

December 31, 2008

VIA HAND DELIVERY

Mr. James J. McNulty  
Commission Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Docket No. M-2008-2074154; Reply Comments on behalf of Positive Energy, Inc. in Response to the Tentative Order by the Commission regarding Phase 2 of the Implementation of Act 129 of 2008**

Dear Mr. McNulty:

Enclosed please find an Original and Fifteen (15) copies of the **“Reply Comments on Behalf of Positive Energy, Inc. in Response to the Tentative Order by the Commission Regarding Phase 2 of the Implementation of Act 129 of 2008.”** Please enter this into the docket and time-stamp the additional two (2) copies and return to us. An electronic copy of the Comments will be sent to the Commission’s Act 129 e-mail account.

**On Behalf of Positive Energy**

cc: [ra-Act129@state.pa.us](mailto:ra-Act129@state.pa.us)

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**IMPLEMENTATION OF ACT 129 OF  
2008; PHASE 2 – REGISTRY OF  
CONSERVATION SERVICE  
PROVIDERS**

Docket No. M-2008-2074154

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**COMMENTS ON BEHALF OF POSITIVE ENERGY, INC. IN RESPONSE TO  
THE TENTATIVE ORDER BY THE COMMISSION REGARDING PHASE 2 OF  
THE IMPLEMENTATION OF ACT 129 OF 2008**

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**JEREMY KIRSCH**  
VICE PRESIDENT, CLIENT SOLUTIONS  
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**DATED: DECEMBER 30, 2008**

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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AND NOW COMES, **Positive Energy, Inc.** (“Positive Energy”), by and through **Jeremy Kirsch**, Vice President of Client Solutions for Positive Energy. In support of this docket and in response to the Tentative Order filed by the Commission in this docket, Positive Energy avers the following:

1. Positive Energy is a privately-held technology company which has developed the utility industry’s first behavioral science driven, customer-centric, data analysis and communications software platform, the Home Energy Reporting System. This platform is becoming a core element of energy efficiency portfolios around North America, and is helping forward-thinking utilities better engage their residential customers to become more energy efficient, target specific and relevant efficiency recommendations to each of their residential customers, and make it easier for each customer to take action on these recommendations.

2. Following are Positive Energy’s comments to the Commission’s Tentative Order on CSP Registry requirements.

**POSITIVE ENERGY’S COMMENTS IN RESPONSE TO THE TENTATIVE  
ORDER OF THE COMMISSION REGARDING CSP REGISTRY  
REQUIREMENTS**

1. Positive Energy would like to note that Discussion Item C from the tentative order is limiting to the Commonwealth and will have the effect of preventing well-qualified energy efficiency-focused CSPs from being able to provide their services in the Commonwealth, as detailed further below.

**C: Minimum Experience and Technical Qualifications**

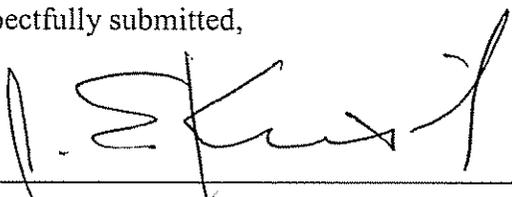
**“Based on this interpretation of the Act, the Commission directs that a CSP, or its principals, must have at least three years of documented experience in providing program consultation, design, administration and management services related to energy efficiency and conservation services.”**

Positive Energy Detailed Comment: It is our understanding that the intent of the registry is to provide EDCs with qualified potential CSPs. Placing a time limit for the number of years of documented experience a CSP must have in order to be eligible to work in Pennsylvania will exclude many well-qualified CSPs, to the detriment of the EDCs and the citizens of the Commonwealth who ultimately would benefit from this expertise. The energy efficiency industry has grown substantially in the past 2-3 years, and there are now many companies with less than three years of experience which have been successfully performing services, similar to what the PA EDCs will need, for other EDCs across the United States. One way to alleviate this

concern is to remove the three-year limit. As the Tentative Order states, this CSP registry is “not meant to constitute a license or certification.” Unlike the approval process for an Energy Marketer, in the Commonwealth of Pennsylvania, Act 129 intended this Registry to simply be a list of CSPs that could participate with an EDC. Another way to make this less limiting to newer businesses is to provide some sort of waiver process if the three-year limit is not met. A third way to achieve this goal is to add another qualifier to the tentative order such as “Based on this interpretation of the Act, the Commission directs that a CSP, or its principals must have at least three years of documented experience and/or be providing similar services to at least three EDCs in other states (and be able to provide these client references), in providing program consultation, design, administration and management services related to energy efficiency and conservation services”. There is also other language that can be leveraged to ensure that the intent of the appropriate minimum experience is achieved without relying solely on a three-year limit.

WHEREFORE, Positive Energy respectfully requests that the Commission enter its Comments in the above-captioned proceeding. We look forward to participating in the process going forward and contributing our experience and expertise. Thank you again for the opportunity to comment on this important matter.

Respectfully submitted,

By: 

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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing “COMMENTS ON BEHALF OF POSITIVE ENERGY, INC. IN RESPONSE TO THE TENTATIVE ORDER BY THE COMMISSION REGARDING PHASE 2 OF THE IMPLEMENTATION OF ACT 129 OF 2008” in hand to the Commission and electronically to the service list at the following Email address: ra-Act129@state.pa.us

Dated: December 30 , 2008

By:



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