



Industrial Energy Consumers of Pennsylvania

The Voice of Large Energy Consumers

**Pennsylvania Senate Consumer Protection and Professional Licensure Committee
Hearing on “Ratepayer Impact of Act 129 Plans”**

**Testimony of
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May 6, 2025**

Chairman Stefano, Chairwoman Bosola and members of the Committee, thank you for your interest in hearing from the Industrial Energy Consumers of Pennsylvania (“IECPA”) regarding the impact of Act 129 on our members. IECPA is a trade organization formed in 1982 by large, energy-intensive customers with one or more facilities in the Commonwealth of Pennsylvania. IECPA represents companies¹ operating in Pennsylvania, providing family-sustaining jobs.

Background

Signed into law on October 15, 2008, PA Act 129 requires the PA Public Utility Commission to develop an Energy Efficiency and Conservation Program (EE&C Program) for electric distribution companies serving >100,000 customers. Utilities are required to achieve electric demand and electric consumption reductions as stated by the law. Utilities manage programs to reduce consumption and demand by collecting money through a monthly EE&C Program surcharge and then using this money to issue grants to utility customers to implement energy efficiency projects. We are currently in Phase 4 of the program:

Phase 1	6/1/09 – 5/31/13
Phase 2	6/1/13 – 5/31/16
Phase 3	6/1/16 – 5/31/21
Phase 4	6/1/21 – 5/31/26

Many of Pennsylvania’s large industrial manufacturing customers are energy-intensive, trade-exposed manufacturers. An ‘energy-intensive’ business is one whose production processes require so much energy that small changes in energy price translate into significant changes in

¹ IECPA Members include: Air Products & Chemicals, Inc.; Airgas USA, LLC; Benton Foundry, Inc; East Penn Manufacturing Company; Go Carlson, Inc; Keystone Cement Company; Kimberly-Clark Corporation; Knouse Foods Cooperative, Inc.; Linde, Inc.; Merck & Co, Inc.; Messer LLC; Nestle Purina Petcare Company; Pixelle Specialty Solutions, LLC; Procter & Gamble Paper Products Co.; United States Gypsum Company



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costs. A ‘trade-exposed’ business is one competing against many similar businesses in other states and/or other countries for the same customers. A ‘trade-exposed’ business cannot pass even small cost increases on to its customers without risking the loss of that business to a competitor with a better price. Therefore, Pennsylvania’s large industrial customers maintain a laser focus on labor, raw materials, capital and all other production costs, but especially energy usage and costs.

This explains why these same large industrial manufacturing customers have such a strong commitment to energy efficiency. These manufacturing customers have completed millions of dollars in investments in energy efficiency projects. The overwhelming majority of those investments were *not* funded through Act 129. Like all other productivity improvement initiative, energy efficiency is a matter of survival for these businesses. A trade-exposed business that fails to make the most efficient use of all production inputs – including energy – simply will not survive in a competitive world.

Key Points Regarding a Self-Directed Program

- Unlike other energy generation resources, energy efficiency has a direct operational benefit to the individual customer. State policy should not require an industrial manufacturing customer to subsidize/pay for energy efficiency projects at other manufacturing facilities which may be owned by their competitors.
- No large industrial manufacturing customer is a “Free Rider” on the System. Energy costs are 30% to 70% of manufacturing costs providing self-motivation to reduce usage and costs. Employee goals and salary policies recognize and reward energy efficiency initiatives.
- The overhead costs associated with Act 129 simply waste industrial manufacturing customer dollars that could otherwise be directly invested in self-funded energy efficiency projects.
- *A Self-Directed Program Will NOT Reduce Energy Efficiency Attainment.* Large energy-intensive manufacturers started energy efficiency long before Act 129 in 2008 and will continue long after. Projects were always self-funded without Act 129 and benefited all Pennsylvanians. When an industrial manufacturing customer chooses the self-directed program, the utility counts the energy efficiency achieved by that customer self-directed program towards the utility’s overall Act 129 requirement.



Industrial Energy Consumers of Pennsylvania

The Voice of Large Energy Consumers

- *A Self-Directed Program Will NOT Reduce Funding to Small Businesses & Residential Consumers.* The utilities develop and maintain separate Act 129 programs by customer classes. The program targets, surcharges, grants/rebates and other services for residential customers are entirely separate from the programs serving manufacturing customers.
- *A Self-Directed Energy Efficiency Program does not seek the end of industrial manufacturing customer participation in Act 129.* Each large industrial manufacturing customer is best qualified to represent its own interests and should be given the choice of participation in Act 129 or the ability to utilize their self-directed program.
- *The Self-Directed Program DOES NOT Reduce Energy Efficiency Jobs in the Commonwealth.* The industrial manufacturing customers who qualify for a self-directed program have maintained a strong focus on energy efficiency for several years. These self-funded energy efficiency programs were in place before the enactment of Act 129 – in several cases, many years before Act 129. Hence, even with the self-directed program Pennsylvania's degree of energy efficiency attainment will not change and the energy efficiency products and services purchased by these large customer self-funded programs will not change.
- Act 129-Type Programs have been modified in at least 29 States to now provide a self-directed program or a direct program opt out for large manufacturing customers.

<https://database.aceee.org/state/self-direct>

Neighboring State Examples:

Illinois

Electric customers with greater than 10 MW of demand in any 30-minute period are exempt from programs.

Indiana

The opt-out applies to the five investor-owned electric utilities. Eligible customers are those that operate a single site with at least one meter constituting more than 1 MW demand for any billing period within the previous 12 months to opt out of programs. Documentation is not required. No evaluation is conducted. About 70%-80% of eligible load has opted out.



Industrial Energy Consumers of Pennsylvania

The Voice of Large Energy Consumers

Michigan

Self-direct is available statewide. Customers must have had an annual peak demand in the preceding year of at least 1 megawatt in the aggregate at all sites. The customer may use the amount of funds that would otherwise have been paid to the utility provider for energy efficiency programs. They must, however, submit the portion of the EE funds that would have been collected and used for low-income programs to their utility provider. They then calculate the energy savings achieved and provide it to their utility provider.

Ohio

Self-direct options are available for large customers in Ohio. Under SB 221, a mercantile customer, which is a commercial or industrial customer that consumes more than 700,000 kWh per year, may enter into a special arrangement with an electric utility to integrate the customer's demand reduction, demand-response, or energy efficiency programs with those of the electric utility. If the specified reduction levels are met, the customer can request exemption from the cost recovery mechanism.

In summary, IECPA appreciates the Committees interest in examining the Act 129 program. To that end, we encourage Pennsylvania lawmakers to consider the following legislative language to establish an industrial manufacturing customer self-directed energy efficiency program under Act 129:

66 Pa. C.S. § 2806.1. Energy efficiency and conservation program.

(1) Industrial manufacturing self-direct option.-- An eligible industrial manufacturing customer may file a self-directed energy efficiency plan with its electric distribution company. This self-direct option will be subject to the following conditions:

(1) Those accounts under a self-directed energy efficiency plan shall remain under the self-directed plan for the remainder of the electric distribution company's energy efficiency and conservation plan phase as filed under this section.

(2) The self-directed energy efficiency plan shall be a multi-year plan and shall provide for aggregate energy savings by the eligible industrial manufacturing customer during the applicable energy efficiency and conservation plan phase.

(3) The eligible industrial manufacturing customers shall submit to the electric distribution company the self-directed energy efficiency that will be achieved during the applicable energy efficiency and conservation plan phase and shall include a) an outline of how the customer intends to achieve the energy reduction during that energy efficiency and conservation plan phase or b) an audit report identifying that the customer currently utilizes the best available energy efficiency technology, equipment, programs, and operations and that more efficient technology, equipment, programs, and operations are not reasonably available. The self-directed plan and information submitted by the customer shall be treated as confidential trade secret information and



Industrial Energy Consumers of Pennsylvania

The Voice of Large Energy Consumers

therefore will be exempt from disclosure under the Commonwealth's Uniform Trade Secrets Act, 12 P.S. § 5302. The energy consumption reduction identified by the customer in the self-directed energy efficiency plan shall be deemed achievable, or deemed to have been achieved in the case of a customer providing an audit report confirming use of the best available energy efficiency technology, and shall be attributed to the electric distribution company's applicable energy efficiency and conservation plan phase for the purposes of determining energy consumption reduction achieved by the electric distribution company.

(4) The electric distribution company shall provide a report to the commission that identifies customers implementing self-directed energy efficiency plans that also summarizes the cumulative consumption reduction under those self-directed energy efficiency plans.

(5) The eligible industrial manufacturing customer's accounts covered under a self-directed energy efficiency plan shall be exempt from the electric distribution company's energy efficiency and conservation plan cost-recovery tariff mechanism for the duration of the electric distribution company's energy efficiency and conservation plan phase in which the self-directed plan was filed.

(6) The eligible industrial manufacturing customer implementing a self-directed energy efficiency plan will remain eligible to receive all proceeds related to its energy efficiency and demand reduction that it is otherwise eligible to receive through participation in other programs, regardless of whether an electric distribution company reports such reductions for the purpose of satisfying its obligations under this section.

(7) Each electric distribution utility may establish a nomination period of no less than sixty (60) days for eligible industrial manufacturing customers to file for participation in the utility-administered self-directed energy efficiency plan. Such nomination period, and any utility-administered program intended to provide for a self-directed energy efficiency plan shall occur within one hundred and eighty (180) days of the effective date of this subsection and subsequently prior to any new energy efficiency and conservation plan phase.

For further information or to answer any questions, please contact Rod Williamson, Executive Director of the Industrial Energy Consumers of Pennsylvania, at rwilliamson@clarkhill.com.