifying through phone contacts a random sampling of references and other certifications for each application.

9. Should credit histories be required? If so, what should be disqualifying?

Response:

This would be dependent on the size and scope of services being provided so it should not be a general requirement to become a part of the registry.

10. Should customer or trade references be required? If so, what should be the minimum number of references?

Response:

Customer or trade references should be provided for at least three completed projects for each “service” (e.g., lighting, HVAC, audits, etc.) listed.

11. Should satisfactory Better Business ratings be required?

Response:

No. Better Business ratings involve costs that could present a barrier to entry for smaller contractors.

12. What information should be included on an application form?

Response:

- Hold-harmless provision for state and any/all utilities
- Completed PA state tax certification statement
- Liability insurance and workers compensation insurance with a specified minimum amount of coverage (see response to Question 7 for suggested minimum amounts)
- Bonding
- Financial fitness
- Technical fitness (include officers, staffing and employee training, business plan(s), etc.
- Affidavit
- Licenses or certifications
- Name, address, phone number, fax number and email address of attorney representing the provider
- Addresses, phone numbers, fax numbers and email address for key contact at each office location
- Affiliates and/or predecessors in PA
- Proposed services provided to PA EDCs, businesses, residents (include check off boxes)
- Customers to be served (include check off boxes such as government, municipal, residential, commercial, industrial)
- Service territories or geographic areas served
- Examples of recent sales literature and/or advertising
- Identification of any pending FERC, Pennsylvania Public Utility Commission, or other State Utility Commission complaints

13. What documents should be provided with an application?

Response:

Any applicable certification documents, diversity registration forms, licenses, certificates of insurance, etc. (See also response to question 12.)

14. **Should the Commission charge a registration fee? If so, what would be a reasonable registration fee?**

Response:

Yes. Registration should be \$100 per year for each contractor to partially offset the cost of maintaining the registry and the PUC's website listing of CSPs.

15. **Should there be a requirement for periodic re-qualification? If so, how often and how extensive should it be?**

Response:

Documents should be updated annually together with an annual registration fee.

(See response to question 14.)

16. **What other criteria should the Commission require?**

Response:

Substance Abuse Policy: CSP shall be required to comply with all applicable state and federal laws regarding drug-free workplace and shall make a good-faith effort to ensure that employees, while working on Companies property, will not be under the influence, purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

An on-line CSP listing should include functionality for customers to list contractors by the services they provide, locations they work in, and qualifications they select.

III. CONCLUSION

Please include the following on all correspondence related to this docket as well as the undersigned:

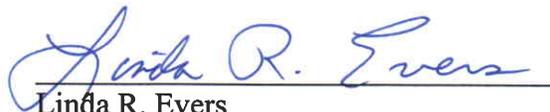
Stephen L. Feld
Senior Attorney
FirstEnergy Service Co.
76 South Main Street
Akron, OH 44308-1890
(330) 384-3875
felds@firstenergycorp.com

John E. Paganie
Vice President, Energy Efficiency
FirstEnergy Service Co.
76 South Main Street
Akron, OH 44308-1890
(330) 384-5845
jepaganie@firstenergycorp.com

FirstEnergy appreciates the opportunity to provide comments to the Commission's questions concerning the experience and qualification requirements for CSPs in implementing Act 129 of 2008. The Companies look forward to continued participation in the process.

Respectfully submitted,

Dated: November 26, 2008



Linda R. Evers
Attorney No. 81428
Attorney for:
Metropolitan Edison Company,
Pennsylvania Electric Company and
Pennsylvania Power Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
(610) 921-6658
levers@firstenergycorp.com

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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).

Service by overnight United Parcel Service, as follows:

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

Service via electronic mail, as follows:

Anthony Rametta @
arametta@state.pa.us

Kriss Brown
kribrown@state.pa.us

Dated: November 26, 2008



Linda R. Evers
Attorney No. 81428
Attorney for:
Metropolitan Edison Company
Pennsylvania Electric Company
Pennsylvania Power Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
(610) 921-6658
levers@firstenergycorp.com