

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS OF PECO ENERGY COMPANY**

**INTRODUCTION**

Pursuant to the Secretarial Letter issued in this docket on November 14, 2008, PECO Energy Company (“PECO”) submits its comments on the qualification requirements the Commission should establish for Conservation Service Providers as required by Act 129.

**I. EXECUTIVE SUMMARY**

PECO appreciates having another opportunity to comment on the Commission’s implementation of Act 129. Indeed, with respect to the experience and qualification requirements for Conservation Service Providers (“CSPs”) to be listed in the Commission’s approved CSP registry, the comments of PECO and other electric distribution companies (“EDCs”) are especially important. CSPs will play a critical role in each EDC’s efforts to meet Act 129’s electric consumption and peak load reduction percentages.<sup>1</sup> Moreover, by serving in this role, CSPs may, in some instances, be the “face” of the EDC to its end-user customers with respect to the EDC’s energy efficiency and conservation programs.

Given the importance of this issue to the Commission, EDCs and their customers, and CSPs, PECO’s comments are guided by the following principles. PECO respectfully requests that the Commission consider these principles as it develops its CSP requirements and registry.

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<sup>1</sup> See Act 129, Section 2806.1(A)(10) (setting forth the requirement for “the participation of conservation service providers in the implementation of all or part of [an EDC’s energy efficiency and conservation] plan.”). See also Section 2806.1(B)(1)(E).

**A. PECO’s comments relate to qualifications for CSPs who will contract with EDCs to provide services to the EDCs’ customers.**

Act 129 defines a CSP as “an entity that provides information and technical assistance on measures to enable a person to increase energy efficiency or reduce energy consumption and that has no direct or indirect ownership, partnership or other affiliated interest with an electric distribution company.”<sup>2</sup> For the avoidance of any doubt, PECO wishes to make clear that it understands the Secretarial Letter’s request to seek comments regarding the qualifications for CSPs who will contract with EDCs to provide services to the EDC’s customers. PECO’s comments herein solely relate to qualifications for CSPs contracting with EDCs.

**B. The Commission’s CSP requirements should be baseline standards.**

The requirements for being listed on the Commission’s CSP registry should be baseline standards that establish the minimum essential qualifications necessary to be an approved CSP in Pennsylvania. While these requirements may differ based upon the services the CSP provides, the minimum requirements should be uniform. If structured in this way, the standards will permit broad participation in the registry approval process by qualified CSPs, and at the same time provide a large pool from which EDCs can solicit competitive bids for CSP services. Moreover, it should be noted that the Commission will have a later opportunity to review the qualifications of CSPs in more detail, and with respect to specific programs, when it reviews the individual energy efficiency and conservation plans submitted by EDCs.

**C. EDCs will establish additional program-specific CSP requirements as part of the competitive bid processes by which they solicit CSP services.**

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<sup>2</sup> Act 129, Section 2806(M).

While the requirements should be minimum standards for inclusion in the Commission's registry, EDCs will need to implement more specific standards, tailored to their service territories and program designs, in their requests for proposals ("RFPs") or competitive bid processes for CSPs.<sup>3</sup> For example, an EDC may have additional requirements for CSPs that will provide services at residential customers' homes, which might not be necessary for CSPs that will provide on-line services to residential customers. Approval for listing in the CSP registry should not mean that the listed CSPs are approved for any and all EDC energy efficiency and conservation programs.

**D. The Commission's CSP registry must be dynamic. The registry should be frequently reviewed and updated to include newly approved CSPs and to remove CSPs that have failed to maintain their eligibility.**

Once approved for the registry, CSPs must continue to meet the Commission's requirements in order to maintain their eligibility to be listed on the registry. CSPs that do not maintain their eligibility or that have consistently failed to meet EDC requirements should be removed from the registry. Similarly, the registry should be updated continually to include new CSPs that meet the Commission's qualifications.

**E. Approved CSPs will provide EDCs with "informational and technical assistance." EDCs will be responsible for the management of their Commission-approved energy efficiency and conservation programs.**

Consistent with Section 2806(M) of Act 129,<sup>4</sup> the Commission's requirements should make clear that approved CSPs will provide informational and technical assistance to EDCs, such as energy efficiency program deployment and delivery, and program

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<sup>3</sup> See Act 129, Section 2806.1(B)(1)(E) (requiring EDCs to "contract with one or more conservation service providers selected by competitive bid to implement the [energy efficiency and conservation] plan or a portion of the plan as approved by the Commission.").

<sup>4</sup> Defining a CSP as "an entity that provides information and technical assistance on measures to enable a person to increase energy efficiency or reduce energy consumption."

measurement and verification, but that the EDC – which is ultimately responsible for meeting Act 129’s reduction targets – is responsible for program oversight, cost and compliance tracking, as well as CSP management and performance review. If the EDC is to be held responsible for Act 129’s reduction targets, it must have control over how its energy efficiency and conservation programs are implemented.

## **II. PECO’S COMMENTS RESPONDING TO THE COMMISSION’S 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)?**

### **PECO’s Comment**

PECO believes that the minimum qualifications for CSPs to be listed in the Commission’s registry should include: 1) appropriate licenses or certifications as required by Pennsylvania and other governmental agencies having jurisdiction over, or oversight of, the CSP; 2) a certification by the CSP that it has not pled guilty to, or been convicted of, any serious crime (*e.g.*, a crime involving fraud) within the last ten years; 3) a minimum of three years in business; 4) a history of financial stability and evidence of net worth commensurate with the requirements of serving the customer class for which the CSP wishes to be qualified to serve;<sup>5</sup> 5) a satisfactory credit history; and 6) an overall reputation for a high level of service and workmanship.<sup>6</sup> The purpose of PECO’s proposed requirements here is to help ensure that CSPs listed on the Commission’s registry are reputable, are in good standing with respect to applicable professional licensure requirements, and have a history of stability and good business practices.

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<sup>5</sup> For example, net worth requirements for CSPs seeking to serve the Large Commercial and Industrial Class might be different than those for CSPs seeking to serve the Residential Class.

<sup>6</sup> Numbers 3-6 are adapted from the Keystone HELP program’s Approved Contractor/Dealer Checklist and Application.

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

**PECO's Comment**

Yes. As PECO noted in its response to Question 1, the minimum qualification standards should include each of these factors. However, a point of clarification is needed with respect to “industry certifications.” To the extent that such certifications are not necessary for the CSP to be in good standing with respect to applicable professional licensure requirements, this should not be a minimum requirement for listing in the CSP registry. However, the Commission may wish to include this information in the registry next to the CSP’s qualifications to provide helpful information to EDCs and to encourage CSPs to meet or exceed industry certification standards.

- 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](http://www.keystonehelp.com)) be adopted, and if so, what revisions to the Keystone HELP program would be needed?**

**PECO's Comment**

Yes. PECO has included in its proposed qualification requirements standards taken from the Keystone HELP program’s “Approved Contractor/Dealer Checklist and Application.” PECO notes that some elements of the Contractor/Dealer Checklist and Application may not be applicable to minimum CSP requirements. For example, CSPs rendering services to EDCs may not have a Better Business Bureau rating (*see* Checklist and Application, p.1) and CSP financing would not be needed by EDCs (*see id.*, p.2). PECO has attached proposed revisions to the Contractor/Dealer Checklist as Exhibit “A” hereto.

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

### **PECO's Comment**

No. While PECO believes that the Commission's CSP standards should be broad enough to encourage robust CSP participation in the registry application process, there must be some uniform minimum standards. Permitting "certain" training or certifications to substitute for minimum experience requirements presents a slippery slope, and the process of determining whether different types of training meet the requirements established by the Commission would be difficult to manage.

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

### **PECO's Comment**

If the Commission chooses to make CSP approval in other jurisdictions a factor in its approval process, the Commission should consider establishing reciprocal agreements and common baseline standards with other states. By doing so, the Commission would ensure that the requirements in the reciprocating jurisdictions are consistent with those of the Commission.

To the extent that another state has implemented a CSP approval process that meets the minimum standards established by the Commission, a CSP approved in that state should be approved in Pennsylvania. However, some minimum level of review of the CSP's application and background may still be necessary (*e.g.*, checking the CSP's references and credit rating) to ensure that essential application information is current.

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

### **PECO's Comment**

PECO believes that some minimal bonding amounts may be appropriate, so that the Commission can be sure that the CSP can be approved for a bond. Conversely, PECO believes that letters of credit (“LOCs”) should not be required as part of the Commission’s minimum standards, since LOCs may be more closely related to a specific type of conservation program or customer class and the Commission can determine whether a CSP is creditworthy through a credit check.

In any event, PECO expects that bonding amounts, letters of credit and similar financial instruments will be part of the EDC’s RFP and contracting processes with the CSPs, as the amounts needed for specific programs will be known at the time the EDC makes a request for CSP services.

### **7. Should insurance be required? If so, what type?**

#### **PECO's Comment**

Proof of some level of liability and workers compensation insurance should be required of CSPs applying for listing in the Commission’s registry (*e.g.*, the Keystone HELP program requires \$500,000 minimum coverage).<sup>7</sup> However, consistent with PECO’s statements above, proof of such coverage should not preclude EDCs from requiring additional insurance coverage based on the service territory in which the EDC operates, the size of the energy efficiency and conservation program the EDC is implementing, and the nature of the customer class to which the program is being provided. For example, the insurance coverage required for a conservation program in Pike County Light & Power’s service territory may be vastly different than that

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<sup>7</sup> See the Keystone HELP program’s Approved Contractor/Dealer Checklist and Application, p.1.

required in PECO's service territory. Similarly, a program involving customer home visits may require different levels of insurance than a program involving the provision of CFLs.

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

**PECO's Comment**

Yes. As PECO noted in its response to Question 1, the CSP should be required to certify that it has not pled guilty to, or been convicted of, any serious crime. The Commission should verify this information as part of its efforts to ensure that end-user customers' dollars will be spent on conservation programs that will be implemented lawfully and properly.

However, the EDC's should also have the ability to require background checks as part of their RFP and contracting processes with CSPs, tailored to the specific work the CSP will perform. For example, if an EDC's conservation program requires CSP employees to have contact with end-user customers, the EDC should be able to require that those employees have background checks.

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

**PECO's Comment**

Consistent with the requirements of the Keystone HELP program's Approved Contractor/Dealer Checklist and Application, the Commission should require CSP's applying for listing in its registry to have "[s]atisfactory company and personal credit histories."<sup>8</sup> Credit rating agencies have standard criteria that rate the credit histories of companies. Any CSP with a rating that is unsatisfactory under these criteria should be disqualified from inclusion in the Commission's registry.

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<sup>8</sup> Approved Contractor/Dealer Checklist and Application, p.1.

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

**PECO's Comment**

Yes. PECO recommends that a minimum of three customer (*i.e.*, EDC or state commission) or trade references be required.

**11. Should satisfactory Better Business ratings be required?**

**PECO's Comment**

A CSP providing services to EDCs (as opposed to retail end-users) may not have a Better Business Bureau (“BBB”) rating; therefore, this information may not be available for many CSPs that would apply to be included in the registry. However, if the Commission requires CSPs to provide information with regard to their BBB rating, an unsatisfactory rating should be grounds for disqualification.

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

**PECO's Comment**

Please refer to Exhibit “A” hereto (PECO’s revisions to the Keystone HELP program’s Approved Contractor/Dealer Checklist and Application).

**13. What documents should be provided with an application?**

**PECO's Comment**

A CSP registry applicant should be required, at a minimum, to include copies of their appropriate licenses or certifications, copies of credit and customer references, and copies of any recent sales literature or business descriptions. CSPs also should be required to provide proof of liability and workers compensation insurance, but provision of this information should not

preclude EDCs (in their RFPs) from requiring CSPs to provide proof of insurance commensurate with the EDC's energy efficiency and conservation plan.

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

**PECO's Comment**

PECO recommends that the Commission charge a registration fee that will cover the cost of processing the CSP's application, and the annual costs of maintaining the registry. Similar to automobile registration in Pennsylvania, PECO believes that the CSP's registration should be required to be renewed annually (at which time the Commission could check to confirm that the CSP is still in compliance with its registry requirements) and the license fee should be charged at the time of renewal.

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

**PECO's Comment**

Yes, there should be a requirement for annual re-qualification. This will serve to inform the Commission as to whether the CSP is still interested in being listed in the registry and provide an opportunity for the Commission to confirm that the CSP still meets the Commission's qualification requirements. At a minimum, the Commission should require that the CSP confirm that its licenses and certifications are in good standing and that it has not pled guilty to, or been convicted of, any serious crime in the past year.

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

**PECO's Comment**

PECO has provided an exhaustive list of the minimum qualification requirements for CSPs that it believes should be implemented at this time. PECO reserves the right to provide the

Commission with additional proposed requirements after reviewing the statements of other commenters.

### **CONCLUSION**

PECO appreciates having the opportunity to comment on the Commission's proposed qualification requirements for Conservation Service Providers. PECO believes that the Commission should implement the requirements set forth above for CSPs to be listed in its registry. However, these standards should be the minimum essential requirements. EDCs should have the flexibility to establish additional standards as appropriate for their Commission-approved energy efficiency and conservation plans.

Respectfully submitted,

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Dated: November 26, 2008

Counsel for PECO Energy Company



## AFC First EnergyLoan Approved Contractor/ Dealer Checklist & Application



Approved Contractor/Dealers for the AFC EnergyLoan program are generally well established leaders in their regional markets. A high quality of work, a commitment to customer service, financial stability and personal integrity are the characteristics we value in an Approved Contractor/Dealer.

### EnergyLoan Approved Contractor/Dealer Standards

- Minimum 3 Years in Business, history of financial stability and evidence of \$50,000 net worth or compensating factors
- Satisfactory company and personal credit histories
- Satisfactory Better Business rating
- Satisfactory Customer and Trade References
- Overall reputation for a high level of service and workmanship
- \*Appropriate Licenses as required by the Commonwealth.

To Become an Approved EnergyLoan Contractor/Dealer, please return the following items

c/o Peter Krajsa, President, AFC First Financial Corporation,  
P.O. Box 3558 Great Bear Center at Brookside, 1005 Brookside Rd., Allentown, PA 18106

- \_\_\_ Complete and sign the Approved Contractor/Dealer Application
- \_\_\_ A Check for \$     made out to AFC First for application processing
- \_\_\_ Provide examples of any recent sales literature or advertising
- \_\_\_ Provide us with copies of any trade or contractor licenses if required by state law.
- \_\_\_ Provide us with a copy of your liability and workers compensation insurance, \$500,000 minimum coverage.
- \_\_\_ Branch Locations — Provide us with a list of all branch locations, addresses, phone numbers, fax numbers, emails and branch manager names
- \_\_\_ Sign and return the enclosed Contractor/Dealer Agreement & Keystone HELP addendum.

Upon your approval we will send you a Start Up Kit which includes applications, AFC First contacts and logo drop ins for your use, and schedule a start up training conference call for your sales and operations staff.



Ken Yeager, Director of Sales  
Peter Krajsa, President  
Julie Unger, Director of Operations  
(888) 232-3477

[afcfirst.com](http://afcfirst.com)   [energyloan.net](http://energyloan.net)   [keystonehelp.com](http://keystonehelp.com)



# AFC First EnergyLoan Approved Contractor/ Dealer Application



Please attach the supporting information requested on the approval checklist

LEGAL NAME OF BUSINESS: \_\_\_\_\_ Tax ID \_\_\_\_\_

TRADING AS OR DBA NAMES \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ E-Mail \_\_\_\_\_ Web Site \_\_\_\_\_

YEAR FOUNDED \_\_\_\_\_ LEGAL FORM Corporation Partnership Sole Proprietor

TYPE OF PRODUCTS SOLD ~~XXXX~~ SERVICES PROVIDED \_\_\_\_\_

~~AVERAGE NUMBER OF ANNUAL INSTALLATIONS XXX~~ ~~AVERAGE JOB SIZE \$ XXX~~

ANNUAL SALES < \$500,000 \$500,000 to \$2,000,000 > \$2,000,000 NET WORTH < \$50,000 \$50,000 to \$250,000 > \$250,000

GEOGRAPHIC MARKET AREA \_\_\_\_\_

PRINCIPALS	Title	% Ownership	SS Number
_____	_____	_____	_____
_____	_____	_____	_____

CONTACTS	Name	E Mail	Direct Line or Cell
<del>Sales/Installation Manager</del>	_____	_____	_____
<del>Operation/Funding Contact</del>	_____	_____	_____

<del>SUPPLIER REFERENCES</del>	Contact Person	Phone
_____	_____	_____
_____	_____	_____

TRADE ASSOCIATION MEMBERSHIPS \_\_\_\_\_

~~OTHER FINANCING PROGRAMS OFFERED: in House, MasterCard, Visa, Other~~ \_\_\_\_\_

TYPICAL PERCENTAGE OF ALL JOBS/INSTALLATIONS FINANCED \_\_\_\_\_ %

I certify that the above information is true and correct, and understand that AFC First Financial Corporation will make reference inquiries and that it may order credit reports, and/or independent background investigations on the company and principals.

Authorized Signer (Signature) \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_



Ken Yeager, Director of Sales  
Peter Krajsa, President  
Julie Unger, Director of Operations  
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