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July 6, 2015

VIA EFILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

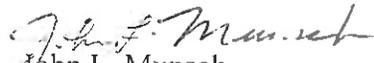
**Re: Act 129 Energy Efficiency and Conservation Program Phase III
Implementation Order; M-2014-2424864
Petition for Clarification or, alternatively, Waiver of Implemented Order**

Dear Secretary Chiavetta:

Enclosed for filing is the Petition for Clarification or, in the Alternative, Waiver of the Commission's Act 129 Implementation Order concerning the bidding requirement as set forth in the Implementation Order. The Petition is submitted by Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company.

Copies of the Petition have been served as shown on the attached Certificate of Service. Please contact me if you have any questions regarding this matter.

Very truly yours,


John L. Munsch
Attorney

Enclosure

cc: Certificate of Service

(In Word Format)
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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Energy Efficiency and Conservation Program:

M-2014-2424864

PETITION OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER COMPANY AND WEST PENN POWER COMPANY FOR CLARIFICATION OF THE COMMISSION'S ACT 129, PHASE III, ENERGY EFFICIENCY AND CONSERVATION IMPLEMENTATION ORDER, OR, IN THE ALTERNATIVE, PETITION FOR WAIVER OF A BIDDING REQUIREMENT AS SET FORTH IN SAID ORDER

I. Introduction

Pursuant to Sections 5.41, 5.43 and 5.572 of the Rules and Regulations of the Pennsylvania Public Utility Commission ("Commission"), and pursuant to Ordering Paragraph No. 6 of the Commission's Implementation Order entered June 19, 2015 ("Implementation Order") in the above-captioned proceeding, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, "the Companies") hereby request that the Commission provide clarification of a provision regarding competitive bidding as set forth in its Implementation Order; or, in the alternative, the Companies ask that the Commission grant the Companies a waiver of certain bidding requirements as set forth therein. In support of this request, the Companies state as follows:

1. The Companies are each electric distribution companies ("EDCs") as that term is defined in Section 2803 of the Public Utility Code, 66 Pa.C.S. §2803.
2. On June 19, 2015, the Commission entered the Implementation Order that sets forth the guidelines of the Energy Efficiency and Conservation ("EE&C") Program for the period of June 1, 2016, through May 31, 2021 ("Phase III"), pursuant to 66 Pa. C.S. § 2806.1(a).

Implementation Order at p. 10. As EDCs with more than 100,000 customers, the Companies are subject to said Order.

3. The Implementation Order addresses numerous issues, including requirements to bid certain contracts for certain services necessary in the implementation of the Act 129 EE&C Plans which the EDCs subject to Act 129 will file later this year. The Implementation Order also provides guidance concerning how the Commission will ultimately determine compliance under Act 129 with respect to whether EDCs have achieved the additional incremental reductions in electric consumption and peak demand ultimately established for Phase III. With regard to the latter, the Companies have joined in a Petition for Clarification of certain issues related to proposed protocols involving demand reduction programs that is being submitted by the Energy Association of Pennsylvania on behalf of its EDC member companies.

4. In considering a petition for clarification, the Commission applies the same standard used for a petition for reconsideration. *See, e.g. Application of PPL Electric Utilities Corporation*, Docket No. A-2209-2082652, entered on April 23, 2010, and *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553 (1982).

5. The Companies seek clarification of one issue related to competitive bidding with regard to their tracking and reporting software system currently in place. The Companies believe that filing a Petition for Clarification is the most direct means to address the language discrepancies described below. They are not seeking to revise the determinations contained in the Implementation Order, nor are they trying to delay the overall implementation of the Phase III EE&C Plans.

II. Competitive Bidding Requirements

6. On pages 119 through 124 of the Implementation Order, the Commission addressed the issue of competitively bidding contracts with Conservation Service Providers (“CSPs”). Specifically, on page 119 of the Implementation Order, the Commission reminded EDCs that “CSPs covered by the competitive bidding and contract approval procedures in this section are those that provide consultation, design, and administration and management or advisory services to the EDC.” Yet, on page 124 of the Implementation Order, in response to EAP’s request for clarification regarding the need to competitively bid Evaluation, Measurement and Verification (“EM&V”) services or the tracking systems utilized by the EDCs, the Commission indicated that “we will require competitive bidding for such services.”

7. The Companies interpret the Commission’s reference to “such services” not to include an EDC’s tracking and reporting software system that is already in place and respectfully ask the Commission to confirm that the Companies’ interpretation of the Implementation Order is correct.

8. The Companies believe that rebidding for replacement of an already existing tracking and reporting software system would be unnecessary and, particularly for EDCs such as the Companies, whose affiliates operate energy conservation programs in several states, would add redundant administrative costs. Moreover, the Companies do not believe that such tracking and reporting software vendors come within the statutory definition of a CSP. While 66 Pa. C.S. § 2806.1(a)(7) requires that EDCs competitively bid all contracts with CSPs, a CSP is defined by 66 Pa. C.S. §2806.1(m) as “an entity that provides information and technical assistance on measures to enable a person to increase energy efficiency or reduce energy consumption and that has no direct or indirect ownership, partnership or other affiliated interest with an electric

distribution company.” Clearly the contracting for a tracking and reporting software system does not constitute assistance on measures “to enable a person to increase energy efficiency or reduce energy consumption.” Rather, the tracking system is a software product that tracks and reports the results of such activities.

9. Nor does a tracking and reporting software system meet the definition provided by the Commission on page 119 of the Implementation Order because the tracking system is a software platform and does not provide “consultation, design, and administration and management or advisory *services*” (italics added).

10. Finally, the Commission’s rationale for requiring such rebidding is based on the EDCs’ ability to “obtain competitive costs for services” and to “take advantage of current market dynamics such as the use of best available technology and the strategic business acumen of all registered CSPs that may be able to meet quality operational service performance objectives at or below budget.” Implementation Order, p.120. Inasmuch as the Companies’ tracking and reporting software system is already in place and serves its intended purpose – that of tracking and reporting the energy reductions achieved through the Companies’ EE&C plans – there is no need to look for any improved technology in the marketplace or additional business acumen with regard to tracking and reporting. And for reasons more fully discussed below, any potential base cost savings achieved through the bidding process for the software would be more than offset by the additional costs of integrating that system into current processes, procedures and protocols.

11. In light of the foregoing, the Companies respectfully request confirmation that the Companies’ deployment of an existing, in-place tracking and reporting software system is not contemplated under the CSP rebidding process.

II. Alternative Request for Waiver

12. In the event the Commission disagrees with the Companies' position as set forth above, the Companies alternatively request a waiver of the requirement to utilize an RFP process for the rebidding of their tracking and reporting software system for the reasons described below.

13. In conjunction with both their FirstEnergy affiliates and their software provider, the Companies have developed a customized central tracking and reporting resource that enables consistent data controls, reporting results, quality assurance/quality control practices, and evaluation processes. Importantly, this centralized tracking and reporting resource reflects significant investment in development of data exchange mechanisms, program business rules, and interfaces from independent and disparate CSP systems that are utilized for program implementation.

14. Not only does this system track and report the Companies' EE&C results, but it also tracks and reports similar results for the Companies' affiliates in other states. The software contracts in these other states would not be rebid at this time, thus resulting in a potential duplication of efforts should the contract in Pennsylvania be awarded to someone other than the Companies' current software vendor. A transition to an isolated system specifically supporting Pennsylvania's Phase III EE&C program would also forfeit the economies of scale in licensure costs, internal efficiencies and EM&V protocols realized not only by the Companies but throughout the FirstEnergy footprint.

15. If the Companies were to utilize a new tracking and reporting software solution specifically for Pennsylvania's Phase III Act 129 EE&C program, the investments made on behalf of the Pennsylvania ratepayers in establishing an integrated central reporting solution would be lost and similar costs would have to be incurred again. Moreover, the Companies would need to

recreate a system that has been refined over the last five years in a matter of months to support a seamless Phase III roll out.

16. In sum, even if the Companies were to utilize an RFP process to rebid its tracking and reporting software system, the factors discussed above would inevitably outweigh any potential base cost savings that could be achieved through the use of another tracking and reporting software vendor. The requirement to pursue an RFP for a different tracking and reporting system would be a waste of time, money and resources for all involved. Accordingly, if the Commission intended to include within the scope of contracts required to be bid through an RFP process those involving already existing tracking and reporting systems, the Companies respectfully request a waiver of such a requirement.

III. Conclusion

WHEREFORE, for the reasons discussed above, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company respectfully ask the Commission to grant their Petition for Clarification, or alternatively, their request for a waiver of the requirement to implement a RFP process as related to their tracking and reporting software system and provide such other relief as the Commission deems necessary and proper.

Date: July 6, 2015



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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Energy Efficiency and Conservation Program:

M-2014-2424864

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing “**Petition for Clarification of the Commission’s Act 129, Phase III, Energy Efficiency and Conservation Implementation Order, or Alternatively for a Waiver of a Bidding Requirement**” on the persons listed below, by means of first-class mail:

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