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**REPORT ON CONSERVATION, ENERGY EFFICIENCY,
DEMAND SIDE RESPONSE AND
ADVANCED METERING INFRASTRUCTURE**

Prepared by:

Demand Side Response Working Group
Docket M-00061984

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I. EXECUTIVE SUMMARY

On September 28, 2006, the Pennsylvania Public Utility Commission voted to initiate an investigation of issues relating to demand side response, energy efficiency, conservation and advanced metering infrastructure. The investigation was commenced in response to significant increases in fuel prices and the associated impact on utility rates. The investigation was to be conducted by Commission staff with the assistance of the Demand Side Response Working Group. The investigation was to conclude by May 15, 2007, at which time policy recommendations would be provided to the Commission. Commission staff was to identify areas of consensus within the working group, and to provide specific recommendations on matters where agreement was not obtained.

Commission staff, at the direction of the Director of Operations, determined the schedule, scope and structure of the investigation. Stakeholders were organized into subgroups and directed to gather information on a range of topics, including consumer education, ratemaking mechanisms, advanced metering, time-of-use rates, and energy efficiency and conservation programs. The Commission also hosted several conferences at which well qualified speakers addressed the working group on their positions regarding the issues subject to this investigation. The information collected by the working group has been made available to the public on the Commission's website.

After completing its research, the working group was surveyed by Commission staff to determine the level of consensus on various issues. This survey was done as part of the preparation of this report, and a draft version was shared with stakeholders. Stakeholder comments were solicited prior to the preparation of the final version of this document.

Generally, the stakeholders acknowledge that ratepayers might benefit from the implementation of new policies involving demand side response, energy efficiency and conservation. The Commission has gathered sufficient information to begin considering the adoption of new, demand side response, energy efficiency and conservation programs for energy utilities. The Commission has the authority to require energy utilities to submit proposals for its consideration, and to the Commission may provide for the full recovery of all reasonable and prudently incurred costs subject to statutory limitations, as well as appropriate cost allocation and ratemaking considerations. Programs should be available to all rate classes and should operate in conjunction with programs established by EGSs and PJM; and customer participation should be voluntary.

However, there was disagreement on many of the specific details associated with the implementation of new policies. For example, stakeholders differed on the objectives, management, and cost-recovery associated with new programs. The working group did not achieve consensus on program design or cost recovery. Accordingly, Commission staff will be providing separate policy recommendations on a range of issues. The following sections of this report review the issues addressed by the investigation, and

provides a sampling of stakeholder comments on these issues. Areas of relative consensus and disagreement are noted where they exist.

II. HISTORY AND SCOPE OF THE INVESTIGATION

At the Public Meeting of September 28, 2006, the Commission adopted a motion to initiate this investigation. *Investigation of Conservation, Energy Efficiency Activities, and Demand Side Response by Energy Utilities and Ratemaking Mechanisms to Promote Such Efforts*, Docket No. M-00061984 (Investigation Order entered October 11, 2006) (“Investigation Order”). The Director of Operations was instructed to convene the Demand Side Response Working Group (“DSR Working Group”) to conduct an investigation of:

(a) Energy utilities’ current efforts to assist their customers to reduce usage, increase energy efficiency, and implement demand side response programs (including implementation of time-based rates), and whether additional cost effective and reasonable steps can be taken to increase those efforts materially (and, if so, the nature of those activities and the costs that the utility or other entity and customers would incur to implement them); and

(b) Whether Advanced Metering Infrastructure should be developed by Pennsylvania utilities, and, if so, the timeline and standards that should be established for the implementation of these systems for the various customer classes and the methods of sharing this information with customers, competitive energy suppliers, and other customer representatives.

(c) Whether revenue decoupling or other similar mechanisms are necessary or appropriate to assure that energy utilities, and in particular natural gas utilities, aggressively encourage and implement conservation and energy efficiency in their service territories, and whether such mechanisms are fair to customers and otherwise in the public interest. At a minimum, the following legal and policy questions should be addressed: whether such mechanisms are legally permissible in Pennsylvania; whether such mechanisms are actually necessary in order to obtain the participation of energy utilities in conservation promotion activities; and whether the costs of implementing such mechanisms outweigh any benefits, and, if the benefits are greater, what type of decoupling approach is optimal.

Investigation Order, pgs. 10-11. The Director was to assign staff to this investigation, schedule meetings of the DSR Working Group, solicit comments on relevant issues, and to provide recommendations to the Commission where consensus was attained. Commission

staff was to provide policy recommendations to the Commission where consensus was not achieved.¹ This investigation was to conclude by May 15, 2007.

Subsequent to issuance of the Investigation Order, the Director assigned Commission staff to this proceeding. A DSR Working Group electronic mail service list was established to allow for the efficient communication between Commission staff and DSR Working Group participants. Participants included representatives from other state agencies, electric and natural gas distribution companies, non-profit organizations with an interest in energy issues, energy services companies, and Pennsylvania located business and industry.

The first meeting of the DSR Working Group was held on November 16, 2006, at the Commission's Harrisburg offices.² Participants exchanged views on a variety of topics, including the objectives, timeline, and structure of the investigation. Some electric and natural gas distribution company representatives offered updates on DSR, energy efficiency and conservation programs available to their retail customers.

At the outset of the investigation, Commission staff determined that it would be appropriate to form a separate subgroup to address ratemaking issues, particularly revenue decoupling. The Ratemaking subgroup was authorized to meet on a schedule separate from the DSR Working Group. This Ratemaking subgroup also held its first meeting on November 16, 2006. Participants discussed the Commission's directives regarding the consideration of revenue decoupling. It was determined that subgroup would benefit from hearing from persons knowledgeable about revenue decoupling. Four presentations on the topic of revenue decoupling were made to the Ratemaking subgroup on December 8, 2006.

Commission staff released its plan for the conduct of the overall investigation on December 7, 2006. First, the plan identified a schedule, objective, and structure of the investigation. Second, the plan provided that three additional subgroups would be formed for the purposes of collecting information: Programs, Metering, and Consumer Education. Finally, the plan reserved January 19, 2007 for panel discussions on the topics subject to investigation. Stakeholders were asked to nominate panelists who could offer the DSR Working Group insight on the successful implementation of DSR, energy efficiency, and conservation programs and advanced metering initiatives.

After these information gathering activities were completed, Commission staff would survey the DSR Working Group to ascertain the level of consensus regarding policy recommendations. Commission staff would then circulate a draft report to the DSR Working Group for their comments. After comments were addressed, a final report would be provided to the Commission that identified the information collected and noted the

¹ DSR Working Group participants generally did not offer any comments to this portion of the February 21, 2007 outline. However, the UGI Distribution Companies stated, based on its interpretation of the Investigation Order, that policy recommendations should be limited to electric distribution companies. The Commission should not make any findings regarding natural gas distribution companies as a consequence of this investigation.

² http://www.Commission.state.pa.us/electric/docs/DSRWG_Meeting_Recap111606.doc

areas of policy consensus. Consistent with the directive of the Investigation Order, Commission staff would provide recommendations on those topics where consensus was not achieved.

Consistent with this plan, the DSR Working Group and its subgroups met as follows:

- The subgroups met on December 19, 2007. Commission staff and participants identified metering, programs, and consumer education issues for additional study. Stakeholders agreed to provide information to Commission staff on these topics by early January.
- The Commission hosted a panel discussion in a day-long meeting held January 19, 2007. Presentations were made by individuals from fourteen different organizations.
- The Ratemaking subgroup had a conference call on January 23, 2007 to review additional information on revenue decoupling.
- The Ratemaking subgroup had a conference call on January 30, 2007.
- On February 9, 2007, the Commission organized a conference call to hear from parties unable to participate in the January 19, 2007 panel discussions.
- On February 23, 2007, the DSR WG met to discuss an outline of the working group report prepared by Commission staff. The Ratemaking subgroup met separately that afternoon to review draft proposals on revenue decoupling.
- On March 9, 2007, stakeholders provided comments to the report outline.³
- On March 22, 2007, the Ratemaking subgroup met to review a Commission staff strawman on revenue decoupling.
- On April 13, 2007, a draft report was released to the DSR Working Group for comment.
- Comments to the draft report were provided by April 30, 2007.

III. SUMMARY OF INFORMATION COLLECTED

Commission staff and stakeholders collected and reviewed a significant amount of information during the course of the investigation. This included data about existing programs in Pennsylvania, the details of programs in other states, and reports and studies

³ Comments were provided by Allegheny Power (“Allegheny”), Duquesne Light Company (“Duquesne”), Citizens for Pennsylvania’s Future (“PennFuture”), PJM Interconnection, LLC (“PJM”), PECO Energy Company (“PECO”), Pennsylvania Coalition for Demand Resources (“PCDR”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Pennsylvania Department of Environmental Protection (“DEP”), Wal-Mart Stores East LP (“Wal-Mart”), E-Meter Strategic Consulting (“E-Meter”), the PA Utility Law Project (“PULP”), UGI Distribution Companies (“UGI”), the Industrial Energy Consumers of Pennsylvania (“IECPA”), and the Pennsylvania Power Company, Metropolitan Edison Company, and the Pennsylvania Electric Company (collectively the “FirstEnergy Companies”).

These comments are available at http://www.puc.state.pa.us/electric/DSRWG_draft_outline_com.aspx.

issued on the matters subject to this investigation. A summary of the information gathered follows.⁴

A. Existing Pennsylvania Programs and Level of AMI Deployment

At the beginning of the investigation, Commission staff requested that electric distribution companies (“EDCs”) provide information on existing programs for each customer class. This was done by updating documents prepared as part of the DSR Working Group’s 2004 survey of existing programs and metering. Additionally, information was submitted by the EDCs on the current status of Advanced Metering Infrastructure (“AMI”) deployment, infrastructure requirements, future plans and costs. This information is available at the Commission’s public internet domain.⁵

B. White Papers on Programs, Consumer Education, and Metering

On December 19, 2007, the subgroups for programs, consumer education and metering met at the Commission’s Harrisburg Offices. It was determined that a necessary component of this investigation would be the collection of data and information about known DSR, energy efficiency and conservation programs that could be implemented or expanded in Pennsylvania. Stakeholders volunteered to provide short descriptive summaries or position papers on programs or policy issues relating to energy efficiency, conservation, DSR, consumer education and time based metering and rates. These papers are available at the Commission’s website.⁶

C. January 19, 2007 Panel Presentations

The DSR Working Group held a meeting in Harrisburg on January 19, 2007. The presentations made at the meeting were recorded and audio is available on the Commission’s website. Presentations were received on a variety of issues, including advanced metering, program design and cost-recovery.

D. December 8, 2006 Revenue Decoupling Presentations

⁴ Few comments were provided to this section of the report outline. PennFuture recommended the inclusion of the New Jersey Clean Energy Program’s Annual Reports and the Regulatory Assistance Project’s “Energy Efficiency Toolkit” as important resources.

⁵http://www.Commission.state.pa.us/electric/dsrwg_EDC_Existing_DSR_Programs.aspx

⁶http://www.Commission.state.pa.us/electric/DSRWG_Subgroups.aspx;
http://www.Commission.state.pa.us/electric/DSRWG_meter_Subgroup.aspx

The Ratemaking Subgroup met at the Commission's Harrisburg offices on December 8, 2006. The following presentations were made, copies of which are available on the Commission's website.⁷

1. *Impact on Revenue Decoupling: A Changed Rate Paradigm.* This presentation was given by Cynthia Marple of the American Gas Association.

Summary: The discussion began with a historical prospective of traditional rate making and the disincentive it provides to natural gas utilities when customers conserve. To demonstrate customer energy efficiency, it was shown that 15 million new residential natural gas customers have been added since 1980 and consumption has only increased by .1 Tcf. Several states have implemented revenue decoupling programs and programs are being under review in other jurisdictions. The advantages and disadvantages of revenue decoupling programs were also presented.

2. *Gas Utility Conservation Incentive Programs in New Jersey.* This presentation given by Dan Yardley of Yardley and Associates concerning recent revenue decoupling cases approved by the New Jersey Board of Public Utilities ("NJ BPU").

Summary: New Jersey Natural Gas and South Jersey Gas filed coordinated proposals in December 2005 with the NJ BPU. Over a 10 month time frame, discovery and negotiation occurred with a settlement stipulation being filed in October of 2006. A three year pilot program with a revenue decoupling rider was implemented shortly thereafter.

3. *Building a New Regulatory Framework for Energy Efficiency as the First Fuel in a Balanced Energy Future.* This presentation was given by Bill Prindle of the American Council for an Energy Efficient Economy ("ACEEE").

Summary: A new framework for energy efficiency policies is arising in the utility sector. With energy prices rising and unlikely to return to historical lows, state regulatory agencies are making adjustments to their restructuring policies. Those same agencies need to provide a new regulatory framework to make efficiency more attractive for ratepayers and utility shareholders. Efficiency is usually the least-cost resource and the fastest to employ. It also has the potential to generate substantial savings for consumers.

⁷http://www.Commission.state.pa.us/electric/DSRWG_Revenue_Decoupling.aspx

4. *Designing Utility Regulation to Promote Investment in Cost-Effective Energy Efficiency*. This presentation was given by Dale Bryk of National Resource Defense Council (“NRDC”).

Summary: Energy efficiency can foster safe, reliable, affordable energy services and further the goal of environmental protection. Policies such as rate regulation/decoupling, portfolio management, system benefit charges programs, codes and standards as well as transmission and distribution system planning were addressed. Emerging policies like the Regional Greenhouse Gas initiative were also identified during the presentation. Several alternatives to decoupling like fixed customer charges and system benefit charges were also acknowledged.

E. Other Sources

Commission staff and stakeholders reviewed or identified the following sources of information as useful in the formulation of policy recommendations.

1. *Quantifying Demand Response Benefits in PJM*. This report was issued on January 29, 2007, by the Brattle Group of Cambridge, Massachusetts.

Summary: The PJM Interconnection, LLC (“PJM”) and the Mid-Atlantic Distributed Resources Initiative (“MADRI”) funded this study to quantify the benefits of demand response.⁸ The study estimates the impact of demand curtailment on wholesale prices and customer costs in the MADRI states and in the broader PJM region. This study uses a simulation-based approach to quantify the market impact of curtailing 3% of load in the BGE, Delmarva, PECO, PEPCO, and PSEG zones during the top twenty 5-hour blocks in 2005 and under a variety of alternative market conditions.

The model produced the following results: 1) curtailing 3% of each selected zone’s super-peak load reduces PJM’s peak load by 0.9% and saves \$8 to \$25 per megawatt-hour, or 5-8% on average during the 133-152 hours in which curtailment occurs; 2) the entire benefits to the entire PJM system could range from \$65 to \$203 million per year; 3) the market impact in each zone is smaller if it curtailed its load in isolation from the other zones; 4) the demand response benefits are \$85 to \$234 per megawatt-hour or \$9 to \$26 million per year. The second major source of benefit to program participants is the reduction in capacity needed to meet reserve adequacy requirements.

⁸ <http://www.pjm.com/documents/downloads/reports/brattle-report-quantifying-demand-response-benefits-pjm.pdf>

An estimate of this long-term capacity benefit is \$73 million per year for curtailment of 3% of load in the five zones.

The model does not consider some secondary benefits, and it does not consider some secondary effects that could offset the benefits to non-curtailed loads. Although the energy and capacity-related effects quantified in this study are related to resource costs, a comprehensive analysis of total resource costs, including an assessment of the likely technology mix of future capacity and DR, is a question that has not been addressed in this study. The study leaves many questions unanswered.

2. *Five Years In: An Examination of the First Half-Decade of Public Benefits Energy Efficiency Policies.* This report was issued by the ACEEE in April of 2004.

Summary: Electric industry restructuring ushered in a new era of utility sector energy efficiency mechanisms, broadly categorized as public benefits funds. In 1999, the ACEEE conducted a national review of these public benefit energy efficiency programs. This study is a follow-up of the first examination five years later.

The project involved contacting the twenty-five states examined in the original project and reassessing the public benefits programs as well as changes that may have occurred during that time. Of the jurisdictions examined, 20 have included policies that either require or encourage public benefits energy efficiency programs in their legislation and/or regulatory orders and 18 of those states currently have energy efficiency programs in operation. The study included a state by state profile on policies and administrative approaches. Regarding the funding mechanism, by far the most common approach used by the states is a public benefits charge consisting of a small non-bypassable per-kilowatt-hour charge on the electric distribution service.

State public benefits funds, using revenue collected through the utility distribution system, have become perhaps the most significant new policy mechanism for implementing energy efficiency in the past decade.

3. *New York Energy SmartSM Program Evaluation and Status Report.* The most recent status report provided to the New York State Energy Research and Development Authority (“NYSERDA”) was prepared in May of 2006.⁹

⁹ http://www.nyserda.org/Energy_Information/06sbcreport.asp

Summary: This report presents evaluation results for “Energy Smart” program activities completed through year-end 2005. The program portfolio consists of initiatives promoting energy efficiency/load management, providing services to low-income and conducting research/development activities.

4. *Assessment of Demand Response and Advanced Metering.* Staff of the Federal Energy Regulatory Commission (“FERC”) prepared and issued this report in August of 2006 at Docket AD06-2-000.

Summary: The Energy Policy Act of 2005 required the FERC to prepare a report that assesses electric demand response resources. FERC was required to identify and review the various aspects of demand response and advanced metering implementation and planning, including regulatory barriers. The report includes FERC staff findings in a national survey of DSR and Advanced Metering. FERC Staff solicited written comments from interested parties and provided an overview of a public technical conference.

One result of the survey is that advanced metering currently has a penetration of about six percent of total installed electric meters in the United States and in Pennsylvania, the advanced metering penetration is 52.5 %. The FERC Survey also requested information on the potential peak reduction that existing demand response programs represent. Nationally, the total potential demand response contribution from existing programs is estimated to be about 37,500 MW. The vast majority of this resource potential is associated with incentive-based demand response. FERC Staff also identified several regulatory barriers to improved customer participation in demand response, peak reduction and critical peak pricing programs. The barriers are based on input received from parties in written comments and discussions from the technical conference.

5. *Pennsylvania DSR Working Group 2004 Reports.* The DSR Working Groups published these reports in June of 2004.

Summary: In 2003, the Commission directed the DSR Working Group to examine issues relating to the implementation of DSR programs. Four subgroups were formed to gather information on the following subjects: 1) Technology Deployment, 2) Consumer Surveys, 3) Cost Recovery, and 4) Benefits.

The Technology Deployment subgroup examined the various issues and costs associated with implementing DSR programs. The Consumer Surveys subgroup collected information on EDC focus groups, surveys, and consumer research. They evaluated consumer willingness to participate in current EDC DSR programs and pay the associated fees. The Cost Recovery

subgroup studied the ways that DSR related costs incurred by an EDC could be recovered through rates. The Benefits subgroup's three main objectives were: 1) determine the proper methodology to evaluate the cost-effectiveness of a program, 2) define the benefits of a program, and 3) determine what data is needed to conduct the analysis.

6. *New Jersey Clean Energy Program Annual Report.*¹⁰ This annual report is prepared by the NJ BPU's Office of Clean Energy. The 2005 Annual Report is the most recent report available.

Summary: The Commonwealth of New Jersey is committed to achieving a 20 percent reduction in energy demand by 2020, while also increasing the use of renewable energy to 20 percent by 2020. This requires a concerted effort to address building codes, energy efficiency standards, and financial and other market-based incentives for renewable technology with broad public support. The Clean Energy Program Annual Report serves as a practical resource for participation and education to the various programs offered during the year and into the future. The Annual Report provides a track record of achievements and opportunities, as well as an accounting of program implementation. Key contacts are provided for the various programs and critical components are identified.

7. *Energy Efficiency Policy Toolkit.* This report was prepared by the Regulatory Assistance Project and published in November 2006.¹¹

Summary: This report examines policy options in the areas of energy efficiency, renewable energy, distributed resources and rate design. The report also discusses the key importance of regulatory financial incentives which play an essential role in either discouraging or supporting the development of clean energy, particularly energy efficiency. Rather than address why policy makers might want to develop more aggressive clean energy policies, the report assumes you are already interested. A decade of restructuring activity has created great variation among states in their models for electric sector regulation. This report compares seventeen state activities surrounding energy efficiency standards, investment requirements, targets and performance.

8. *MADRI Advanced Metering Working Group: Installed Meter Survey.* MADRI published this report on April 27, 2005.¹²

¹⁰ <http://www.njcleanenergy.com/html/5library/ar.php>

¹¹ <http://www.raonline.org/Home.asp>

¹² <http://www.energetics.com/madri/toolbox/survey.html>

Summary: This report provides detailed information on the level of AMI deployment within the mid-Atlantic portion of PJM. Key findings were:

- Two-thirds of all installed meters were basic Watt-Hour meters.
- Advanced meters are about 1% of the total meter population; but measure almost 20% of the region's electricity sales.
- More than a third of all meters are AMR (e.g., automatic meter reading) meters.

Utilities serving more than 90% of the total load within the mid-Atlantic portion of the PJM territory participated in this survey.

9. *Submissions by the OSBA, the OCA, and IECPA Articulating the Potential Absence of Commission Authority and a Factual or Policy Basis to Implement Revenue Decoupling*

Summary: The Commission specifically instructed the DSR working group to examine the legality and appropriateness of revenue decoupling, including: "[w]hether revenue decoupling or other similar mechanisms are necessary or appropriate to assure that energy utilities...aggressively encourage and implement conservation and energy efficiency in their service territories; whether such mechanisms are fair to customers and otherwise in the public interest;...whether such mechanisms are legally permissible in Pennsylvania; whether such mechanisms are actually necessary in order to obtain the participation of energy utilities in conservation promotion activities; and whether the costs of implementing such mechanisms outweigh any benefits." Because none of the presentations addressed these issues, the OSBA, the OCA, and IECPA all submitted comments responding to this Commission directive.

The OSBA provided a legal analysis indicating that revenue decoupling is likely prohibited under the Public Utility Code as single-issue ratemaking. The OSBA notes that single-issue ratemaking is generally prohibited and that a revenue-decoupling mechanism, because they are not costs that are extraordinary or non-recurring, does not fit into the exemption.

IECPA also presented a brief bullet point summary addressing these issues. Specifically, IECPA indicated agreement with the OSBA's conclusion that the Commission does not have the authority under the Public Utility Code to implement a revenue decoupling mechanism. In addition, IECPA noted that no proposal has been made to indicate that such a mechanism could be designed to appropriately reflect changes in consumption due only to energy efficiency and demand side response programs. Finally, IECPA noted that any decoupling or other cost recovery mechanism must appropriately allocate costs among customer classes.

The OCA also provided additional information regarding the pros and cons of various revenue decoupling mechanisms. Specifically, the OCA noted that any implementation, if determined appropriate, must be tied specifically to demand side response and energy efficiency programs.

IV. GENERAL FINDINGS RESULTING FROM THIS INVESTIGATION.

The DSR Working Group made a number of general findings as a consequence of its investigation. More specific findings relating to a variety of technical and legal issues are addressed in subsequent sections of this report.

A. Energy Efficiency, Conservation, and Demand Side Response Programs Can Be Cost-Effective Methods of Controlling the Amount of Money that Customers Pay for Electric and Natural Gas Utility Service.

There was a general consensus within the DSR Working Group that certain programs and technologies, if implemented properly, can favorably impact some ratepayers' energy bills. The comments filed by the DEP, the OCA, the OSBA, the Pennsylvania Coalition for Demand Resources, PennFuture, PJM, Allegheny, Duquesne, FirstEnergy Companies, PPL, PECO, UGI, Wal-Mart Stores East LP, E-Meter Strategic Consulting, and the PA Utility Law Project offered support for this principle in one form or another. Parties did offer comments that the cost-effectiveness of some programs is questionable, and that improperly designed programs provide little benefit to ratepayers. In addition, parties questioned whether the benefits are limited to the participating ratepayers or extend to other non-participating ratepayers.

B. Ratepayers may directly benefit through participation in DSR or conservation programs, and the utilization of energy efficiency technologies.

Again, there was a general agreement with the proposed finding that individual ratepayers can directly benefit from participation in these programs, in the form of reduced bills for gas and electric service. Participants offered more specific comments on various aspects of this proposed finding:

1. *Program provider.* Some parties offered comments on whether EDCs should be expected to offer these programs. The OSBA asked that consideration be given to allowing the electric generation suppliers ("EGSs") to be the primary program provider. If consumers

are truly interested in these services, the OSBA believes that EGSs can provide them. Most EDCs, and most other commentators, accept that EDCs should propose programs for Commission consideration.

2. *Voluntary vs. Mandatory Program Participation.* While not expressly addressed in the report outline, comments were offered on the issue of whether customer participation should be voluntary or mandatory. Those who commented on this issue believe that participation in DSR, conservation and energy efficiency programs should be voluntary for retail customers. For example, this was the position of the OCA, PPL, Duquesne and the FirstEnergy Companies.

IECPA supports the proposition that any DSR programs for retail customers must remain voluntary.

3. *Program Effectiveness and Customer Size.* Commentators recommended that the Commission recognize that different types of programs work best for different classes, and that the opportunities for savings also vary significantly by class.

The OCA and PCDR both emphasized that energy efficiency and conservation are the most cost-effective approaches for residential customers. They assert that DSR programs are more appropriate in the context of large commercial and industrial customers, who can have greater financial incentives to reduce usage at a time of peak demand.

PECO commented that the greatest opportunities for conservation and demand reduction, in its experience, have been with the large commercial and industrial customers. PECO therefore cautioned against implementing programs for residential and small business customers without determining their effectiveness through pilot programs.

IECPA noted the availability of DSR programs at the PJM level. It is important that any programs implemented by EDCs not prohibit customer participation in the PJM programs.

4. *Program Menus May Vary by Territory.* There was consensus that EDCs should be given some flexibility in their program offerings. For example, FirstEnergy noted that the level of air conditioning saturation varies across the state, making summer peak load management less viable in some service territories.

C. Ratepayers may indirectly benefit from programs due to their effect on wholesale energy prices.

Comments were requested on the proposed finding that customers, whether or not they participate in programs, may indirectly benefit from the effect of DSR, energy efficiency and conservation on wholesale energy prices.

The OCA agreed with the proposed finding, stating that retail customers may benefit from the impact of programs on the prices in energy and capacity markets. The DEP, PCBR and PPL also concurred with the proposed finding.

UGI cautioned that ratepayers would not necessarily benefit from wholesale energy price reductions resulting from these programs. It observes that where a default service provider is procuring all generation supply through a competitively procured, load-following contract, wholesale suppliers will, at least initially, reap the benefit of any price reductions.

IECPA questioned the extent to which non-participating ratepayers will benefit from programs, especially when programs are designed and implemented programs must be assessed prior to concluding that other ratepayers receive an "indirect" benefit.

D. The Commission Should Refrain from Ordering EDCs to Deploy AMI System Wide For All Customer Classes.

Most participants chose to comment on the issue of AMI deployment. While recognizing the great potential of AMI, stakeholders generally opposed mandating the system wide deployment of AMI by EDCs for all customers. Large scale AMI deployments are costly, and if customer participation in DSR programs is voluntary, the technology will not be fully utilized. A sampling of comments on this issue follows.

Duquesne stated that the Commission should not mandate system-wide AMI deployment for all rate classes. However, AMI deployments could be considered for large customers above well defined thresholds. Generally, AMI deployment should be driven by individual customer needs and business practices.

The FirstEnergy Companies observed that DSR programs can move forward without full AMI deployment, pointing to the example of the Metropolitan Edison Company and the Pennsylvania Electric Company. Both EDCs have implemented time-of-use ("TOU") rates without full AMI deployment. While there are incremental costs associated with these meters to allow TOU rates, they are

substantially less than that of system wide AMI deployment. Its current priority is to invest capital in improved reliability rather than AMI deployment. The FirstEnergy also believes it would be more appropriate to implement pilot AMI programs before any full scale deployments.

UGI believes that the Commission should be extremely careful in ordering widespread roll-out of AMI and mindful of economic interests of individuals or companies promoting such a deployment. AMI is very costly and would lead to increased distribution rates. Benefits are not proven especially when participation is voluntary.

Allegheny indicates that it may be viable for EDCs to offer TOU rates to medium and small customers without having system-wide AMI deployment. Regarding AMI deployment, pilot programs could serve to field test technology and system limitations. Timely cost recovery would be essential.

The OSBA suggests that TOU metering would not conserve energy, is not workable for small commercial & industrial customers and is costly to implement. OSBA notes that Duquesne Light Company was required to implement real-time pricing for large commercial & industrial customers. The OSBA reports that real-time pricing did not alter these customers' consumption patterns. Instead, these customers took fixed price service from EGSs rather than accept hourly pricing. Hourly priced service exposes customers to price volatility and financial uncertainty that most are unwilling to tolerate. For the most part, Duquesne has found that customers want certainty, need to budget for expenses & don't want to be surprised by rapidly escalating prices or extreme volatility. The OSBA believes that volatile hourly prices are not a necessary or desirable part of a competitive market.

The OCA believes that the blanket deployment of AMI to all residential customers is not justified solely as a means to support DSR programs. Presentations to the DSR Working Group focused on AMI benefits including costs related to staffing, more easily resolved customer billing inquiries, better theft detection, and quick and accurate identification of service outages. At least in some cases AMI deployment is justified by these benefits. In these cases, the OCA suggests that the Commission review how these systems can be used to support specific DSR programs. Conversely, where AMI is not cost justified, the Commission should rely on efficiency and direct load control programs.

The DEP recognizes that AMI can be an integral tool for customers to reduce energy spending. DEP supports the installation of technology capable of allowing customers to voluntarily participate in pricing programs that reflect TOU. The enabling technology should be installed by the EDCs.

The PULP indicates that the installation of smart meters is likely to result in higher rates or prices for all customers. This will produce an adverse impact on

limited income and payment troubled customers. In addition, dynamic pricing assumes that every customer has the ability to respond to hourly price signals. Smaller customers basically have the ability to lower the thermostat (for controls of home heating, home cooling, hot water, or pool pumps at peak periods). Responding to price signals is not as easily beneficial to customers with constant usage profiles or who use a very low level of electricity and don't have the ability to reduce or shift usage.

PennFuture addressed the benefits of AMI and real-time pricing for both utilities and consumer. Dollar savings associated with the PPL system and Commonwealth Edison pilot in Chicago are cited. PennFuture proposes a timetable for requiring 10% of the load be enrolled in voluntary real-time pricing programs. PennFuture also proposes a timetable for EDCs to provide customers with technology capable of allowing all customers to participate in real-time pricing programs.

E. Consumer Education is an Important Component of any Strategy Adopted by the Commission.

There was general consensus that consumer education is a necessary component of any DSR, energy efficiency and conservation strategy.

1. *Overview*

The Consumer Education Subgroup recognized that education regarding DSR, energy efficiency, conservation, and AMI will be an important component of any policies implemented in Pennsylvania. Effective education will raise awareness about programs and technologies and foster consumer participation when opportunities present themselves. Accordingly, the subgroup researched successful education approaches by soliciting position papers on effective education strategies.

2. *Comments*

A summary of the comments to the proposed findings on consumer education follows:

- There was consensus that education is critical.
- Potential issue areas for the education include: "Customer Choice Education"; "Wise Use of Energy and Managing Energy Costs"; and "Provider of Last Resort Service and Pricing."

- Consumer education should involve a variety of tactics, from advertising, media relations and grassroots outreach.
- A baseline survey should be conducted first to measure initial awareness of these issues, followed by annual surveys to evaluate the effectiveness of education programs.
- Stakeholders should have regular involvement and opportunities for input.
- Education strategies used should be based on effective programs employed in other states when applicable, such as California and New Jersey and the New England states.
- Most parties agreed that funding for consumer education should be recoverable by utilities and by consumers. One commenter suggested carving out funds from future rate cases for consumer education to create a self-sustaining, ongoing source of funding for consumer education on these issues. This runs counter to other comments stressing the use of funds within the service territory in which they were paid by consumers.
- The Commission should define specific goals and actions that can lead to an efficient and conscientious use of energy that can be sustained over time.
- The campaign should be branded with a theme and logo, while including the ENERGY STAR label to enhance credibility, recognition and accessibility for the campaign.
- Rather than only achieving awareness, emphasis should be placed on educating people and entities to take certain actions and giving them the technical knowledge and tools they need.
- The cost for low-income consumers should be limited. However, low-income Pennsylvanians should be beneficiaries of the consumer education conducted.

A major point of disagreement among the parties is whether consumer education should be handled solely by EDCs or in concert with a statewide campaign directed by the Commission. Another related issue is whether a statewide administrator also oversees the outreach.

Consumer education policies adopted as a consequence of this investigation will likely be coordinated with education policies initiated pursuant to the Commission's pending proceeding at on electric price mitigation. *Policies to Mitigate Potential Electricity Price Increases*, Docket M-00061957 (Tentative Order entered February 13, 2007).

3. *Best Practices.*

Commentators identified several approaches for further study:

- The “Green Schools Program of the Alliance to Save Energy” works with school districts to create energy awareness, enhance experiential learning and save schools money on energy costs.
- The Ontario Conservation Program created a “culture of conservation” with broad-based and inclusive education.
- Duquesne Light conducts a “Watt Do You Know?” school program targeting grades 4-6 and provides conservation materials at home and garden shows, dispatches a speakers team to community.

V. COMMISSION AUTHORITY AND JURISDICTION

A. The Commission has the authority and jurisdiction under the Public Utility Code to Implement Policies Regarding DSR, Energy Efficiency, and Conservation.

There was general consensus with the proposed finding that the Commission had the authority to develop and implement policies on matters subject to this investigation. Parties generally acknowledged that Section 1505(b) of the Public Utility Code, 66 Pa.C.S. § 1505(b) expressly authorizes the Commission to order electric and gas utilities to implement programs that the Commission determines to be prudent and cost effective.

The Commission must also separately ensure that “universal service and energy conservation” programs are available in each EDC and NGDC territory. 66 Pa.C.S. §§ 2804(9), 2203(8). The OSBA commented that the authority granted to the Commission under these two subsections only pertains to programs for low-income retail electric and gas customers.

B. The information gathered pursuant to this investigation represents a sufficient foundation for the Commission to initiate a process to develop programs for formal Commission consideration and approval.

Generally, parties supported the proposed finding that the Commission has gathered sufficient information for the Commission to begin the process of developing additional policies for DSR, energy efficiency and conservation. While recommendations regarding strategies varied, no one recommended that the Commission conclude its investigation without taking further action.

UGI did comment that any new policies be limited to EDCs and retail electric customers.

VI. PROGRAM OBJECTIVES AND GOALS

A. The Primary Objective Of New Policies Is Cost Savings For Retail Customers. Other Valid Objectives May Be Achieved.

The Commission's jurisdiction to initiate this investigation arises largely from its responsibility for the regulation of the rates, services and facilities of public utilities. The Investigation Order discussed at length recent, significant increases in fuel costs and the resulting impact, both now and in the future, on retail electric and gas rates. The parties generally agreed with the proposed primary objective of achieving savings for customers. While the parties may disagree on the funding, scope or implementation of these programs, there was a general consensus that the Commission should focus on helping ratepayers reduce the amount of money they pay for energy.

Other benefits were identified too. The DEP and PCDR comment that non-quantifiable health and environmental benefits may be realized through the implementation of these types of policies and programs. The OCA commented that the control of peak load may also benefit overall system reliability.

B. The Commission Should Identify Quantifiable Goals As Part Of This Objective.

Some states and cities have set specific targets as part of their overall strategy. These targets are sometimes quantified as a % reduction of overall or peak demand by a certain time period. Examples include:

1. Connecticut's energy independence law established a goal of a 10% reduction in peak demand by 2010. *Public Act 05-01, An Act Concerning Energy Independence*. According to January 19, 2007 presentation by Enernoc, Connecticut has developed DSR capacity equal to about 6% of peak load at this time.
2. Austin Energy: According to February 9, 2007, presentation, they intend to satisfy 15% of expected 2020 demand with demand side management resources.
3. California: They have set a goal of 5% of system peak demand MWs enrolled in DSR economic programs by end of 2007.

Parties offered a wide range of comments in response to the proposed finding that the Commission should set specific targets as part of achieving the primary objective. There was a significant difference of opinion over how to quantify objectives, and the appropriate time frame for measuring reductions.

PECO and others recommended that the Commission not set performance objectives based on specific percentage reductions. PECO also noted that EDCs should get credit for reductions from existing programs when setting targets.

Instead, some parties recommended alternatives to establishing percentage reduction targets. Duquesne suggests that more appropriate short-term objectives should be the level of customer education awareness and participation in programs. However, Duquesne does note that long-term objectives in the 5-10 year range could be developed to quantify effectiveness. ICEPA IECPA comments that if wholesale energy price reduction is the objective, then that impact should be quantified to ensure that program effectiveness. The OSBA recommends that the DSR Working Group first determine what kinds of programs are cost effective before setting specific reduction targets.

Two parties commented on the desirability of taking a long-term perspective in setting targets. The OCA notes that programs will need to ramp up over time and that the Commission needs to permit demand response capacity to develop for several years before goals are to be reached. The FirstEnergy Companies also comment that it takes time to develop and implement new programs, and that therefore it will be at least several years before benefits are realized.

Two parties provided comments with specific numerical percentage reduction targets tied to specific years. The PCDR noted the need to establish strong measurable goals. They advanced what they termed “ambitious goals” that included reducing total electric consumption in Pennsylvania by 1.5% per year from 2010 to 2020, and reducing natural gas consumption by 2% per year for the same period. The PCDR also advanced the goal of developing and maintaining the ability to reduce peak electrical demand by 10% by 2010 through demand response measures. PennFuture proposed similar goals of developing DSR capacity of 10% of peak load by 2010 as well as developing strategic conservation to offset all load growth in electric and natural gas going forward. The DEP recommends that the Commission consider adopting measures that are consistent with Governor Rendell’s Energy Independence Strategy that entails EDCs meeting increases in energy usage and peak demand through demand side resources.

While not recommending specific energy reduction targets, PPL commented that it is potentially appropriate for the Commission to develop quantifiable objectives to guide the development of programs and serve as a benchmark for measuring change. PPL cautioned against using such goals as a measure of EDC

performance as ultimately it is customers who need be willing to change energy use through program participation. PPL also recommended against setting a goal based on a forecast of future demand. Instead, PPL suggested establishing goals from a fixed base such as the 2006 peak load and 2006 actual electricity sales.

VII. PROGRAM IMPLEMENTATION

A. Program Administration

Most parties expressed viewpoints on whether programs should be administered by each EDC for their service territory or a third-party, statewide administrator. Other parties did not support either of these positions, but instead but noted the possibility of a hybrid approach involving close coordinating across service territories based on common standards.

Four parties specifically commented on the need for statewide coordination of programs without clearly stating a preference for EDC administration or a statewide administrator. The OCA, in stating that programs need to be coordinated statewide, noted that coordination can be supervised by the Commission, by utilities under the direction of the Commission or by a statewide coordinator. The OCA states that Energy Star programs will be far more effectively implemented if there is statewide coordination. Similarly, PennFuture did not have a preference for EDC or third party, statewide administrator but noted that if programs are administered by EDCs there needs to be a strong level of coordination among the state's EDCs. Wal-Mart and DEP also pointed out the need for consistency and coordination on a statewide basis.

Three utilities expressed a clear preference for EDC administration of programs. PPL comments that EDCs should individually develop and manage their own portfolio of programs so that they can reflect the unique characteristics of their service territory. PECO and UGI-ED also noted that programs should be implemented on an individual EDC basis.

Two utilities provided comments that suggested the possibility of a hybrid model of administration. Duquesne noted that a third party, solely responsible for delivering energy savings, could administer national programs such as Energy Star while EDCs and NGDCs could administer service territory specific programs. Allegheny commented that each EDC could develop a portfolio of programs but also allow for other programs developed by market participants. Allegheny also commented that if a third party administrator is used for DSR development, the administrator should be hired by the Commission.

Comments were also offered in support of a model for the use of a third party, statewide administrator. The FirstEnergy Companies support a third party to implement, administer and track results of any statewide programs. Based on their experience in New Jersey, the Companies note that a statewide administrator can best provide consistent messages and equality across customer classes. The FirstEnergy Companies also note the existence of statewide administrators in Vermont and New York.

Similarly, the PCDR calls for an independent, third party to implement and manage programs. In the PCDR's view, the statewide administrator would have the clear, exclusive mission of saving energy. The PCDR points to examples of the statewide models of Efficiency Vermont and The Energy Trust of Oregon as examples of models of statewide administrators. The OSBA and PULP also express a preference for using an independent, third-party to plan and implement statewide DSR programs.

B. The Implementation Process May Be Commenced Through Commission Orders or Policy Statements.

There was general consensus that the Commission could initiate this program development and approval process through an order, as opposed to a formal rulemaking process. This concept was expressly supported by Duquesne and the OCA. To the extent that permanent, uniform standards are later adopted, parties suggested that formal rulemaking may be appropriate.

C. Timelines for Implementation and Plan Durations

The OCA recommended that companies file their proposed plans within six months of the issuance of a final commission order on the findings of this investigation. PPL commented that program filings should track with default service filings.

The OSBA cautioned against implementing programs in service territories still governed by generation rate caps. If customers are currently paying below market prices, they have little incentive to conserve. The Commission should focus its efforts on those customers who already, or will soon, pay market prices.

PennFuture recommended that programs be in place for at least five years. Most parties do not believe that you can identify an optimal life cycle or program duration.

D. Program design.

While not every party addressed this issue, there seemed to be support for the following findings.

1. *There is Value to Performing Market Penetration and Baseline Studies Prior to the Implementation of Programs.*

PennFuture recommended that the Commission conduct baseline and market penetration studies before implementing any programs. PennFuture identified a number of consultants who could provide these services. Duquesne Light also supports conducting market penetration studies.

Economies of scale may be achieved by combining these studies with baseline surveys conducted for consumer education purposes.

2. *It would be appropriate to pre-approve a menu of programs that have been ranked based on their effectiveness.*

There was support for the Commission approving a menu of programs that have been ranked according to their known effectiveness. This would reduce the time needed for implementation, and reduce the chance of utilities going forward with untested programs of dubious value. Comments were offered in support of this concept by Duquesne, PCBR, and the OCA. The OCA questioned whether there was a need for additional program design, given the many existing programs already identified by the PCBR and others.

3. *Equity considerations dictate that programs are available to all customer classes.*

Given that all ratepayer classes will probably be required to fund these programs, equity dictates that some offerings be available to every class. PPL expressly supported this proposed finding. No party offered comments in opposition to this finding.

IECPA expressed the view that interclass cost allocations and benefits must be examined in designing and funding any programs. IECPA specifically questioned the need for programs for Large C&I customers given the plethora of PJM sponsored programs that already exist.

E. Program Evaluation

Numerous parties provided comments on program evaluation issues. The OCA strongly supports evaluation for establishing overall impacts, the effectiveness of program administration and direct program delivery. Similarly, the PCDR notes

that program evaluation is critical for determining the effectiveness of programs and their impact on statewide energy demand.

The importance of addressing program evaluation early in the planning process was addressed by several parties. The PCDR commented that program evaluation should be a critical component of programs from the start and therefore addressed in initial program designs. Duquesne commented that DSR programs should not be implemented until evaluation methodology, baseline and formulas to measure the effectiveness of programs has been defined and approved. PennFuture points out that early efforts to conduct baseline and market penetration studies can be used to make decisions where programs can achieve the largest savings in the shortest time.

Parties offered perspectives on the methodologies that should be used in program evaluations. The FirstEnergy Companies commented that the calculation of program benefits should include reduced energy costs, reduced capacity requirements, reduced ancillary charges and the benefits of reduced emissions. Both PennFuture and the PCDR noted that the Total Resource Cost Test may be an appropriate methodology for determining the cost effectiveness of programs.

The role of program evaluation findings in guiding discussions about program continuation and modification was mentioned by three parties. The OCA noted that additional goals can be based on evaluation results that address the potential for additional energy reductions. The PCDR asserts that evaluations can be the primary vehicle for uncovering opportunities for improvements. Finally, PECO comments that evaluations and measures of successful programs can be used to determine which programs should be continued.

Two parties provided comments on who should conduct program evaluations. PPL recommended that programs should be evaluated by each EDC and that the issue of independence or objectivity can be addressed by having the evaluations subject to review by the Commission. Conversely, the PCDR commented that programs should be evaluated by independent parties and the results made public.

VIII. PROGRAM FUNDING AND COST-RECOVERY

A. EDCs and NGDCs Shall Be Able to Recover The Costs Associated With Commission Approved DSR, Energy Efficiency, And Conservation Programs.

There was general consensus that the Commission shall allow utilities to recover the costs of programs from ratepayers. Section 1319 of the Public Utility Code, 66 Pa.C.S. § 1319, identifies a cost-recovery standard for programs

implemented pursuant to Section 1505(b). Pursuant to this section, utilities shall recover all prudent and reasonable costs associated with managing, developing, operating and financing programs. Section 1319, however, does not "permit the recovery of the cost of producing, generating, transmitting, distributing or furnishing electricity or natural gas."

B. There Is No General Consensus For Specific Program Funding and Cost-Recovery Mechanisms.

A range of opinion was offered on appropriate methods for funding programs and recovering their costs. PPL commented that the appropriate cost recovery mechanisms may vary, depending on the programs that an EDC is offering. Other comments were offered on certain specific mechanisms.

1. *System Benefit Charges.*

Many parties commented that a System Benefit Charge ("SBC") may be an appropriate mechanism to provide funding for programs. Several other states have implemented an SBC to fund programs. It is expected by those parties that the SBC would probably be a supplemental, but not sole source, of funding for the programs contemplated in this investigation.

A bill introduced into the Pennsylvania General Assembly to amend the Public Utility Code provides for the establishment of a SBC to fund various types of projects, including demand side management and energy efficiency.¹³

A number of parties, including the DEP, PennFuture, Allegheny and FirstEnergy filed comments that expressly support the use of an SBC in one form or another. PennFuture believes that the Commonwealth Court's opinion in *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010 (Pa. Cmwlth. 2006), represents valid precedent for the Commission's authority to establish SBCs.

Some parties, such as IECPA, the OCA, and the OSBA have expressed doubts that an SBC is legal or appropriate. Specifically, IECPA has commented in this proceeding, as well as many others, that implementing an SBC to create what amounts to a "slush fund" for unidentified future energy efficiency projects finds absolutely no basis in the *Lloyd* decision, and without a legislative change is currently illegal. An SBC clearly constitutes single-issue ratemaking, which is prohibited. See Pa. Industrial Energy Coalition v. Pa. P.U.C., 653 A.2d 1336, 1353 (Pa. Commw. Ct. 1995) In

¹³ Senate Bill No. 716, introduced on April 2, 2007.
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addition, contrary to the claims of PennFuture, the Commonwealth Court's decision in *Lloyd* did not authorize a SBC for energy efficiency programs at all; it simply upheld the Commission's decision that actual projects that were funded for a limited time through PPL's distribution revenue requirement produced sufficient benefits to justify customer funding. The OCA commented that since the SBC issue is before the General Assembly, it would be premature to begin to implement one at this time. The OSBA commented that while the Commission may have the authority to implement an SBC pursuant to Section 1505(b), it should only be used to recover the costs of load management and conservation programs, not to support alternative energy projects. The OSBA also recommends that the Commission define the programs the SBC would be used to fund prior to determining if it has the authority to authorize the charge.

2. *Alternative Energy Portfolio Standards Act Section 1307 Mechanism.*

DSR and energy efficiency are included among Tier II alternative energy resources under the Alternative Energy Portfolio Standards Act, 73 P.S. § 1648.1, *et seq* (“AEPS Act”). Direct and indirect costs of compliance with this law can be recovered through a Section 1307 mechanism on a full and current basis. 73 P.S. § 1648.3(a)(3).

There was some support, but no consensus, for using this provision of the AEPS Act to recover program costs.

For example, IECPA believes that AEPS Act only provides for recovery of AEPS credit costs, not the costs of DSR, conservation, and energy efficiency programs. The OSBA believes that some cost recovery through this mechanism may be appropriate, but that any costs over and above what might be required for compliance with the AEPS Act should be recovered through Section 1319 of the Public Utility Code.

C. There Is Not A Consensus On The Role Of Revenue Decoupling.

The objective of decoupling the level of sales from the allowed revenue requirement, as established by the Commission within a fully litigated base rate case, is to provide the utility with a mechanism to recover revenues lost due to lower usage per customer, driven either by the implementation of effective DSR programs or general improvement in technology energy efficiency initiatives. An appropriately designed revenue decoupling program may therefore remove an energy utility's disincentive to foster energy efficiency and conservation.

Participants in the Ratemaking subgroup offered position papers on revenue decoupling. There was consensus that decoupling in and of itself is not expressly

contrary to the provisions of the not consensus on whether revenue decoupling is presently authorized under the Public Utility Code, and but that the concept should continue to be studied. Commission staff also prepared and shared a position paper with the subgroup, which was then discussed at an open meeting.

The OSBA noted that revenue decoupling, if improperly implemented, could violate the prohibition against single issue ratemaking, and may be contrary to Section 1301 of the Public Utility Code, 66 Pa.C.S. § 1301. If revenue decoupling is handled in conjunction with a general rate proceeding, this issue becomes moot. The OSBA also stated that the revenue decoupling proposals contemplated by the EDCs and NGDCs in their position papers would be contrary to Section 1301.

IECPA fundamentally opposes revenue decoupling on public policy grounds, and also has concerns about its legality. IECPA believes that properly allocated and designed distribution/transportation rates alleviate the need for decoupling. In addition, IECPA believes that compensating utilities for "lost revenues" is bad policy, as it provides no incentive to customers to curtail usage. In fact, revenue decoupling runs counter to the "primary objective" of this investigation, which is to set forth policies that provide cost savings for retail customers. As a matter of course, Large C&I customers in particular already engage in demand-side management, energy conservation, and energy efficiency in order to reduce production costs and optimize production. Requiring these customers to compensate EDCs for "lost" revenues as a result of engaging in commonsense, cost-saving business measures would be non-sensical and decidedly anti-business.

The PCBR and PennFuture support some form of revenue decoupling, as part of a package of cost-effective utility funded energy efficiency and conservation measures. PennFuture would require EDCs to propose decoupling mechanism that would apply to all programs, as opposed to the design of utility-specific mechanisms at the discretion of the utility.

The position of the utilities is that they should have the option of proposing a decoupling mechanism, but that they should not be required to decouple. They also request that the Commission be open to different cost recovery and decoupling models, as opposed to mandating a uniform approach.

D. Funding and Cost Recovery Present Certain Ratepayer Equity Issues.

There was consensus that the equity of funding and benefits must be considered. Funds raised from one service territory should be used for projects within that territory. PPL, Allegheny and the OCA urged the Commission to ensure

that funding drawn from a particular service territory be applied towards programs within the same territory. PPL believes that this objective is further rationale in support of EDCs managing their own programs. IECPA commented that interclass allocations and benefits should be explored as well., and that ratepayers should not be required to pay for programs that were implemented for the direct benefit of other customer classes.

IX. OTHER POLICY RECOMMENDATIONS

The stakeholders were asked to consider a variety of other policy recommendations not directly related to the adoption of new DSR, energy efficiency and conservation programs.

A. Act 213 Amendments Regarding DSR and Energy Efficiency.

There was no consensus for the reclassification of DSR, energy efficiency and conservation as a Tier I alternative energy resource. The DEP, OCA and PennFuture oppose this recommendation.

B. Incorporating DSR, Energy Efficiency and Conservation into the Default Service.

PennFuture, the OCA, PPL and DEP offered support for the coordination of energy conservation with the default service obligation.

PennFuture identified five states that incorporate the DSR, energy efficiency, and conservation as part of their default service regulatory framework. For example, Maine and Maryland allow EDCs to procure energy efficiency resources for their standard offer service.

The DEP commented that Governor Rendell's Energy Independence Strategy would require default service providers to consider whether load growth could be addressed through energy efficiency and conservation before they procure additional generation.

The Commission has identified demand side resources as an acceptable method of satisfying the default service obligation in a recently issued proposed policy statement.¹⁴

¹⁴ *Default Service and Retail Electric Markets*, Docket M-00072009 (Proposed Policy Statement Order entered February 9, 2007).
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C. EDC Coordination with Regional Transmission Organization DSR Programs.

There was not consensus on the level of cooperation EDCs should render to customers for RTO DSR programs.

PJM commented that customers should have clear rights to their meter data, and be able to authorize third party access.

Allegheny commented that the Commission does not have jurisdiction over an EDC's involvement with PJM's DSR programs, as they are wholesale programs.

PPL supports the idea of EDCs facilitating customer participation in RTO DSR programs. However, EDCs should be able to recover the costs associated with this participation, and this participation should not negatively impact the EDC or its default service wholesale supplier.

IECPA commented that EDCs should not be permitted to block or inhibit any customer's participation in the PJM DSR programs.

D. EDC Coordination with Curtailment Service Providers.

No general consensus has been identified regarding the proposed finding on EDC coordination with curtailment service providers ("CSP")

As mentioned above, PJM supports the concept of customers authorizing third party access to their meter data. It also recommends that EDCs provide authorized curtailment service providers ("CSP") with access to meter data within 10 business days.

Other parties identified specific issues that require resolution before agreeing with the proposed finding. PECO commented that EDCs should be able to charge CSPs for access to customer information, and that the Commission should authorize appropriate protections to ensure the privacy of information. IECPA shared PECO's concerns regarding the privacy of sensitive customer data. As a potential solution, PPL suggests that CSP participation can be facilitated by subjecting them to the rules that currently govern EGS interactions with EDCs.

E. Appropriate Rate Design May Foster Conservation.

The OSBA offered comments supporting the Commission's proposal to eliminate declining blocks and demand charges through its default service regulations.