

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of Act 129 of 2008 :
Total Resource Cost Test : Docket No. M-2009-2108601

COMMENTS OF
THE ENERGY ASSOCIATION OF PENNSYLVANIA
TO
PROPOSED ORDER FOR A PENNSYLVANIA-SPECIFIC
TOTAL RESOURCE COST TEST

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I. Introduction

On November 14, 2008, Act 129 of 2008, 66 Pa.C.S. §§2806.1 et seq. became effective, imposing new requirements on Pennsylvania electric distribution companies (“EDCs”) in the areas of procurement, energy efficiency and conservation, smart meters and alternative energy sources. The legislation established a number of mandates, specifically directing the Pennsylvania Public Utility Commission (“PUC” or “Commission”) to adopt an energy efficiency and conservation program by January 15, 2009 which, in turn, requires EDCs with 100,000 or more customers “to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within the service territory of each electric distribution company in this Commonwealth.” 66 Pa.C.S. §2806.1(a). See also 66 Pa.C.S. §2806.1(l) (providing that “this section [2806.1] shall not apply to an electric distribution company with fewer than 100,000 customers.”)

On January 15, 2009, the Commission adopted an Implementation Order setting forth an energy efficiency and conservation program which established the standards each EDC energy efficiency and conservation plan (“EE&C Plan”) must meet and provided guidance on the

procedures to be followed for submittal, review and approval of all aspects of an EDC EE&C Plan. The timelines and tasks set forth in the Implementation Order by the PUC were necessarily tight and exhaustive establishing a rigorous schedule for agency implementation so as to enable the filing of the individual EDC EE&C Plans by July 1, 2009 pursuant to 66 Pa.C.S. §2806.1(b).

To date, the Commission has issued secretarial letters and orders seeking stakeholder input on a variety of issues including: consumption forecasts and peak demand reduction targets; procedures for registering and approving conservation service providers and related contracts; modification of the existing Technical Reference Manual for use in evaluating EE&C Plans; and procedures for qualifying new alternative energy sources pursuant to Act 129. Over the last six (6) months, the Commission has framed these issues; sought stakeholder input through comments, hearings and conferences; and adopted final orders, each of which contain a piece of the puzzle necessary for the development and filing of the July 1 EDC EE&C plan. The instant Secretarial Letter, draft Order and Appendix issued on May 21, 2009 outlining a proposed Total Resource Cost ("TRC") test is among the most crucial pieces of the puzzle needed by the EDCs to finalize their individual EE&C plans prior to the July filing date. Comments on the proposed TRC test are due on June 5, 2009. The Secretarial Letter does not provide for reply comments.

The Energy Association of Pennsylvania ("EAPA" or "Association") files the comments herein on the proposed TRC test on behalf of its EDC members subject to Act 129.¹ Act 129 requires the Commission to approve a TRC test which will be used by an EDC to demonstrate that its EE&C Plan is cost-effective. See 66 Pa.C.S. §§2806.1(a)(3) and 2806.1(b)(1)(i)(I). As

¹ The Energy Association of Pennsylvania's electric distribution members subject to Act 129 include Allegheny Power, Duquesne Light Co., Metropolitan Edison Co., A *FirstEnergy Company*, PECO Energy Co., Pennsylvania Electric Co., A *FirstEnergy Company*, Pennsylvania Power Co., A *FirstEnergy Company* and PPL Electric Utilities Corp.

defined in the statute, the TRC test is “a standard test that is met if, over the effective life of each plan not to exceed 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.” 66 Pa.C.S. §2806.1(m). In the Implementation Order, the Commission identified the California TRC test as “an excellent beginning framework” and opined that “it may be necessary to modify the California Manual to meet any unique requirements of Act 129 and this Commonwealth’s electric industry.” Implementation Order at pp. 14-15.

The approved TRC test will be a critical measuring tool in determining the cost effectiveness of each EDC EE&C Plan and, in turn, the determination of cost-effectiveness is a crucial component in the EE&C Plan development, evaluation and approval process.

To date, each EDC has been developing an EE&C Plan in a collaborative process with stakeholder input on the various programs and measures under consideration for inclusion in the final Plan. Each EDC has calculated a preliminary cost-effectiveness of measures and its overall Plan based on the California model, making a number of assumptions so as to meet the aggressive schedule set forth in Act 129 for the filing of EE&C Plans. The preliminary cost-effectiveness calculations have been vetted by EDCs in individual stakeholder meetings. Time is tight for wholesale modifications to Plan measures based on any material change to the California TRC test.

EAPA and its members commend the Commission for identifying a number of open issues which ideally should be resolved to finalize a Pennsylvania-specific TRC test. EAPA urges the Commission to issue its final approval of a TRC test as soon as possible so that a standard methodology may be applied by PA EDCs in determining cost-effectiveness. At the same time, with respect to any open issues which prove to be complex and subject to varying interpretations, the Association requests that the Commission consider that each EDC may have

made differing assumptions in interpreting the initial framework for the TRC test established in the January Implementation Order. Given the rapidly approaching July 1 filing deadline, EDCs may need to supplement EE&C Plan filings to establish cost-effectiveness depending on the final TRC test approved by the Commission.

II. Comments to Identified Open Issues

A. Level at Which to Measure TRC.

The Association and its member EDCs subject to Act 129 agree with the proposed conclusion that “the TRC test will [be] applied at the plan level rather than at the component, program or measure level.” See proposed Order at p.6. This approach will enable EDCs to meet the statutory mandate of cost-effectiveness and to provide “a diverse cross section of alternatives for customers of all rate classes.” 66 Pa.C.S. §2806.1(b)(1)(i)(I). The alternative approach where each program or measure must meet the TRC test may compromise compliance with the Act 129 customer segment set-asides and equity requirements particularly for the low-income and institutional customer sectors. See 66 Pa.C.S. §§2806.1(b)(1)(i)(B) and (G).

B. Avoided Costs of Supplying Electricity.

Determining the appropriate methodology for calculating the avoided cost of supplying electricity in the context of the TRC test is one of the most complex open issues identified by the Commission in this proposed Order. EAPA agrees that “the benefits calculated in the TRC test will include the avoided supply costs, such as the reduction in transmission, distribution, generation and capacity costs valued at marginal cost for the periods when there is a consumption reduction.” See proposed Implementation Order at p.3. (Emphasis added.)

The Association would emphasize that the TRC test is a framework to be used to assess or rank the cost-effectiveness of measures relative to each other as Plans are developed

and to determine EE&C Plan cost-effectiveness during the approval process. As such, certain assumptions must be made. It is important that those "prediction assumptions" be straightforward and simple so as to apply to a wide range of measures which will be implemented over a tight and truncated timeframe while producing results (in the form of a benefit to cost ratio) which will reasonably approximate results achieved in a more detailed hindsight study. Thus, the assumptions employed in a TRC test may differ from those used in more traditional utility proceedings such as base rate or procurement proceedings.

Initially, EAPA suggests the calculation of the wholesale market price of electricity should be simplified and not divided into three segments of five years each. The Association acknowledges that a common model or methodology for monetizing the avoided cost of supplying electricity for all EDCs is the ideal but seeks a less complicated model which allows for regional differences in the pricing of generation and includes the cost of compliance with the Commonwealth's Alternative Energy Portfolio Standards Act.

EAPA further notes that while the calculation of avoided supply costs include monetizing reductions in transmission, distribution and capacity costs, as well as generation, the proposed Order focuses on the calculation of the avoided costs of generation alone. The Association, therefore assumes that, at this point where the filing date is imminent, variations in the methodology of monetizing the avoided supply costs of T&D, as well as capacity, will be expected and not negatively impact the determination of EE&C Plan cost-effectiveness. EAPA expects that its member EDCs will provide further comment on this open issue and supports those perspectives; again noting that slight differences in the methodology employed at the Plan filing stage can be reviewed and supplemented during the approval process.

C. Maximum 15-Year Measure Life.

EAPA generally agrees with the analysis set forth in the proposed Order concerning the 15-year measure life, but seeks clarification on one point. While Act 129, in the definition of the TRC test, certainly limits consideration of energy efficiency measure lives to a maximum of 15 years or less, it would not follow that if a measure provided savings for a period in excess of 15 years, those savings could not be counted in the measurement and verification process for a future EE&C Plan filed by the EDC or its successor.

The statute envisions the filing of future Plans which may seek further reductions in usage and peak demand. Measures put into effect during the term of the first Plan should, where possible, form a base for additional reductions. EAPA asks the Commission to clarify this point when it issues the final Order approving the TRC test.

D. Incentive Payments from an EDC.

Again, the Association generally agrees with the analysis set forth in the proposed Order to address this open issue. EAPA recommends a slight revision to the language on page 8 of the proposed Order to clarify that direct incentive payments from the EDC to a customer will not be included in the TRC because the cost equals the benefit. Starting with the second sentence in this section, the final Order would then read: "Accordingly, costs calculated in the TRC test will generally include EE&C Plan costs whether paid by the EDC or by the participants. However, incentive payments from an EDC to a customer will not be included in the TRC test because such costs are a cost to the EDC and a benefit to the customer that cancel each other out."

E. Incentive Payments from Outside Sources.

EAPA agrees with the Commission analysis to factor incentive payments from outside sources into an EDC's TRC test. Among other benefits, this approach further encourages coordination of energy efficiency and conservation programs sponsored by parties other than EDCs, allowing for greater participation by consumers who may very well need multiple incentives to install a particular measure particularly in light of the present economy.

F. Savings Claims from Act 1 Programs and Act 129 Programs.

Similar to the treatment of incentive payments from outside sources, EAPA agrees with the Commission's approach to permit the EDC to include the entire savings achieved from a measure in the context of the TRC test even where the customer is a recipient of incentives from both Act 1 and Act 129 programs. Any other approach would involve complex pro-rated calculations, consume the limited EDC funds allowed for Act 129 EE&C Plans under the statute and promote competition rather than cooperation between Act 129 and other energy efficiency programs. The prudent use of EDC funds to develop and implement cost-effective EE&C Plans is important if the concept of energy efficiency is to be adopted by the consuming public long term. Changing consumer behavior can result in a measurable impact on energy usage and demand and provide benefit through a reduction of wholesale energy prices. Allowing all savings from a measure to be included in the TRC test, even where funding comes from a variety of sources, will encourage consumer participation, will assure a cost-effective approach to spending EDC funds which are recoverable from ratepayers, and will work to achieve the broader benefit of lower energy costs.

G. Net-to-Gross (NTG) Adjustments to Savings.

EAPA generally agrees with the suggested approach to and description of NTG adjustments as set forth in the proposed Order with a few modifications. It is clear that determining NTG can best be accomplished through measure-specific participant level research. And as noted in the proposed Order, such research can likely be accomplished through the coordinated efforts of the EDCs and a third-party statewide evaluator, a position which is currently under consideration by the Commission.

EAPA, however, does not believe it is realistic to assume that the research and study will be completed, vetted and approved within a one-year period. Consequently, while the proposed Order provides for a NTG adjustment of one for the first year, the Association would request using a NTG adjustment of one in EE&C Plans due to be filed by July 1 for all measures in each year in which the measure produces benefits. Following completion of measure-specific PA participant level research, consideration of a change in the NTG adjustment would be appropriate.

Finally, as recognized in the proposed Order, the research to determine the appropriate NTG adjustments "comes at a cost." Proposed Order at p.11. EAPA suggests that such costs, which will be paid by an EDC, must be recovered outside of the 2% spending cap for Plans established under Act 129. Like costs associated with a statewide evaluator, costs of a NTG study should not come from Plan budget dollars which are limited by statute to costs associated with developing, implementing, monitoring and verifying the EDC EE&C Plans.

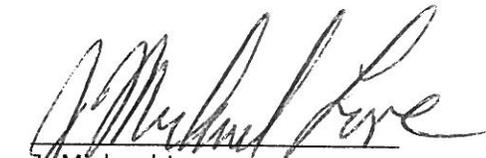
III. Conclusion

As stated in the proposed Order, "[t]he EDCs must file their EE&C Plans by July 1, 2009. In order to design the plans, the EDCs must know how results will be tested." Proposed Order

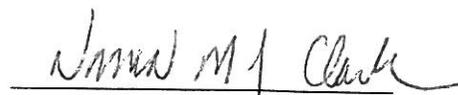
at p.11. It is imperative that the TRC test gain final Commission approval in the immediate future. Even with a June approval, however, it is likely that EDCs will not have sufficient time to make significant adjustments to Plans which are nearing completion through a collaborative process involving various stakeholders.² Consequently, depending on the final TRC test, adjustment may be necessary through supplemental testimony and filings during the approval process.

Finally, as detailed above, the Association is generally in agreement with the proposed Order, except as noted and applauds the Commission for its thoughtful analysis of open issues. The Association and its members welcome the opportunity for further input on issues relating to Act 129 and pledge to continue resolving issues in a cooperative and collaborative fashion.

Respectfully Submitted,



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² EAPA notes that the input of different stakeholders at the various EDC meetings has been instructive, leading to the development of common positions on issues as crucial as the manner in which funds are expended and recovered. EAPA further notes that the only stakeholder not evident throughout this collaborative process has been the Office of Small Business Advocate.