



800 North Third Street, Suite 205, Harrisburg, Pennsylvania 17102  
Telephone (717) 901-0600 • Fax (717) 901-0611 • [www.energypa.org](http://www.energypa.org)

---

June 24, 2013

Rosemary Chiavetta, Esq., Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, Pennsylvania 17120

**RE: Comments to Commission Order: Implementation of Act 129 of 2008/Phase 2 – Registry of Conservation Service Providers, Docket No. M-2008-2074154, entered on May 23, 2013**

Dear Secretary Chiavetta,

On May 23, 2013, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) adopted and entered an Order which modified the existing Act 129 Conservation Service Provider (CSP) registration process and application forms. Specifically, the Order adopted the changes proposed in the earlier Tentative Order dated January 10, 2013 to the CSP registry and application package with one exception related to whether all subcontractors needed to also register as CSPs with the Commission to ensure that the subcontractor to the CSP has no direct or indirect ownership, partnership or other affiliated interest with an electric distribution company (“EDC”). Act 129 specifically prohibits a CSP from having such an interest with an EDC. See, 66 Pa.C.S. § 2806.1(m).

In filing comments to the Tentative Order, the Energy Association of Pennsylvania (“EAP” or “Association”) suggested that the additional requirement to register all subcontractors as CSPs may be unnecessary to ensure that the particular subcontractor did not have a prohibited affiliate interest with an EDC. EAP noted that the new requirement to have a CSP attest to its subcontractors’ non-affiliation with an EDC in the registry and application forms was adequate and efficient. EAP offered the suggestion to help avoid unnecessary filings by entities which do not meet the statutory definition of a CSP and which may not have a contractual relationship with the CSP hired by an EDC. EAP recalls that there were numerous entities that filed as CSPs in the initial registration process and the suggestion here was offered only as an attempt to avoid the earlier confusion among contractors and the extra work for the Commission in processing applications.

Believing that the Commission may not be willing to rely only upon the CSP attestation in its application form, EAP recommended a threshold for registration by a subcontractor to a CSP and proposed the following language:

*"Any CSP sub-contractor with an annual contract cost of \$300,000 or greater that is directly performing services pursuant to a contract with a CSP which has contracted with an EDC after Commission approval should also register as a CSP. This does not include third party contractors which participate in or support an EEC program but are not directly contracted with a CSP which has a direct contractual relationship with the EDC subject to Act 129."*

The Commission, in reviewing the comments, determined that EAP did not provide adequate justification for the reasonableness of the proposed \$300,000 annual contract cost threshold. The Commission noted that because the proposed annual threshold amount was not directly linked to a specific percentage of the total CSP contract, the Commission had additional concerns that the language may allow a significant portion of an EDC EE&C Plan to be

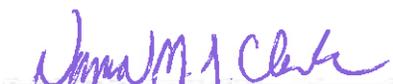
designed, administered, managed or implemented by an unregistered CSP. For these reasons, the Commission seeks additional input on the language submitted by EAP. In particular, the Commission is seeking justification for any particular subcontractor annual cost threshold, or other minimum indicator, which would be the trigger for registration by a subcontractor as a CSP. Interested parties were directed to file comments within 15 days of the Order's publication in the *Pennsylvania Bulletin*, which occurred on June 8, 2013. Comments are now due by June 24, 2013.

Again, the EAP suggestion was offered only to avoid unnecessary filings by subcontractors to determine the nature of any interest on the part of the subcontractor with the EDC when the primary CSP is required in its registration to provide information regarding any subcontractors' affiliation with the EDC. With respect to the separate concern raised by the Commission in the Order that \$300,000 threshold may represent a significant portion of the work in designing, administering, managing or implementing the EE&C Plan or elements of the Plan, EAP suggests that a 10% threshold may address both issues. In other words, the requirement would be that a subcontractor to a CSP must itself register as a CSP if the value of its services represents more than 10% of the total value of the primary CSP contract with the EDC.

In any event, the suggestions by the Association are offered only to streamline the registration process, avoid confusion among contractors in general and lessen the administrative burden for both CSP subcontractors and the Commission relating to the preparation of and review of multiple applications. EAP understands that the Commission might not agree with or be comfortable with this approach which relies upon the attestation of the CSP rather than the subcontractor and offers this simply as a way to ease the administrative burden of preparing

filing and reviewing applications for registration as a CSP where a more streamlined approach may meet the Commission obligation under Act 129.

Respectfully submitted,



Donna M. J. Clark  
Vice President & General Counsel  
[dclark@energypa.org](mailto:dclark@energypa.org)

Energy Association of Pennsylvania  
800 North Third Street, Suite 205  
Harrisburg, PA 17102

Date: June 24, 2013

CC: Annunciata Marino, Bureau of Technical Utility Services (electronic copy)  
Kriss Brown, Law Bureau (electronic copy)