**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Metropolitan Edison Company :

for Approval of its Act 129 Phase III : M-2015-2514767

Energy Efficiency and Conservation Plan :

:

Petition of Pennsylvania Electric Company :

For Approval of its Act 129 Phase III : M-2015-2514768

Energy Efficiency and Conservation Plan :

:

Petition of Pennsylvania Power Company :

For Approval of its Act 129 Phase III : M-2015-2514769

Energy Efficiency and Conservation Plan :

:

Petition of West Penn Power Company :

For Approval of its Act 129 Phase III : M-2015-2514772

Energy Efficiency and Conservation Plan :

**ORDER GRANTING ENERNOC, INC.’S PETITION TO INTERVENE**

On January 5, 2016, a prehearing conference was held in the above-captioned matter. On or about January 7, 2016, a Scheduling Order was issued. After the deadline for responsive pleadings and comments/recommendations expired on January 4, 2016, a Petition to Intervene and Prehearing Memorandum of EnerNOC was filed on January 8, 2016. EnerNOC’s Prehearing Memorandum indicates it intends to call one witness, Peter Caven. The petition includes a certificate of service, but no notice to plead.

Due to the compressed time constraints in this proceeding, I electronically forwarded copies of the petition and prehearing memorandum to all parties and requested responses to the petition by close of business January 12, 2016. There have been no objections.

The Commission’s regulation at 52 Pa. Code § 1.2(a) permits a Presiding Officer to “disregard an error or defect of procedure which does not affect the substantive rights of the parties.” Similarly, the Commission’s regulation at 52 Pa. Code § 1.2(c) permits a Presiding Officer to “waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.” Additionally, the Commission’s regulations at 52 Pa. Code §§ 5.403 and 5.483 give me authority to regulate the course of a proceeding and control of the receipt of evidence and the use of written testimony.

The Commission's Rules of Practice and Procedure permit petitions to intervene. 52 Pa. Code §§ 5.71-5.76. The provision at 52 Pa. Code § 5.72 governs what entities are eligible to intervene in a proceeding and states as follows:

**§ 5.72. Eligibility to intervene.**

(a) Persons. A petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. The right or interest may be one of the following:

(1) A right conferred by statute of the United States or of the Commonwealth.

(2) An interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.

(3) Another interest of such nature that participation of the petitioner may be in the public interest.

(b) Commonwealth. The Commonwealth or an officer or agency thereof may intervene as of right in a proceeding subject to paragraphs (1)-(3).

Allowance of intervention is a matter within the discretion of the Commission. *City of Pittsburgh v. Pennsylvania Pub. Util. Comm'n*, 33 A.2d 641 (Pa. Super. 1943); *N.A.A.C.P., Inc. v. Pennsylvania Pub. Util. Comm'n*, 290 A.2d 704 (Pa. Cmwlth. 1972).

EnerNOC’s eligibility to intervene in this proceeding is governed by 52 Pa. Code § 5.72(a)(2) since EnerNOC is not a Commonwealth agency pursuant to 52 Pa. Code §5.72(b) and a statute of either the United States or the Commonwealth does not confer on EnerNOC a right to intervene pursuant to 52 Pa. Code § 5.72(a)(1). EnerNOC avers its interests in this proceeding are of such a nature that intervention is necessary and appropriate to the administration of the Act 129 statute under which the proceedings are brought. EnerNOC is a provider of cloud-based energy intelligence software and services thousands of enterprise customers and utilities globally. EnerNOC is a provider of third-party demand response and energy efficiency programs with customers in all four of the Companies’ service territories. Therefore it has a direct interest in and may be adversely affected by the outcome of the proceeding. Accordingly, there is no objection, EnerNOC shall be granted intervenor status.

As direct testimony is due by noon today, EnerNOC shall have until close of business today to pre-serve written direct testimony of its witness, Peter Caven. EnerNOC is expected to abide by the remainder of the procedural schedule contained in the Scheduling Order dated January 7, 2016.

Additionally, [khall@tuckerlaw.com](mailto:khall@tuckerlaw.com) and [sdebroff@tuckerlaw.com](mailto:sdebroff@tuckerlaw.com) shall be added to the e-mail distribution list. Kevin Hall, Esquire and Scott DeBroff, Esquire shall be added to the service list.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition to Intervene of EnerNOC, Inc. is granted and EnerNOC is given Intervenor status.

2. That EnerNOC has until close of business January 12, 2016 to pre-serve direct testimony upon the parties on the service list.

Date: January 12, 2016

Elizabeth H. Barnes

Administrative Law Judge

**PETITION OF:**

**M-2015-2514767 – METROPOLITAN EDISON COMPANY**

**M-2015-2514768 – PENNSYLVANIA ELECTRIC COMPANY**

**M-2015-2514769 – PENNSYLVANIA POWER COMPANY**

**M-2015-2514772 – WEST PENN POWER COMPANY - FOR APPROVAL OF ITS ACT  129 PHASE III ENERGY EFFICIENCY AND CONSERVATION PLAN.**

***Revised 1/12/16***

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