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January 2, 2009

VIA HAND-DELIVERY

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

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**RE: COMMENTS of THE ENERGY ASSOCIATION of PENNSYLVANIA
to TENTATIVE ORDER entered December 22 on
IMPLEMENTATION OF ACT 129 OF 2008
PHASE 2 – REGISTRY OF CONSERVATION SERVICE PROVIDERS
DOCKET NO. M-2008-2074154**

Dear Secretary McNulty:

The Energy Association of Pennsylvania (“EAPA”) files this instant letter on behalf of its member electric and natural gas distribution companies to comment upon the Tentative Order entered on December 22, 2008 concerning the Implementation of Act 129 of 2008 Phase 2 – Registry of Conservation Service Providers in the above-referenced docket.

Under Act 129 of 2008, which became effective November 14, 2008, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) “shall, by March 1, 2009, establish a registry of approved persons qualified to provide conservation services to all classes of customers.” 66 Pa.C.S. § 2806.2(a). On December 22, 2008, the Commission entered a Tentative Order, establishing minimum experience and qualification requirements for each conservation service provider (“CSP”) seeking to be included on the registry. The Tentative Order will become final without further action of the Commission unless adverse comments are filed within ten (10) days of the entry of the Order, i.e., January 2, 2009.

Initially, EAPA commends the Commission for the prompt issuance and entry of orders implementing Act 129. The statute anticipates achieving mandated reductions in electric consumption and peak demand by specific dates and provides tight time-frames for Commission established guidelines and EDC plan submission.

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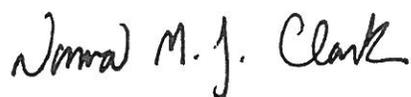
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Through these comments, EAPA seeks a point of clarification. The Association agrees with the Commission that Act 129 is clear that a CSP affiliated with an electric distribution company ("EDC") cannot provide services to its related EDC. The Tentative Order and proposed Application, however, appear to prohibit a CSP affiliated with an EDC from being eligible for the registry. See page 5 of the Tentative Order and page 2 of the Application which specifically provides that "[a]n entity that is directly or indirectly owned, partnered or in any way affiliated with an electric distribution company ("EDC") is not eligible for registry." This would seem to preclude a CSP affiliated with one EDC from providing conservation and energy-efficiency services to a different EDC.

EAPA contends that the General Assembly did not intend to restrict an entity affiliated with an EDC from providing services to a legally distinct EDC. If an affiliate of an EDC submits an RFP in a competitive bidding process under a different EDC's conservation and energy efficiency plan, the Association believes this would further the intent of the legislature to promote competition and new business/job opportunities in connection with meeting the reductions established under Act 129.

EAPA requests that the Commission clarify its language at page 5 of the Tentative Order and page 2 of the Application so as to permit CSPs affiliated with an EDC to register and provide services to a different EDC with which the CSP is not affiliated.

Sincerely,



Donna M. J. Clark
Vice President and General Counsel

DMJC

CC: James H. Cawley, Chairman (via hand-delivery)
Tyrone J. Christy, Vice Chairman (via hand-delivery)
Robert F. Powelson, Commissioner (via hand-delivery)
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