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June 3, 2011

VIA HAND DELIVERY
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor (filing room)
PO Box 3265
Harrisburg, PA 17105-3265

RE: Implementation of Act 129 of 2008- Total Resource Cost (TRC) Test 2011 Revisions, Docket No. M-2009-2108601; **COMMENTS OF THE SUSTAINABLE ENERGY FUND OF CENTRAL EASTERN PENNSYLVANIA**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission are an original and fifteen (15) copies of the Comments of the Sustainable Energy Fund of Central Eastern Pennsylvania. Copies have been served on the parties pursuant to the Certificate of Service.

If you have any questions regarding this filing, please do not hesitate to contact me.

Respectfully,

Craig R. Burgraff

Craig R. Burgraff
Counsel for Sustainable Energy Fund of Central Eastern Pennsylvania

CRB/alw
Enclosure
cc: Gregory A. Shawley, Bureau of Conservation, Economics and Energy Planning (via Hand Delivery)
Louise Fink Smith, Law Bureau (via Hand Delivery)
Per Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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Dated this 3rd day of June 2011

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of Act 129 of 2008-	:	
Total Resource Cost (TRC) Test	:	Docket No. M-2009-2108601
2011 Revisions	:	

**COMMENTS OF THE
SUSTAINABLE ENERGY FUND OF CENTRAL
EASTERN PENNSYLVANIA**

The Sustainable Energy Fund of Central Eastern Pennsylvania ("SEF"), by and through its attorneys in this matter, Hawke McKeon & Sniscak LLP, files the following Comments in response to the Public Utility Commission's ("Commission") May 6, 2011 Tentative Order in the above-captioned docket.[1]

I. INTRODUCTION

Act 129 requires an electric distribution company ("EDC") with more than 100,000 customers to adopt an energy efficiency and conservation ("EE&C") plan to reduce electric consumption by at least one percent (1%) of the EDC's expected load for the period June 1, 2009 through May 31, 2010, adjusted for weather and extraordinary loads, by May 31, 2011. Further, the EDC is required to reduce its total annual weather normalized consumption by a minimum of three percent (3%), and is required to reduce its peak demand by a minimum of four and one half percent (4.5%) of the EDC's annual system peak demand, as measured against the EDC's peak demand during the period from June 1, 2007 through May 31, 2008, by May 31, 2013.[2]

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[1] *Implementation of Act 129 of 2008- Total Resource Cost (TRC) Test 2011 Revisions*, Docket No. M-2009-2108601 (May 6, 2011) ("May 6 Tentative Order")
[2] 66 Pa. C.S. § 2806.1 (c)(1) and (2) and (d)(1).

Act 129 also requires an EDC to demonstrate that its plan is cost effective using the TRC test approved by the Commission.[3] The TRC test is defined in the act as a standard test that is met if, over the effective life of said plan not to exceed fifteen (15) years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures.[4]

On January 16, 2009, the Commission entered its EE&C Implementation Order.[5] In that Order, the Commission directed that EDCs evaluate the cost effectiveness of energy efficiency or demand reduction programs using a TRC test based on the California model.[6] After receiving Comments, the Commission entered a final order relative to TRC testing on June 23, 2009.[7]

As the Commission noted in the May 6 Tentative Order, the purpose of using a TRC test to evaluate EE&C programs is to track the relationship between the benefits to customers and the costs incurred to obtain those benefits. Act 129 provides that the TRC test be used to determine whether ratepayers, as a whole, receive more benefits than the implementation costs of the EE&C plans.[8] The Commission recognized in its 2009 TRC Test Order that many issues involved in the EE&C plans, program implementation and operation of the TRC test would be ongoing in nature and that several issues would require additional consideration and discussion. The May 6 Tentative Order continues that further consideration and discussion relative to demand response, net-to-gross issues, fuel switching, TRC calculations and TRC reporting.

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[3] 66 Pa.C.S. § 2806.1(b)(1)(i)(I).
[4] Id. at § 2806.1(m)
[5] *Energy Efficiency and Conservation Program*, Docket No. M-2000-2069887 (January 16, 2009) ("EE&C Implementation Order")
[6] Id. at 15
[7] *Implementation of Act 129 of 2008- Total Resource Cost (TRC) Test*, Docket No. M-2009-2108601 (June 23, 2009), corrected by errata on page 7 on October 19, 2009. ("2009 TRC Test Order").
[8] May 6 Tentative Order at 7.

II. COMMENTS

The SEF supports most of the Commission's proposed resolutions in the May 6 Tentative Order. With regard to demand response, SEF supports that EDCs continue to evaluate Demand Response programs using the TRC test, the Commission's proposed treatment of Demand Response payments to Curtailment Service Providers ("CSP") and EDCs from PJM, the Commission's proposed treatment of Demand Response payments to CSPs and participants from EDCs, and the Commission's proposed treatment of American Reinvestment and Recovery Act ("ARRA") funds.

SEF supports the Commission's proposed resolution of the TRC inputs for fuel switching as well as fuel switching appliance efficiency. SEF also supports the Commission's proposed resolutions of the TRC calculation provisions, namely the database for deemed customer costs or incremental measure costs, the basis of TRC benefits and costs, the definition of incentives, avoided cost calculations and forecasts, inclusion or exclusion of customer avoided operating and maintenance costs in the TRC calculation, and avoided costs in the benefit/cost ratios in the approved EE&C plans and avoided costs commencing June 1, 2013.

Finally, SEF supports the Commission's proposed resolution of the TRC reporting categories, namely the baseline study research and the frequency of cost-effectiveness evaluations and reporting results and timing of TRC reports.

SEF does not support the Commission's continued reluctance to require development of and to apply net-to-gross ("NTG") research during the four-year term of the current EE&C plans to effectively measure the efficacy of those plans. The Commission in the May 6 Tentative Order proposes to direct the EDCs to develop and conduct NTG studies and that the NTG studies be funded out of the EDC's Act 129 two percent (2%) program budgets. The Statewide

Evaluator ("SWE") would coordinate the development and approval of common methodologies for EDCs' NTG studies. The results of the studies will be reported to the SWE and utilized by the EDCs to determine when a measure or program should be removed from the EE&C portfolio because it is no longer cost-effective to offer incentives. However, the Commission does not propose, for the period June 1, 2009 through May 31, 2013, that the NTG research be used to adjust the gross verified energy savings that are used for compliance purposes to determine whether an EDC has met its mandated Act 129 reduction targets.[9] Given the substantial sums charged to ratepayers for the EE&C plans and the availability of potentially more cost effective programs and measures, the Commission should act quickly to quantify net-to-gross results if it is to completely meet the economic efficiency goals of Act 129.[10]

The SEF recommends that for the period June 1, 2009 through May 31, 2013 that NTG research be used to adjust the gross verified savings that are used for compliance purposes to determine whether an EDC has met its mandated Act 129 reduction targets.

The intent of the General Assembly in Act 129 is clear. As noted earlier, Act 129's clear intent is that the EE&C plans adopted by the Commission must result in reduction of electric consumption of at least one percent (1%) by May 31, 2011, and reductions in electric consumption of at least three percent (3%) by May 31, 2013. In addition, the EE&C plans must result in reduction of peak demand of at least four and one-half percent (4.5%) by May 31, 2013.[11] The evaluation of whether the benefits of the plans outweigh the costs shall be consistent with a TRC test determined by the Commission.[12]

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[9] May 6 Tentative Order at 18.

[10] SEF has experience with the PPL Electric Utilities Corporation EE&C plan. The charges to ratepayers are based upon $246 million over the four year plan life.

[11] 66 Pa.C.S.§ 2806.1(c)(1) and (2), (d)(1).

[12] 66 Pa.C.S. § 2806.1(c)(3).

A key component of the TRC test is the net-to-gross considerations in the test. As the Commission correctly stated, NTG research attempts to determine the actual savings from an energy efficiency program or measure and ensure that the savings result only from the impact of that program or measure. The savings need to be "net" of what would have occurred in the absence of the program. Net savings, therefore, refer to the portion of gross savings that is specifically or uniquely attributable to the program.[13] Consequently, it follows that "gross" savings are not in totality savings that are specifically or uniquely attributable to the program or measure.

The Commission in its EE&C Implementation Order adopted a savings approach to consumption reductions, finding that the Act 129 reduction targets may be met if the EDC evidenced that its EE&C plan conserved the equivalent of one percent (1%) of its forecasted consumption in the year ending May 31, 2010 and three percent (3%) for the year ending May 31, 2013, as opposed to reducing the forecasted consumption at May 31, 2011 and May 31, 2013 by those amounts.[14] However, the Commission clearly agreed that after-the-fact measurement and verification remain critical to ensure that an EDC has properly implemented its EE&C plan, that the projected savings metrics remain accurate, that non-controllable factors such as economic growth or contraction and weather have not skewed results, and that "the savings are the result of the EE&C plan."[15]

On May 29, 2009, the Commission circulated a TRC test proposal among interested parties in the Act 129 process at the EE&C Implementation Order docket seeking comments relative to TRC testing. The Commission, in the absence of data specific to Act 129 programs,

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[13] May 6 Tentative Order at 15.
[14] EE&C Implementation Order at 17-18.
[15] Id. at 30.

proposed not to require NTG adjustments for the first year.[16] The Commission also noted that it would direct EDCs to initially study the degree to which free-riders, take-backs effects, spillover effects, or other factors that affect the NTG adjustment are present for the more prevalent efficiency measure that are implemented pursuant to their EE&C plans. These EDC studies were to be coordinated and overseen by a statewide evaluator should the Commission decide to contract for statewide evaluation services.[17] The results of the studies would be used to determine if NTG adjustments should be made in the future.

After reviewing comments, the Commission determined that it would go forward without a NTG ratio (and adjustment) for the first year. It convened a stakeholder process to examine the issues associated with developing a NTG adjustment ratio rather than direct the EDCs to study the matter.[18]

Two years later, the Commission is no further along on this admittedly important issue as evidenced by the May 6 Tentative Order. In fact, the Commission is essentially back to its May 29, 2009 TRC test proposal. With no discussion at all relative to the results, if any, of its stakeholder process,[19] the Commission again notes that the EDCs' approved EE&C plans only require savings measured at the gross savings level for the first year of the EE&C plans, and the Commission again proposes to direct the EDCs to develop and conduct NTG studies to be funded out of the EDCs' Act 129 two percent (2%) program budgets. The Commission goes further, however, and proposes that, for the entire EE&C plan period from June 1, 2009 through

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[16] The Commission still correctly noted that an NTG adjustment would adjust the cost-effectiveness results so that the results would only reflect those energy efficiency gains that are attributed to and are a direct result of the energy efficiency program in question. 2009 TRC Test Order at 25.
[17] Id. at 25-26.
[18] Id. at 27.
[19] SEF is unclear on whether a stakeholder process was initiated. SEF was not aware of any process and was not notified if there was one.

May 31, 2013, savings measured at the gross savings level will be used to measure cost benefits of the programs or measures.

The SEF believes that the Commission should no longer ignore the necessity for adjustments to the gross verified energy savings, especially given the large dollars contributed by ratepayers to support the EE&C plans and the availability of potentially more cost effective programs and measures. The Commission has noted on several occasions the need to measure net energy savings if a proper cost benefit analysis is to be performed both for subtraction or addition of EE&C programs or measures on an on-going basis, and for determination of the overall efficacy of the EE&C plans. The major NTG factors of free riders and take-back effects, which reduce claimed gross energy savings, and spillover, which increases claimed gross energy savings, are necessary adjustments so that results only reflect those energy efficiency gains that are attributed to and are a direct result of the energy efficiency program or measure in question.[20]

The Commission should not continue to require no affirmative action on the NTG issue, and should not allow gross savings solely as a measure for cost benefit analyses through the entire four year initial EE&C plan period. The inclusion of savings that are not specifically or uniquely attributable to a program or measure violates the Commission's correct determination that to demonstrate compliance the savings must be produced by the EE&C plan itself. To knowingly include savings that are not attributable to the plan violates the legislative intent of 66 Pa. C.S. § 2806.1.

The SEF recommends that for the period June 1, 2009 through May 31, 2013, that NTG research be used to adjust the gross verified savings that are used for compliance purposes to determine whether an EDC has met its mandated Act 129 reduction targets.

[20] 2009 TRC Test Order at 25-26; May 6 Tentative Order at 15-18.

III. CONCLUSION

The Sustainable Energy Fund respectfully requests that the Commission consider and adopt the foregoing Comments and take any other actions that are deemed appropriate.

Respectfully submitted,

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