



76 South Main Street  
Akron, Ohio 44308

STEPHEN L. FELD  
*Senior Attorney*

330 384-4573  
Fax: 330 384-3875

December 31, 2008

**VIA Hand Delivery**

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

***Re: Implementation of Act 129 of 2008  
Phase 2-Registry of Conservation Service Providers  
Docket No. M-2008-2074145***

Dear Secretary McNulty:

Enclosed for filing on behalf of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company are an original and fifteen (15) copies of the Comments on the Commission's Tentative Order entered December 22, 2008 in the above-referenced docket. Please date stamp the additional copy and return it as evidence of filing. Also enclosed is an electronic version of the filing on disk. An electronic copy of this document has also been e-mailed to [ra-Act129@state.pa.us](mailto:ra-Act129@state.pa.us).

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

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

Sincerely,

Stephen L. Feld, Esquire

Enclosures

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Implementation of Act 129 of 2008** :  
**Phase 2 – Registry of Conservation** : **Docket No. M-2008-2074145**  
**Service Providers** :

**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) and the Secretarial Letter of November 26, 2008 in this docket.

Service by hand delivery and electronic mail, as follows:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North St.  
Harrisburg, PA 17120  
[ra-Act129@state.pa.us](mailto:ra-Act129@state.pa.us)

Bohdan R. Pankiw, Chief Counsel  
Law Bureau  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North St.  
Harrisburg, PA 17120  
[bpankiw@state.pa.us](mailto:bpankiw@state.pa.us)

Robert F. Wilson, Director  
Bureau of Fixed Utility Services  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North St.  
Harrisburg, PA 17120  
[rbtwilson@state.pa.us](mailto:rbtwilson@state.pa.us)

Wayne L. Williams, Director  
Bureau of Conservation, Economics & Energy Planning  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North St.  
Harrisburg, PA 17120  
[waywilliam@state.pa.us](mailto:waywilliam@state.pa.us)

Service via electronic mail:

Tanya McCloskey  
Senior Assistant Consumer Advocate  
Office of Consumer Advocate  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
[TMcCloskey@paoca.org](mailto:TMcCloskey@paoca.org)

William R. Lloyd, Jr.  
Small Business Advocate  
Office of Small Business Advocate  
300 N. Second St. – Suite 1102  
Harrisburg, PA 17101  
[willoyd@state.pa.us](mailto:willoyd@state.pa.us)

Louise Fink Smith  
[finksmith@state.pa.us](mailto:finksmith@state.pa.us)

Kriss Brown  
[kribrown@state.pa.us](mailto:kribrown@state.pa.us)

Tom Charles  
[thcharles@state.pa.us](mailto:thcharles@state.pa.us)



Dated: December 31, 2008

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Stephen L. Feld  
Attorney No. 26537  
Attorney for:  
Metropolitan Edison Company,  
Pennsylvania Electric Company and  
Pennsylvania Power Company  
76 S. Main St.  
Akron, OH 44308  
330-384-4573  
[felds@firstenergycorp.com](mailto:felds@firstenergycorp.com)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Implementation of Act 129 of 2008</b>	:	
<b>Phase 2 – Registry of Conservation</b>	:	<b>Docket No. M-2008-2074145</b>
<b>Service Providers</b>	:	
	:	

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**COMMENTS OF METROPOLITAN EDISON COMPANY,  
PENNSYLVANIA ELECTRIC COMPANY AND PENNSYLVANIA POWER  
COMPANY ON  
TENTATIVE ORDER OF DECEMBER 22, 2008**

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**TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

**I. Introduction**

On December 22, 2008, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) entered a Tentative Order in this docket (“Order”). The Order stated that it would become final without further action of the Commission absent the filing of adverse comments within 10 days of the entry of the Order. Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company (“FirstEnergy” or “Companies”) hereby submit their Comments to the Order. The Companies commend the Commission for entering the Order in a prompt fashion and for comprehensively addressing the process and requirements for the registry of Conservation Service Providers (“CSPs”). The Companies in these Comments request that the Commission explicitly clarify two issues in its final order: 1) the time period for staff action on CSP applications and the need to specify incomplete information for rejected application; and 2) the eligibility of affiliates of Electric Distribution Company (“EDC”) to serve as CSPs to non-affiliated EDCs.

## **II. Time Period for Staff Action and Specification of Incomplete Information**

The Order establishes a process by which the Bureau of Fixed Utility Services (“FUS”) in consultation with the Bureau of Conservation, Economics and Energy Planning (“CEEP”) will review applications filed by CSPs which desire to be registered with the Commission under Section 2806.2. The review by both FUS and CEEP, with FUS having the lead role is appropriate. However, the Commission should establish time periods in which FUS will take action on registry applications. Although the Companies’ experience is that FUS and CEEP are generally efficient in reviewing applications and likely will promptly endeavor to conduct their respective CSP reviews, the establishment of prescribed time periods will provide certainty for CSPs during the registry process and enable them and EDCs to contract with one another knowing that the registry process will be complete in a reasonably short period of time. This is particularly important at this early stage because of the proximity of the July 2009 filing date for initial EDC Plans.

The determination of the completeness of an application should be made within 10 days of filing. FUS should include a specification of the incomplete information in its response to the applicant. This will give an applicant prompt notice of its incomplete status and the additional information required, thereby allowing an applicant to resubmit its application with complete information in a timely manner. Complete applications should be acted upon within 30 days of the initial filing or the refiling in the case of incomplete applications.

## **III. Eligibility of EDC Affiliates to Serve Non-Affiliated EDCs**

The Order (page 5) correctly refers to the definition of CSPs in Act 129 relating to CSPs' affiliation with EDCs. The Companies agree that the statute is clear on the prohibition of EDC affiliated companies from serving as CSPs to affiliated EDCs but believe that the purpose of the prohibition is not served by extending it to non-affiliated EDCs. The Order (page 6, item B.7) specifies that CSP applicants should identify any affiliation with EDCs, but doesn't explicitly clarify that EDC affiliates may serve as CSPs to non-affiliated EDCs. The application process should continue to include the required information on a CSP's affiliation with an EDC as well as the regions in which the CSP intends to serve. In this way the Commission and other interested parties will know that a CSP affiliated with an EDC may not provide services to that affiliated EDC. However, it also should be presumed that the Commonwealth desires to encourage EDCs to consider a broad array of resources with expertise in providing conservation and peak load reduction services and not exclude CSPs that just happen to be affiliated with another EDC. The fact that Act 129 requires competitive bidding (Section 2806.1(a)(7)) for the EDC's selection of CSPs means that the public interest is best served by allowing the broadest possible competition among CSPs and the inclusion in the registry of all CSPs not affiliated with the particular EDC. The Commission should clarify explicitly in its Order that registered CSPs affiliated with one EDC may provide service to non-affiliated EDCs.

#### **IV. Conclusion**

FirstEnergy appreciates the opportunity to provide these Comments to the December 22, 2008 Tentative Order. The Companies look forward to their continued participation in the process.

Respectfully submitted,



Dated: December 31, 2008

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Stephen L. Feld  
Attorney No. 26537  
Attorney for:  
Metropolitan Edison Company,  
Pennsylvania Electric Company and  
Pennsylvania Power Company  
76 S. Main St.  
Akron, OH 44308  
330-384-4573  
[felds@firstenergycorp.com](mailto:felds@firstenergycorp.com)