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March 4, 2016

VIA ELECTRONIC MAIL & FEDERAL EXPRESS

The Honorable Mark A. Hoyer
Deputy Chief Administrative Law Judge
Pennsylvania Public Utility Commission
Piatt Place – Suite 220
301 Fifth Avenue
Pittsburgh, PA 15222

The Honorable Mary D. Long
Administrative Law Judge
Pennsylvania Public Utility Commission
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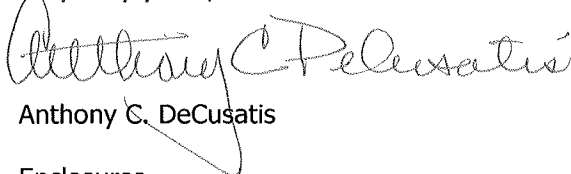
Re: Joint Application of Mid-Atlantic Interstate Transmission, LLC (“MAIT”); Metropolitan Edison Company (“Met-Ed”) and Pennsylvania Electric Company (“Penelec”) For: (1) a Certificate of Public Convenience under 66 Pa. C.S. § 1102(A)(3) Authorizing the Transfer of Certain Transmission Assets from Met-Ed and Penelec to MAIT; (2) a Certificate of Public Convenience Conferring upon MAIT the status of a Pennsylvania Public Utility under 66 Pa. C.S. § 102; and (3) Approval of Certain Affiliate Interest Agreements under 66 Pa. C.S. § 2102 Docket Nos. A-2015-2488903, et al.

Dear Judge Hoyer and Judge Long:

Enclosed please find the **Joint Petition for Settlement** with accompanying Appendices and Statements in Support (“Settlement Petition”) in the above-captioned matter. Appendix B to the Settlement Petition contains the responses to the questions and directives in the August 10 and October 1, 2015 Secretarial letters and proposed ordering paragraphs.

As evidenced by the enclosed Certificate of Service, copies of the Settlement Petition have been served on all parties to this proceeding.

Very truly yours,



Anthony C. DeCusatis

Enclosures

c: Per Certificate of Service (w/encls.)

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March 4, 2016

VIA eFILING & FEDERAL EXPRESS

Rosemary Chiavetta, Secretary
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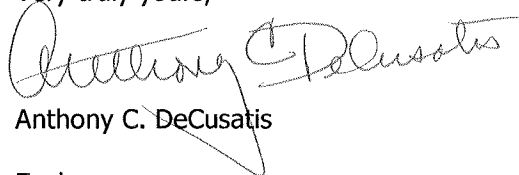
Re: Joint Application of Mid-Atlantic Interstate Transmission, LLC ("MAIT"); Metropolitan Edison Company ("Met-Ed") and Pennsylvania Electric Company ("Penelec") For: (1) a Certificate of Public Convenience under 66 Pa. C.S. § 1102(A)(3) Authorizing the Transfer of Certain Transmission Assets from Met-Ed and Penelec to MAIT; (2) a Certificate of Public Convenience Conferring upon MAIT the Status of a Pennsylvania Public Utility under 66 Pa. C.S. § 102; and (3) Approval of Certain Affiliate Interest Agreements under 66 Pa. C.S. § 2102 Docket Nos. A-2015-2488903, et al.

Dear Secretary Chiavetta:

Enclosed please find the **Joint Petition for Settlement** with accompanying Appendices and Statements in Support ("Settlement Petition") in the above-captioned matter.

As evidenced by the enclosed Certificate of Service, copies of the Settlement Petition have been served on all parties to this proceeding.

Very truly yours,



Anthony C. DeCusatis

Enclosures

c: Per Certificate of Service (w/encls.)

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOINT APPLICATION OF MID-ATLANTIC INTERSTATE TRANSMISSION, LLC (“MAIT”); METROPOLITAN EDISON COMPANY (“MET-ED”) AND PENNSYLVANIA ELECTRIC COMPANY (“PENELEC”) FOR: (1) A CERTIFICATE OF PUBLIC CONVENIENCE UNDER 66 PA.C.S. § 1102(A)(3) AUTHORIZING THE TRANSFER OF CERTAIN TRANSMISSION ASSETS FROM MET-ED AND PENELEC TO MAIT; (2) A CERTIFICATE OF PUBLIC CONVENIENCE CONFERRING UPON MAIT THE STATUS OF A PENNSYLVANIA PUBLIC UTILITY UNDER 66 PA.C.S. § 102; AND (3) APPROVAL OF CERTAIN AFFILIATE INTEREST AGREEMENTS UNDER 66 PA.C.S. § 2102 :

Docket Nos.: A-2015-2488903, et al.

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **Joint Petition for Settlement** on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

**VIA ELECTRONIC MAIL
& FEDERAL EXPRESS**

The Honorable Mark A. Hoyer
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The Honorable Mary D. Long
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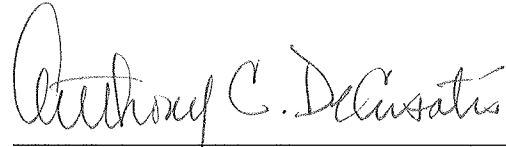
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*Counsel for Mid-Atlantic Interstate
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Company and Pennsylvania Electric
Company*

Date: March 4, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOINT APPLICATION OF MID-ATLANTIC INTERSTATE TRANSMISSION, LLC (“MAIT”); METROPOLITAN EDISON COMPANY (“MET-ED”) AND PENNSYLVANIA ELECTRIC COMPANY (“PENELEC”) FOR: (1) A CERTIFICATE OF PUBLIC CONVENIENCE UNDER 66 PA.C.S. § 1102(A)(3) AUTHORIZING THE TRANSFER OF CERTAIN TRANSMISSION ASSETS FROM MET-ED AND PENELEC TO MAIT; (2) A CERTIFICATE OF PUBLIC CONVENIENCE CONFERRING UPON MAIT THE STATUS OF A PENNSYLVANIA PUBLIC UTILITY UNDER 66 PA.C.S. § 102; AND (3) APPROVAL OF CERTAIN AFFILIATE INTEREST AGREEMENTS UNDER 66 PA.C.S. § 2102

**Docket Nos.: A-2015-2488903
A-2015-2488904
A-2015-2488905
G-2015-2488906
G-2015-2488907
G-2015-2489542
G-2015-2489543
G-2015-2489544
G-2015-2489545
G-2015-2489547
G-2015-2490801
G-2015-2490802**

JOINT PETITION FOR FULL SETTLEMENT

March 4, 2016

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- Appendix B Responses to the Questions Posed in the August 10 and October 1, 2015 Secretarial Letters and Proposed Ordering Paragraphs, Pursuant to Paragraph No. 39 of the Joint Petition
- Appendix C Statement in Support of the Joint Applicants
- Appendix D Statement in Support of the Bureau of Investigation & Enforcement
- Appendix E Statement in Support of the Office of Consumer Advocate
- Appendix F Statement in Support of the Office of Small Business Advocate
- Appendix G Statement in Support of the Met-Ed Industrial Users Group and the Penelec Industrial Customer Alliance
- Appendix H Statement in Support of the International Brotherhood of Electrical Workers Locals 459 and 777
- Appendix I Statement in Support of The Pennsylvania State University
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOINT APPLICATION OF MID-ATLANTIC INTERSTATE TRANSMISSION, LLC (“MAIT”); METROPOLITAN EDISON COMPANY (“MET-ED”) AND PENNSYLVANIA ELECTRIC COMPANY (“PENELEC”) FOR: (1) A CERTIFICATE OF PUBLIC CONVENIENCE UNDER 66 PA.C.S. § 1102(A)(3) AUTHORIZING THE TRANSFER OF CERTAIN TRANSMISSION ASSETS FROM MET-ED AND PENELEC TO MAIT; (2) A CERTIFICATE OF PUBLIC CONVENIENCE CONFERRING UPON MAIT THE STATUS OF A PENNSYLVANIA PUBLIC UTILITY UNDER 66 PA.C.S. § 102; AND (3) APPROVAL OF CERTAIN AFFILIATE INTEREST AGREEMENTS UNDER 66 PA.C.S. § 2102

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JOINT PETITION FOR FULL SETTLEMENT

TO THE HONORABLE MARK A. HOYER, DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE, AND THE HONORABLE MARY D. LONG, ADMINISTRATIVE LAW JUDGE:

This Joint Petition for Full Settlement (“Joint Petition”) is submitted by Mid-Atlantic Interstate Transmission, LLC (“MAIT”), Metropolitan Edison Company (“Met-Ed”) and Pennsylvania Electric Company (“Penelec”) (collectively, the “Joint Applicants”), the Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Met-Ed Industrial Users Group (“MEIUG”) and the Penelec Industrial Customer Alliance (“PICA”) (collectively, the “Industrials”), the

Pennsylvania State University (“PSU”), and the International Brotherhood of Electrical Workers Locals 459 and 777 (“Labor Intervenors”) (all of the above referred to hereafter as the “Joint Petitioners”).¹

The Joint Petitioners, by their respective counsel, request that the Administrative Law Judges (“ALJs”) and the Pennsylvania Public Utility Commission (“PUC” or the “Commission”) approve the above-captioned Joint Application (hereafter, “Joint Application”) subject to the terms and conditions set forth in this Joint Petition, which represent a comprehensive settlement (“Settlement”) among the Joint Petitioners that provides a reasonable resolution of the issues pertaining to the Joint Application. The Joint Petitioners aver that the Settlement is in the public interest and, therefore, request that the Commission: (1) grant this Joint Petition and approve all of the terms and conditions of the Settlement without modification; (2) issue certificates of public convenience evidencing its approval, under Section 1102 of the Public Utility Code, 66 Pa.C.S § 1102,² of the contribution by Met-Ed and Penelec of their existing transmission assets to MAIT; (3) issue MAIT a certificate of public convenience as a Pennsylvania public utility, as defined in Section 102; and (4) approve the affiliated interest agreements that were submitted with the Joint Application for approval under Section 2102.

In support of this Settlement, the Joint Petitioners represent as follows:

¹ Noble Americas Energy Solutions, LLC (“Noble”) has indicated that it does not oppose the settlement and has submitted a letter of non-opposition (*see* Appendix H).

² Unless stated or the context indicates otherwise, all references to a “Section” or “Sections” are to the Pennsylvania Public Utility Code, 66 Pa.C.S §§101 *et seq.*

I. INTRODUCTION

A. Background

1. On June 19, 2015, the Joint Applicants filed the Joint Application to obtain the Commission's approval under Chapters 11, 21 and 28 of the Public Utility Code: (1) for Met-Ed and Penelec to contribute their existing transmission assets to MAIT; (2) for MAIT to be a certificated Pennsylvania public utility; and (3) for approval of certain affiliated interest agreements. Accompanying their Joint Application, the Joint Applicants submitted the written direct testimony of four witnesses and associated exhibits, as more fully described hereafter.

2. At the same time the Joint Application was filed, two proceedings were initiated before other regulatory authorities:

(a) Jersey Central Power & Light Company ("JCP&L", together with Met-Ed, Penelec and MAIT, the "Operating Companies"), an affiliate of the Joint Applicants that provides electric distribution service in the State of New Jersey, filed an application at Docket Nos. EM15060733 and EF02030185 seeking the New Jersey Board of Public Utilities' ("NJBP") approval to contribute its transmission assets to MAIT; for MAIT to be granted public utility status in New Jersey; and for approval of certain affiliated interest agreements (the "NJBP Proceeding").

(b) The Operating Companies and FirstEnergy Transmission, LLC ("FET")³ filed at the Federal Energy Regulatory Commission ("FERC") an *Application for Authorization*

³ FET is a subsidiary of FirstEnergy Corp. ("FirstEnergy"). FET's subsidiaries include American Transmission Systems, Inc. ("ATSI") and Trans-Allegheny Interstate Line Company ("TrAILCo"). ATSI provides transmission service in western Pennsylvania and Ohio and is comprised in large part of the transmission assets formerly owned by FirstEnergy's operating utilities in those states (Pennsylvania Power Company or "Penn Power" in Pennsylvania) and (Toledo Edison Company, Ohio Edison Company and the Cleveland Electric Illuminating Company in Ohio). Penn Power's transfer of its transmission assets to ATSI was approved by the Commission in 2000. *Application Of Pennsylvania Power Co. For (1) A*

Pursuant to Sections 203(a)(1)(A) and 203(a)(2) of the Federal Power Act and Request for Waivers of Certain Filing Requirements seeking approval of the transfer of the Operating Companies' transmission assets to MAIT. (Hereafter referred to as the "FERC Proceeding".) On February 18, 2016, the FERC issued a final order at Docket No. EC15-157-000 granting the Application and the approvals requested, including the transfer of the Operating Companies' transmission assets to MAIT.

3. MAIT is a newly-formed limited liability company to be jointly owned by the Operating Companies and FET that will provide interstate electric transmission service subject to the jurisdiction of the FERC. Upon obtaining the necessary approvals from the Commission and the NJBPU, the Operating Companies will contribute their transmission assets to MAIT in exchange for membership interests in MAIT pursuant to certain agreements among the Operating Companies, FET and MAIT (the "Transaction"). As noted, MAIT is also seeking a certificate of public convenience conferring the status of a Pennsylvania public utility under Section 102. The Transaction is described in the Joint Application (Paragraphs 12-16) and in the direct testimony accompanying the Joint Application (*see* Joint Applicants' Statement No. 1, pp. 7-11 and Joint Applicants' Statement No. 4, pp. 4-10). The principal elements of the Transaction are as follows:

Certificate Of Public Convenience Authorizing The Transfer Of Certain Transmission Assets To American Transmission Systems, Inc., And (2) Approval Of Certain Affiliated Interest Agreements Necessary To Effect The Transfer, Docket No. A-110450F0016 (July 14, 2000). TrAILCo owns and maintains transmission facilities primarily located in Pennsylvania, West Virginia and Virginia that are used to furnish interstate transmission service. *See Application of Trans-Allegheny Line Company (TrAILCo) For Approval: 1) for a Certificate of Public Convenience to Offer, Render Furnish or Supply Transmission Service in the Commonwealth of Pennsylvania; (2) Authorization and Certification to Locate, Construct, Operate and Maintain Certain High-Voltage Electric Substation Facilities; 3) Authority to Exercise the Power of Eminent Domain for the Construction and Installation of Aerial Electric Transmission Facilities Along the Proposed Transmission Line Routes in Pennsylvania; 4) Approval of an Exemption from Municipal Zoning Regulation With Respect to the Construction of Buildings; and 5) Approval of Certain Related Affiliated Interest Arrangements*, Docket Nos. A-110172 et al. (December 13, 2008).

(a) The Operating Companies will make a one-time contribution of their existing transmission assets to MAIT as a tax-free transfer in exchange for Class B membership interests in MAIT. As owners of Class B membership interests, the Operating Companies will have voting rights over various fundamental structural matters, namely, the filing of a voluntary petition in bankruptcy, a merger or the sale of substantially all the assets of MAIT. FET, in turn, will make a cash contribution to MAIT in exchange for Class A membership interests, which will give FET operating and management control of MAIT. For financial reporting purposes, MAIT will be treated as a consolidated subsidiary of FET, and the Operating Companies will record their investment in MAIT as an investment in subsidiary companies (*see* Joint Application ¶ 12; Joint Applicants’ Statement No. 4, pp. 4, 10).

(b) As a result of the Transaction, the Operating Companies will no longer own facilities serving a transmission function. All transmission services over the transmission facilities will be provided by MAIT pursuant to the terms of the PJM Interconnection L.L.C.’s (“PJM”) Open Access Transmission Tariff (“OATT”), which is consistent with the current operation of these facilities by the Operating Companies. The transmission facilities will remain subject to the terms of the PJM OATT. Rates for transmission service will remain subject to the jurisdiction of the FERC as administered by PJM through its OATT. The Operating Companies will continue to own and operate their distribution facilities and will continue to provide retail electric service within their existing service territories (*see* Joint Application ¶ 13; Joint Applicants’ Statement No. 1, pp. 6, 21).

(c) The Operating Companies’ existing transmission assets, including transmission-related regulatory assets, will be contributed to MAIT at book value (original cost less depreciation reserve). The goodwill associated with those transmission assets, as recorded

on the Operating Companies' books of account, will also be transferred to MAIT (*see* Joint Application ¶ 14; Joint Applicants' Statement No. 4, pp. 10-12).

(d) Because the Transaction will be structured to be a tax-free exchange of assets for ownership interests in a new limited liability company, the Operating Companies will not recognize taxable gain or loss on the Transaction. Also, because the Transaction is a tax-free exchange, the Accumulated Deferred Income Taxes ("ADIT") associated with transmission assets recorded on the Operating Companies' books of account will transfer to MAIT's books. Transferring the transmission-related ADIT to MAIT will assure that MAIT's FERC-jurisdictional rate base, like the existing FERC-jurisdictional rate bases of Met-Ed and Penelec, reflects the credit balance of ADIT (*see* Joint Application ¶ 14; Joint Applicants' Statement No. 4, pp. 12-13).

(e) The Operating Companies will not transfer a fee interest in land and other real estate to MAIT in connection with the contribution of transmission assets, and such fee interests will remain on the Operating Companies' books. MAIT will enter into a ground lease with each of the Operating Companies to govern those interactions ("Ground Leases") (*see* Joint Application ¶ 15; Joint Applicants' Statement No. 4, pp. 5-7).

(f) The Operating Companies will have no continuing obligation to contribute equity to MAIT after the initial contribution of their transmission assets occurs. MAIT will pay dividends at regular intervals to the Operating Companies and FET in proportion to each company's ownership interest in MAIT. The capital structure of each Operating Company will remain unchanged as a result of the Transaction, and the Operating Companies and FET will not provide parent guarantees for MAIT's debt (*see* Joint Application ¶ 16; Joint Applicants' Statement No. 3, pp. 5-6; Joint Applicants' Statement No. 4, pp. 13-15).

B. Procedural History

4. Notice of the filing of the Joint Application was published in the *Pennsylvania Bulletin* on July 4, 2015. The published notice included the Commission’s directive that formal protests and petitions to intervene were to be filed no later than August 3, 2015. Notices of Appearance, Protests and Petitions to Intervene were filed by the following entities:

- (a) OSBA – Notice of Appearance, Notice of Intervention and Protest, and Public Statement (Dated July 9, 2015);
- (b) Labor Intervenors – Petition to Intervene (Dated July 30, 2015);
- (c) PSU – Petition to Intervene (Dated July 31, 2015);
- (d) OCA – Protest and Public Statement (Dated August 3, 2015);
- (e) Tri-County Rural Electric Cooperative (“Tri-County”) and Wellsboro Electric Company (“Wellsboro”) – Petition to Intervene (Dated August 3, 2015);⁴
- (f) Noble – Petition to Intervene (Dated August 3, 2015);
- (g) MEIUG and PICA – Petition to Intervene (Dated August 3, 2015);
- (h) Wellsboro – Amended Petition to Intervene (Dated August 17, 2015);⁵ and
- (i) Bureau of Investigation & Enforcement (“I&E”) – Notice of Appearance (Dated August 28, 2015).

5. On August 7, 2015, the Commission’s Bureau of Technical Utility Services (“TUS”) filed and served upon the Joint Applicants, others parties and the Office of Administrative Law Judge (“OALJ”) thirty-four data requests pertaining to the Joint Application and its accompanying testimony. Pursuant to the directive in the transmittal letter from the

⁴ The Petition to Intervene filed jointly by Tri-County and Wellsboro was superseded by the Amended Petition to Intervene subsequently filed solely by Wellsboro and, therefore, Tri-County ceased to be a petitioner for intervention in this case.

⁵ As noted above, Wellsboro’s Amended Petition to Intervene did not include Tri-County. On August 24, 2015, the Joint Applicants filed an Answer in Opposition to Wellsboro’s Amended Petition to Intervene. Wellsboro was granted intervenor status over the Joint Applicants’ opposition.

Director of TUS, the Joint Applicants served their answers to the TUS data requests on TUS and other parties in this proceeding on August 21, 2015.

6. On August 10, 2015, the Commission issued a Secretarial letter in which it identified issues that the parties should address in this proceeding, noting that “[t]he parties may address these issues in this letter in testimonial form (direct, supplemental direct, rebuttal) or as exhibits in the record.” For the most part, the issues listed in the August 10, 2015, Secretarial letter mirrored the data requests issued by TUS on August 7, 2015. As explained below, the Joint Applicants served Supplemental Direct Testimony addressing the issues identified in the August 10, 2015 Secretarial letter.

7. On September 8, 2015, TUS served on the Joint Applicants, other parties and the OALJ a second set of data requests. Pursuant to the directive in the transmittal letter from the Director of TUS, the Joint Applicants also served their answers to these TUS data requests on TUS and other parties in this proceeding on September 25, 2015.

8. On October 1, 2015, the Commission issued a Secretarial letter that referred all of the matters at the various docket numbers assigned to the Joint Application to the OALJ. In addition, the Secretarial letter: (1) stated that the Joint Applicants’ responses to the TUS data requests “are part of the electronic case file in this proceeding and are available to the parties;” (2) directed the Joint Applicants to place on the record a study that was discussed in the Direct Testimony of one of its witnesses (the “Navigant Study”) as well as the “listing of transmission facilities to be transferred from Met-Ed and Penelec to MAIT;” and (3) asked the parties to “independently examine the methodology and conclusions of the FE Navigant Study to aid the

Commission in its application of the Seven Factor Test as it relates to the transmission facilities to be transferred.”⁶

9. On October 7, 2015, the Commission issued a Notice that the Prehearing Conference in this case had been scheduled to occur telephonically at 1:30 p.m. on October 27, 2015. On October 13, 2015, the Administrative Law Judges issued an initial Prehearing Conference Order pursuant to which all parties submitted Prehearing Memoranda.

10. At the Prehearing Conference a litigation schedule was established; the Petitions to Intervene of Wellsboro, the Labor Intervenors, PSU, Noble and the Industrials were granted; the various docket numbers assigned to the Joint Application were consolidated; modifications to the procedures for formal discovery set forth in the Commission’s regulations were adopted; and the ALJs granted the Companies’ request to address the issues identified in the Commission’s August 10, 2015 Secretarial Letter by the submission of supplemental direct testimony. On November 2, 2015, the ALJs issued a second Prehearing Order memorializing the decisions made at the Pre-Hearing Conference.

11. As noted previously, the Joint Applicants submitted Direct Testimony and accompanying exhibits with the Joint Application. The Joint Applicants’ Direct Testimony consists of the following statements:

Joint Applicants’ Statement No. 1, the Direct Testimony of Charles V. Fullem (Director, Rates and Regulatory Affairs-Pennsylvania for FirstEnergy Service Company (“FESC”)). Mr. Fullem first provided an overview of the Transaction and then addressed how MAIT will be operated; the affiliated interest agreements it will utilize; the classification of its transmission assets; and the public benefits the Joint Applicants expect the Transaction to provide. Mr. Fullem also presented evidence to

⁶ The seven factor test established by the FERC to determine facilities that serve a FERC-jurisdictional transmission function is described in Joint Applicants’ Statement No. 1 at page 14.

show that MAIT satisfies the requirements for issuance of a certificate of public convenience conferring public utility status under Pennsylvania law.

Joint Applicants’ Statement No. 2, the Direct Testimony of Jeffrey J. Mackauer (Director of Transmission Planning & Protection for FESC). Mr. Mackauer described the transmission planning process at FirstEnergy and discussed the capital requirements associated with expanding FirstEnergy’s Energizing the Future (“EtF”) program to cover the transmission systems currently owned and operated by the Operating Companies. Mr. Mackauer also addressed the operational benefits the Joint Applicants expect the Transaction to provide, including its anticipated positive impact on Pennsylvania’s economy.

Joint Applicants’ Statement No. 3, the Direct Testimony of Steven R. Staub (Vice President and Treasurer for FESC). Mr. Staub described the financial aspects of the Transaction and certain agreements necessary to effect the Transaction. He also discussed the financial and structural benefits the Joint Applicants foresee from consummating the Transaction.

Joint Applicants’ Statement No. 4, the Direct Testimony of K. Jon Taylor (Vice President, Controller, and Chief Accounting Officer of FirstEnergy). Mr. Taylor discussed the various tax and accounting aspects of the Transaction.

The Joint Applicants’ witnesses also sponsored the following exhibits to accompany their Direct Testimony:

Sponsoring Witness	Exhibit No.	Description
Charles V. Fullem	CVF-1	Organizational Chart of the Post-Transaction Corporate Structure
Steven R. Staub	SRS-1	Amended and Restated Limited Liability Company Operating Agreement
Steven R. Staub	SRS-2	Corporate Bond Spreads
Steven R. Staub	SRS-3	FirstEnergy Regulated Money Pool Agreement
K. Jon Taylor	KJT-1	Capital Contribution Agreement

Sponsoring Witness	Exhibit No.	Description
K. Jon Taylor	KJT-2	Met-Ed Ground Lease Penelec Ground Lease
K. Jon Taylor	KJT-3	List of Real Property Associated with Each Substation that is Part of the Transfer
K. Jon Taylor	KJT-4	Transmission Facility Maps
K. Jon Taylor	KJT-5	FirstEnergy Service Agreement
K. Jon Taylor	KJT-6	Revised and Amended Restated Mutual Assistance Agreement
K. Jon Taylor	KJT-7	Intercompany Income Tax Allocation Agreement
K. Jon Taylor	KJT-8	Proposed Accounting Entries

12. On October 27, 2015, the Joint Applicants submitted Supplemental Direct Testimony to address the issues identified in the August 10, 2015 Secretarial Letter, which consisted of the statements of four witnesses:

Joint Applicants' Statement No. 1S, the Supplemental Direct Testimony of Charles V. Fullem, which answered the following questions:

- Part A Question No. 4
- Part B Question No. 1
- Part C Question Nos. 1-3
- Part D Question Nos. 1-2
- Part E Question Nos. 9, 10 and 12
- Part F Question No. 2
- Part G Question Nos. 1, 2 and 4

Mr. Fullem also sponsored Joint Applicants' Exhibit No. CVF-2, a copy of the Navigant Study, which applied the FERC's "seven-factor test" for distinguishing transmission from distribution assets and which Mr. Fullem discussed in his Direct Testimony.

Joint Applicants' Statement No. 2S, the Supplemental Direct Testimony of Jeffrey J. Mackauer, which answered the following questions:

- Part A Question No. 5
- Part F Question Nos. 1, 3, 4 and 5

Joint Applicants' Statement No. 3, the Supplemental Direct Testimony of Steven R. Staub, which answered the following questions:

- Part E Question Nos. 1-8 and 14-17
- Part G Question No. 3
- Part H Question No. 1

Joint Applicants' Statement No. 4, the Supplemental Direct Testimony of K. Jon Taylor, which answered the following questions:

- Part A Question Nos. 1-3
- Part E Question Nos. 11-13

Mr. Taylor also sponsored Joint Applicants' Exhibit No. KJT-9, which provided information requested in Part A, Question No. 1, and Joint Applicants' Exhibit No. KJT-10, which provided information requested in Part A, Question No. 2. The information provided in both exhibits is discussed in more detail in Mr. Taylor's Supplemental Direct Testimony (pp. 2-3).

13. On December 22, 2015, I&E, OCA and Wellsboro submitted the Direct Testimony of their respective witnesses, as follows:

I&E Statement No. 1, the Direct Testimony of Lisa A. Gumby (Fixed Utility Valuation Engineer in I&E). Ms. Gumby recommended that the Commission approve the Joint Application subject to one condition relating to the allocation of costs between the transmission and distribution functions after the Transaction is consummated.

OCA Statement No. 1, the Direct Testimony of Richard S. Hahn (Principal Consultant – Daymark Energy Advisors). Mr. Hahn testified that the results of the Navigant Study were reasonable for purposes of this proceeding. Mr. Hahn questioned whether the Transaction would produce the benefits the Joint Applicants described in the Joint Application and their witnesses' testimony and recommended various conditions, as outlined in his Direct

Testimony (pp. 33-34), that the Commission should consider if it were to approve the Transaction.

Wellsboro Statement No. 1, the Direct Testimony of Craig Eccher (President and Chief Executive Officer of Wellsboro). Mr. Eccher's testimony identified alleged service issues experienced by Wellsboro with respect to certain 34.5 kV distribution facilities of Penelec that would not be transferred to MAIT and recommended that those issues be addressed in conjunction with the approval of the Joint Application.⁷

14. On January 27, 2016, the Joint Applicants submitted their Rebuttal Testimony, consisting of four statements:

Joint Applicants' Statement No. 1-R, the Rebuttal Testimony of Charles V. Fullem. Mr. Fullem responded to the Direct Testimony of Ms. Gumby, Mr. Hahn and Mr. Eccher concerning the Commission's post-Transaction oversight of MAIT; the Joint Applicants' requests for approval of affiliated interest agreements; post-Transaction cost allocations; treatment of Ground Lease payments for ratemaking purposes; and FERC jurisdictional rate-related issues. Mr. Fullem also sponsored Joint Applicants' Exhibit Nos. CVF-3 and CVF-4, which are discussed in his Rebuttal Testimony.

Joint Applicants' Statement No. 2-R, the Rebuttal Testimony of Jeffrey J. Mackauer. Mr. Mackauer responded principally to the Direct Testimony of Mr. Eccher. Mr. Mackauer demonstrated that the service issues alleged by Mr. Eccher did not exist and that Penelec furnished safe, adequate, reasonable and reliable service to Wellsboro during all of the periods Mr. Eccher discussed. Mr. Mackauer sponsored Joint Applicants' Exhibit No. JJM-R1, which is a one-line drawing of the Penelec distribution facilities that serve Wellsboro.

Joint Applicants' Statement No. 3-R, the Rebuttal Testimony of Steven R. Staub. Mr. Staub responded to the Direct Testimony of Mr. Hahn, including Mr. Hahn averments regarding benefits versus potential adverse effects of the Transaction.

Joint Applicants' Statement No. 4-R, the Rebuttal Testimony of K. Jon Taylor. Mr. Taylor responded the Direct Testimony of Mr. Hahn pertaining to the use of Ground Leases and certain conditions

⁷ As explained hereafter, Wellsboro has withdrawn its Intervention and, therefore, Mr. Eccher's Direct Testimony will not be entered into the record.

on the Commission's approval of the Transaction Mr. Hahn proposed. Mr. Taylor also responded to the Direct Testimony of Ms. Gumby regarding the manner in which costs would be allocated by FESC to MAIT, Met-Ed and Penelec after the Transaction is completed.

15. In addition to responding to TUS's interrogatories, Joint Applicants answered 50 interrogatories issued by I&E; 32 interrogatories issued by OCA; 15 interrogatories issued by the Industrials, and 18 interrogatories issued by Wellsboro.⁸ The Joint Applicants issued seven interrogatories to I&E, 16 interrogatories to OCA and 16 interrogatories to Wellsboro, which were answered by the respective parties.

16. On February 16, 2016, Wellsboro filed with the Commission its Notice of Withdrawal of Intervention of Wellsboro Electric Company and, from and after that date, Wellsboro is no longer a party to this proceeding. Because of Wellsboro's withdrawal, Mr. Eccher's Direct Testimony will not be entered into the record. As a consequence, the Joint Applicants have served on all parties and the ALJs Joint Applicants' Statement Nos. 1-R (Revised) and 2-R (Revised) from which Mr. Fullem's and Mr. Mackauer's testimony responding to Mr. Eccher was removed.

17. Negotiations were conducted by the Joint Petitioners to try to achieve a settlement of some or all of the issues in this case. As a result of those negotiations, the Joint Petitioners were able to agree to the Settlement set forth herein, which provides a reasonable resolution of the issues in this case. Consequently, all parties waived cross-examination of all witnesses, a

⁸ The Joint Applicants filed Objections to several of Wellsboro's interrogatories and, as a result of those Objections, Wellsboro withdrew in full its Interrogatory Nos. 4, 7 and 12 and withdrew in part its Interrogatory No. 11. After the submission of Wellsboro's Motion to Compel and the Joint Applicants' Reply to that Motion, the ALJs denied the Joint Applicants' Objections by their Interim Order issued on December 18, 2015.

hearing was held on February 29, 2016 to admit the statements and exhibits into the evidentiary record, and the evidentiary hearings scheduled for March 1-3, 2016 were cancelled.

II. TERMS AND CONDITIONS OF SETTLEMENT

The Settlement consists of the following terms and conditions:

18. The Joint Petitioners agree that: (i) MAIT should be issued a certificate of public convenience by the Commission under Section 1101 conferring public utility status under Section 102; (ii) Met-Ed and Penelec should each be issued certificates of public convenience under Section 1102 approving the contribution of their transmission assets to MAIT on the terms set forth in the Joint Application, as modified by the terms of this Joint Petition, and, thereby, reflecting a finding, pursuant to Section 2811(e)(1), that the Transaction will not adversely affect the competitive retail electric market in Pennsylvania; (iii) the affiliated interest agreements filed by the Joint Applicants should be approved by the Commission under Section 2102; and (iv) upon issuing the foregoing certificates of public convenience and granting the foregoing approvals the Joint Applicants will have all of the approvals required from the Commission to consummate the Transaction.

19. The Joint Petitioners agree that the certificate of public convenience issued to MAIT under Section 1101 should demarcate a service area for MAIT that is coextensive with the combined service territories of Met-Ed and Penelec and should expressly state that MAIT is not thereby authorized to furnish any intrastate public utility service within Pennsylvania.

20. MAIT agrees that, after the Transaction is consummated, the Commission will retain the same jurisdiction over MAIT's transmission assets that the Commission currently retains over Met-Ed and Penelec's transmission assets.

21. The Joint Petitioners will not object to the exclusion of the Ground Lease revenue as a component of distribution revenue in a Met-Ed or Penelec distribution base rate case as non-jurisdictional, and Met-Ed and Penelec will exclude Accounts 350.11, 350.12 and 350.22 and their associated depreciation reserves and deferred taxes from the companies' distribution rate bases and will also exclude depreciation expense associated with accounts 350.12 and 350.22 and all other expenses associated with transmission land and transmission rights-of-way from the determination of their distribution revenue requirement as non-jurisdictional. Met-Ed and Penelec may seek Commission approval to have distribution customers bear the revenue requirement related to the underlying land, or a proportional share of the underlying land, that is utilized for distribution purposes and is subject to the Ground Leases. If Met-Ed and/or Penelec seek to include in distribution rates the revenue requirement related to any underlying land, or a proportional share of underlying land, that is subject to the Ground Leases, Met-Ed and Penelec agree that any Ground Lease revenues associated with that underlying land, or proportional share of the underlying land, will also be included as a component of their distribution revenue in the future Met-Ed and Penelec distribution rate proceedings before the Commission where such revenue requirements are claimed.

22. For purposes of the Ground Leases, the Net Book Value of the Premises shall be defined as assets included in the following FERC accounts, or the equivalent FERC accounts if changed in the future by FERC: 350.11 – Transmission Substation Land, 350.12 Transmission Substation Easements, 350.21 – Transmission Lines Land, and 350.22 Transmission Line Easements, less the depreciation reserve balances assigned to those accounts.

23. For purposes of the Ground Leases, Depreciation Expense will include depreciation expense associated with FERC Accounts 350.12 and 350.22, or the equivalent FERC accounts if changed in the future by FERC.

24. Joint Applicants agree that customers will be held harmless in the event of the loss of the ADIT credit to MAIT as a result of the Transaction.

25. MAIT shall finance new capital investments over the next five to ten years through the issuance of debt in its own name, and shall not utilize equity financing to finance new capital investments unless: (1) MAIT's actual capital structure is within the range of FERC-approved capital structures; or (2) MAIT is unable to raise the necessary capital through the issuance of debt. In the event that Joint Applicants seek to invoke exceptions (1) or (2) of this paragraph, Joint Applicants shall first inform the Joint Petitioners and convene a meeting, as necessary, with the Joint Petitioners prior to taking any action to implement equity financing. The Joint Petitioners reserve all rights to participate in and challenge any filing or annual formula rate update made by MAIT under this paragraph. Notwithstanding the foregoing, in no event shall this paragraph be construed to require MAIT to return capital to Met-Ed and Penelec or pay dividends not otherwise required by Paragraph 35, *infra*.

26. MAIT will propose in its FERC formula rate filing a two-year commitment to use a transitional capital structure of 50% equity/50% debt. The Joint Petitioners agree that the two-year commitment will begin on the effective date of the formula rate approved by FERC as part of MAIT's formula rate proceeding.

27. Joint Applicants commit to exclude all costs to achieve the Transaction (i.e., both Transaction-related and transition costs associated with the transfer of assets) from distribution and transmission rates. For purposes of this paragraph, "transition costs" are defined as costs to

integrate assets into the acquiring utility as a result of the Transaction, and are incurred after the Transaction is consummated. Transition costs include components such as, internal costs of employees spending time working on transition issues; external costs paid to consultants and advisers; operational integration costs; accounting and operating systems integration costs; and costs to terminate any duplicative leases, contracts, and operations. Additionally, for purposes of this paragraph, “transfer of assets” refers to the transfer of assets that will occur upon obtaining all necessary approvals requested in the following: (i) the Joint Application file in this proceeding; (ii) the NJBPU Proceeding and (iii) the FERC Proceeding (approval obtained on February 18, 2016). Joint Applicants expect that the transition period for the Transaction will be no more than one year.

28. Met-Ed and Penelec-incurred costs that were previously assigned or allocated to transmission activities shall be reflected in the Mutual Assistance Agreement and Service Company Agreement as a result of the Transaction. Any future changes to these agreements shall be filed with the Commission for approval.

29. MAIT shall be permitted to seek a return on equity incentive or premium at FERC, except that MAIT shall not, in any future FERC filing, seek an incentive or premium on the basis that it is a new company with no credit rating or that it is a single purpose entity, which causes greater risk. The Joint Petitioners reserve all rights to participate in or challenge any filing or update made under this provision.

30. The formula rate to be developed by MAIT shall reflect the benefits of any ADIT, inter-company tax costs, or deferred taxes associated with the transferred assets to the extent such benefits are consistent with FERC-approved practice.

31. MAIT will give the Joint Petitioners thirty (30) days prior notice that a formula rate filing will be made, will do a pre-filing meeting with the Joint Petitioners and will serve the filing on the Joint Petitioners.

32. Met-Ed and Penelec shall seek Commission approval prior to making any additional capital investment in MAIT. The Joint Petitioners reserve all rights to participate in and challenge any filing made by Joint Applicants under this paragraph.

33. MAIT agrees that it remains bound by the condition imposed by the Commission on its approval of the merger of GPU Inc. and FirstEnergy at Docket Nos. A-110200F0095 and A-110400F0040 that the merged company shall not withdraw the transmission facilities from the operational control of PJM unless MAIT has first applied for and obtained authorization by order of the Commission.

34. The Joint Applicants agree to provide an annual report to the other Joint Petitioners on May 1st of each year for five years after the contribution of the transmission assets from Met-Ed and Penelec to MAIT has been completed that identifies: (1) the calculation of the Ground Lease payments; (2) the annual dividends paid by MAIT to Met-Ed and Penelec during the prior calendar year; and (3) the actual costs assigned or allocated between MAIT and Met-Ed and Penelec by FESC. MAIT further agrees to provide as part of the annual report a brief explanation as to why such costs were assigned or allocated in the manner that they were. The Joint Applicants agree to convene a technical session to answer questions regarding the report if requested to do so by the other Joint Petitioners.

35. MAIT's total annual dividend payments shall be in an amount equal to or greater than 50% of MAIT's net income for such year (the "Threshold Dividend Amount"). MAIT shall make dividend payments to Met-Ed and Penelec each year after the consummation of the

Transaction and continuing until at least the five-year anniversary of the completion of the contribution of the transmission assets from Met-Ed and Penelec to MAIT. However, MAIT shall not be required to pay the Threshold Dividend Amount if: (1) the authorization of such dividend by the managers of MAIT would cause such managers to violate their fiduciary duties; or (2) if the payment of any such dividend would cause MAIT to violate (a) applicable law or (b) any applicable debt covenant. In the event that either scenarios (1) or (2) herein could occur, MAIT agrees to notify the Joint Petitioners and convene a meeting to discuss as may be necessary. Further, the Joint Petitioners agree that unforeseen events could occur that could cause MAIT to seek prior Commission approval to be relieved of paying the Threshold Dividend Amount as set out herein. In that scenario, MAIT agrees to provide the Joint Petitioners notice prior to making such filing at the Commission. The Joint Petitioners reserve all rights to participate in and challenge any filing made by Joint Applicants under this paragraph.

36. The Joint Applicants shall annually convene a meeting with the other Joint Petitioners until the five-year anniversary of the completion of the contribution of the transmission assets from Met-Ed and Penelec to MAIT for the purpose of providing updates on the status of the EtF program for the upcoming year.

37. The Joint Applicants shall ensure that transmission regulatory assets related to storm damage and vegetation management are transferred with the transmission assets.

38. Appendix A to this Joint Petition is the list of facilities to be transferred to MAIT as of December 31, 2014, which consists of the facilities listed in Joint Applicants' Exhibit KJT-1 that was submitted with the Direct Testimony of K. Jon Taylor and includes, in addition, a delineation of functions served by the facilities to be transferred. Because Joint Applicants' Exhibit KJT-1 was necessarily prepared before the date that the contribution of assets to MAIT

would occur, it is not the final list of facilities to be transferred. Therefore, the final list of assets transferred will be filed with the Commission when the transfer of the transmission assets to MAIT is completed.

39. The Joint Petitioners stipulate to the admission, in full, of the Joint Applicants' responses to TUS's data requests. Specifically, this shall include responses to TUS Set I, Questions A1 – A5, B1-B3, C1-C2, D1- D15, E1-E5, F1 – F4; TUS Set II, Questions 1-5; and TUS Revised Response to Set I, F1. (Those responses were marked for identification as Joint Applicants' Exhibit 1-Settlement and moved into the record at the hearing on February 29, 2016.) The Joint Petitioners further stipulate that the foregoing responses and the Direct and Supplemental Direct Testimony of Joint Applicants and accompanying exhibits respond to all of the questions posed by the Commission in its Secretarial letters dated August 10 and October 1, 2015. Additionally, as directed by the ALJs at the February 29, 2016 hearing, the Joint Petitioners have prepared and attached as Appendix B hereto their respective responses to the questions posed by the Commission in the August 10 and October 1, 2015 Secretarial letters, which were previously described in Paragraph Nos. 6 and 8, *supra*. As also directed by the ALJs, Appendix B sets forth proposed ordering paragraphs.

40. The Companies agree that in future distribution base rate filings made during a period of five years from the date that the contribution of the transmission assets from Met-Ed and Penelec to MAIT is completed, they will provide a detailed breakdown of mutual assistance revenues received from MAIT for transmission activities performed by Met-Ed and Penelec during the historical test year used in such filing.

41. The conditions and commitments set forth herein shall become effective only upon the completion of the contribution of the transmission assets from Met-Ed and Penelec to MAIT.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

42. The Joint Petitioners have each prepared, and attached hereto as Appendices C-J, their Statements in Support setting forth the bases upon which they believe that the Settlement is reasonable, lawful and in the public interest.

43. The Joint Petitioners submit that the Settlement is in the public interest for the following additional reasons:

(a) **The Settlement provides additional assurance that the Transaction, upon completion, will promote the service, accommodation, convenience or safety of the public.** In order to enhance the benefits of the Transaction that were identified in the evidence presented by the Joint Applicants and to avoid any potential for adverse effects, the Settlement provides for an array of conditions and commitments, as set forth in Section II, *supra*, to become effective when the contribution of Met-Ed's and Penelec's transmission assets to MAIT is completed. In summary, these conditions and commitments:

- Set forth extensive provisions dealing with financing of MAIT, distributions by MAIT to the Operating Companies, various financial matters, ratemaking matters and periodic reporting requirements, all of which are designed to further protect the interests of Met-Ed's and Penelec's customers.
- Affirm that the PUC will retain the same jurisdiction over MAIT's transmission assets that it has over Met-Ed's and Penelec's transmission assets currently.

- Acknowledge and assure that MAIT’s transmission assets will remain under the operational control of PJM and that MAIT would not leave PJM without the prior authorization of the Commission.
- Commit that Transaction costs and transition costs associated with the transfer of assets (as defined in the Settlement terms) will be excluded from Joint Applicants’ distribution and transmission rates.
- Include a provision designed to keep the Joint Petitioners informed as to the progress of the EtF program in the Met-Ed and Penelec zones.

(b) **The Settlement amicably and expeditiously resolves a number of important and potentially contentious issues.** The administrative burdens and costs to continue to litigate these matters to conclusion could be significant. Those burdens and costs will be avoided by the approval of the Settlement. Additionally, through the discussions and negotiations that led to the Settlement, the Joint Petitions were able to craft innovative solutions that reasonably resolved the Joint Petitioners’ concerns and advanced the public interest, but could not be achieved by continued litigation. This outcome is consistent with the reasons why the Commission strongly encourages parties to try to achieve settlements whenever possible, as it noted in its Policy Statement on settlements at 52 Pa. Code § 69.401: “[T]he results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding.”

(c) **The Settlement is consistent with Commission policies promoting negotiated settlements.** The Joint Petitioners arrived at the Settlement terms after conducting extensive discovery, submitting and analyzing extensive testimony and other evidence, and

engaging in in-depth discussions over several weeks. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (*see* 52 Pa. Code §§ 5.231, 69.391 and 69.401) and is fully supported by substantial record evidence.

IV. ADDITIONAL TERMS AND CONDITIONS

44. The Commission's approval of the Settlement shall not be construed as approval of any Joint Petitioner's position on any issue, except to the extent required to effectuate the terms and agreements of the Settlement. Accordingly, this Settlement may not be cited as legal precedent in any future proceeding, except to the extent required to implement this Settlement.

45. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any Joint Petitioner in this or any other proceeding, if it were fully litigated.

46. This Settlement is being presented only in the context of this proceeding in an effort to fully resolve the issues presented in this proceeding in a manner that is fair and reasonable. The Settlement is the product of compromise. This Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

47. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the

Settlement or modify any terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active parties within five (5) business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Joint Applicants or any other Joint Petitioner elect to withdraw the Settlement as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including, but not limited to, presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

48. If the ALJs, in their Initial Decision, recommend that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions with respect to any issues addressed by the Settlement. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to any modifications to the terms and conditions of this Settlement or any additional matters proposed by the ALJs in the Initial Decision. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed.

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request that Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Mary D. Long and the Commission approve the Settlement embodied in this Joint Petition, including all terms and conditions thereof, without modification, and that the Commission: (1) issue a certificate of public convenience to MAIT under Section 1101 as a Pennsylvania public utility as defined in Section 102; (2) issue certificates of public convenience to Met-Ed and Penelec under Section 1102 approving the contribution of their transmission assets to MAIT on the terms set forth in the Joint Application, as modified by the terms of this Joint Petition, and, thereby,

reflecting a finding, pursuant to Section 2811(e)(1), that the Transaction will not adversely affect the competitive retail electricity market in Pennsylvania; (3) approve the affiliated interest agreements filed by the Joint Applicants under Section 2102; and (4) find and determine that, upon issuing the foregoing certificates of public convenience and granting the foregoing approvals, the Joint Applicants will have all of the approvals required from the Commission to consummate the Transaction.

Respectfully submitted,



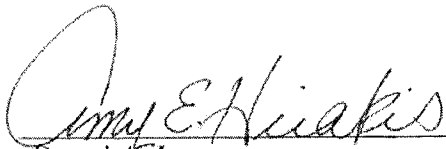
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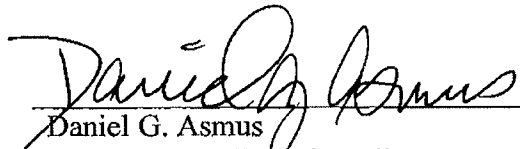
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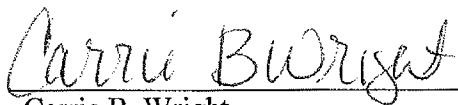
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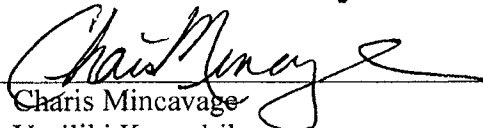
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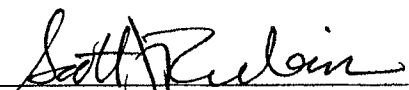
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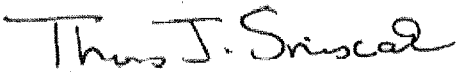
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Appendix A

PLEASE SEE
EXHIBIT KJT-1
ATTACHED TO JOINT APPLICANTS' STATEMENT NO. 4
THE DIRECT TESTIMONY
OF
K. JON TAYLOR

Appendix B

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOINT APPLICATION OF MID-ATLANTIC INTERSTATE TRANSMISSION, LLC (“MAIT”); METROPOLITAN EDISON COMPANY (“MET-ED”) AND PENNSYLVANIA ELECTRIC COMPANY (“PENELEC”) FOR: (1) A CERTIFICATE OF PUBLIC CONVENIENCE UNDER 66 PA.C.S. § 1102(A)(3) AUTHORIZING THE TRANSFER OF CERTAIN TRANSMISSION ASSETS FROM MET-ED AND PENELEC TO MAIT; (2) A CERTIFICATE OF PUBLIC CONVENIENCE CONFERRING UPON MAIT THE STATUS OF A PENNSYLVANIA PUBLIC UTILITY UNDER 66 PA.C.S. § 102; AND (3) APPROVAL OF CERTAIN AFFILIATE INTEREST AGREEMENTS UNDER 66 PA.C.S. § 2102

**Docket Nos.: A-2015-2488903
A-2015-2488904
A-2015-2488905
G-2015-2488906
G-2015-2488907
G-2015-2489542
G-2015-2489543
G-2015-2489544
G-2015-2489545
G-2015-2489547
G-2015-2490801
G-2015-2490802**

**APPENDIX B TO THE
JOINT PETITION FOR FULL SETTLEMENT**

March 4, 2016

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOINT APPLICATION OF MID-ATLANTIC INTERSTATE TRANSMISSION, LLC (“MAIT”); METROPOLITAN EDISON COMPANY (“MET-ED”) AND PENNSYLVANIA ELECTRIC COMPANY (“PENELEC”) FOR: (1) A CERTIFICATE OF PUBLIC CONVENIENCE UNDER 66 PA.C.S. § 1102(A)(3) AUTHORIZING THE TRANSFER OF CERTAIN TRANSMISSION ASSETS FROM MET-ED AND PENELEC TO MAIT; (2) A CERTIFICATE OF PUBLIC CONVENIENCE CONFERRING UPON MAIT THE STATUS OF A PENNSYLVANIA PUBLIC UTILITY UNDER 66 PA.C.S. § 102; AND (3) APPROVAL OF CERTAIN AFFILIATE INTEREST AGREEMENTS UNDER 66 PA.C.S. § 2102

**Docket Nos.: A-2015-2488903
A-2015-2488904
A-2015-2488905
G-2015-2488906
G-2015-2488907
G-2015-2489542
G-2015-2489543
G-2015-2489544
G-2015-2489545
G-2015-2489547
G-2015-2490801
G-2015-2490802**

**APPENDIX B TO THE JOINT PETITION
FOR FULL SETTLEMENT**

At the hearing in the above-captioned matter held on February 29, 2016, the presiding Administrative Law Judges (“ALJs”) directed the Joint Petitioners to submit as an appendix to the Joint Petition for Full Settlement (“Joint Petition”) their respective responses, if any, to the questions and directives in the Pennsylvania Public Utility Commission’s (“PUC” or the “Commission”) Secretarial letters issued on August 10 and October 1, 2015.^{1 2} Additionally, the

¹ The ALJs acknowledged that certain parties did not submit testimony and that I&E and OCA, which did submit testimony, did not necessarily directly address all of the questions posed by the Commission’s Secretarial letters. (The Joint Applicants addressed all of the questions posed by the Commission in their Supplemental Testimony.) Accordingly, the ALJs noted that Joint Petitioners who did not address

ALJs asked the Joint Petitioners to submit proposed ordering paragraphs. This appendix is being submitted in response to the ALJs directives.

I. RESPONSES TO THE QUESTIONS POSED IN THE AUGUST 10, 2015 SECRETARIAL LETTER

Hereafter, the questions posed in the August 10, 2015 Secretarial letter are set forth in the same form and with the same designations as in the Secretarial letter followed by the responses of each of the Joint Petitioners.

A. Transmission Assets to be Transferred

1. The parties should address with specificity the categories, ownership, voltage level and book value of transmission facilities of Penelec and Met-Ed to be transferred with regard to the provision of area transmission service and distribution service for facilities between 46.5 kv and 69 kv. This information was submitted in the related FERC filing at EC15-157 captioned Jurisdictional Facilities Owned, Operated or Controlled by Applicants. This information should be part of the record in this proceeding.

Joint Applicants' Response:

The requested information for both Met-Ed and Penelec is set forth in Joint Applicants' Exhibit KJT-9. Joint Applicants' Statement No. 4S, p. 3.

particular questions or whose positions are similar to those of another party that did address a question could so state.

² The OCA addressed all eight (8) topics identified in the Commission's Secretarial Letter in its Direct Testimony, but did not directly answer all of the questioned contained within the Secretarial Letter. To the extent that the OCA witness Mr. Hahn directly addressed a particular question in his testimony, the OCA has provided that response herein. For any questions that Mr. Hahn did not directly address in his testimony, the OCA has provided the pages to his testimony that provides a general discussion of the overall topic.

I&E's Response:

I&E did not dispute the information set forth in Joint Applicants' Exhibit KJT-9

OCA's Response:

Please see Joint Applicants' Response.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

2. The parties should address whether the facilities transferred are distribution, transmission or serve a mixed function.

Joint Applicants' Response:

All of the property sites on which transmission assets are located for both Met-Ed and Penelec are listed in Joint Applicants' Exhibit KJT-10. All of the facilities for which title would be transferred by the Companies to MAIT as part of the proposed transaction are transmission facilities and are recorded in transmission accounts on the Companies' books. Certain transmission facilities of the Companies are located on land where distribution facilities are also located and which, therefore, will be subject to the Ground Leases between the Companies and

MAIT. Asset locations that have co-located distribution facilities are identified in Joint Applicants' Exhibit KJT-10 as "Mixed Function." Joint Applicants' Statement No. 4S, p. 3. Under the terms of the Ground Leases, Met-Ed and Penelec reserve and retain the right to use the leased premises and the transmission facilities for any purpose not inconsistent with MAIT's use of the premises for furnishing transmission service (*see* Joint Applicants' Exhibit KJT-2 (Ground Lease Article 8)).

I&E's Response:

I&E did not dispute that all facilities proposed to be transferred to MAIT are transmission facilities.

OCA's Response:

The OCA's expert witness, Richard S. Hahn, provided the following testimony:

I have reviewed the Navigant study [using the FERC seven factor test to determine if a facility should be classified as primarily transmission or distribution]. While I did not perform an independent study to apply the seven factor test, I find the Navigant study at a high level to be reasonable for the purposes of this proceeding.

OCA St. No. 1 at 9.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW agrees that all facilities proposed to be transferred to MAIT are transmission facilities.

3. Should regulatory assets related to storm damage and vegetation management be transferred with the transmission assets? The parties should address their respective positions on this issue.

Joint Applicants' Response:

Yes, transmission-related regulatory assets associated with storm damage costs and vegetation management should be transferred from the Companies to MAIT. Exhibit A (Regulatory Assets) to the Capital Contribution Agreement provided as Joint Applicants' Exhibit KJT-1, accompanying Joint Applicants' Statement No. 4, provides specific detail regarding the transmission-related regulatory assets that will be transferred from the Companies to MAIT. The Settlement terms also provide that transmission regulatory assets related to storm damage and vegetation management will be transferred to MAIT along with the transmission facilities of the Companies (Joint Petition ¶ 37). In addition to regulatory assets, the transmission plant, allocated goodwill and the accumulated deferred income taxes ("ADIT") will be transferred as discussed in my direct testimony. Joint Applicants' Statement No. 4S, pp. 3-4. In Paragraph No. 24 of the Joint Petition, the Joint Applicants commit that customers will be held harmless if the ADIT (a credit against rate base) were to be lost to MAIT as a result of the transaction. Paragraph No. 30 of the Joint Petition provides that the Federal Energy Regulatory Commission ("FERC") formula rate to be developed by MAIT will reflect the benefits of ADIT, inter-

company tax costs, or deferred taxes associated with the transferred assets to the extent consistent with FERC-approved practice.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

The OCA's expert witness, Richard S. Hahn, provided the following testimony:

I believe that the regulatory assets related to storm damage and vegetation management that are associated with transmission facilities being transferred to MAIT should also be transferred to MAIT if the proposed transaction is approved. These regulatory assets were created through the ownership of transmission facilities, and thus should be transferred with the transmission assets.

OCA St. No. 1 at 9-10.

OSBA's Response: The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding. As a party to the proposed Settlement, PSU's position is that stated in the Joint Petition: the transmission regulatory assets related to storm damage and vegetation management should be transferred to MAIT along with the transmission facilities of the Companies (Joint Petition ¶ 37).

IBEW's Response:

IBEW does not take a position on this issue.

4. **What will be the effect of the proposed transaction on customers that receive service at sub-transmission and transmission voltages? The parties should address their respective positions on this issue.**

Joint Applicants' Response:

There will be no change in the rates, terms or conditions of service for customers of Met-Ed and Penelec receiving service at sub-transmission and transmission voltages, as set forth in the tariffs of those Companies on file with the Commission and as set forth in the rates, terms, or conditions of service set forth in their respective portions of the PJM Interconnection LLC's ("PJM") Open Access Transmission Tariff ("OATT") as a result of the proposed transaction. Joint Applicants' Statement No. 1S, p. 3.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Transmission Assets to be Transferred" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 7-10.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA concur with Joint Applicants' response.

PSU's Response:

PSU did not submit testimony in this proceeding and has taken no position on this issue.

IBEW's Response:

IBEW does not take a position on this issue.

5. Jurisdictional electric utilities are required to have cyber, physical and emergency response plans to protect their facilities. How would the transfer of facilities to MAIT impact those transferred facilities not covered by the North American Reliability Corporation (NERC) Critical Infrastructure Protection (CIP) Standards.

Joint Applicants' Response:

The Joint Application requests that the Commission issue a certificate of public convenience evidencing MAIT's status as a Pennsylvania public utility. If the Commission grants MAIT's request and confers Pennsylvania public utility status on MAIT, MAIT, following the proposed transaction, will remain subject to the provisions of 52 Pa. Code Chapters 101 and 102 pertaining to Public Utility Preparedness through Self-Certification and Confidential Security Information, respectively, to the same extent such provisions may apply to the transmission facilities currently owned by Met-Ed and Penelec. Joint Applicants' Statement No. 2S, p. 2.

I&E's Response:

I&E did not dispute the fact that should the Commission confer public utility status on MAIT, MAIT will remain subject to the provision of 52 Pa. Code Chapters 101 and 102 pertaining to Public Utility Preparedness through Self-Certification and Confidential Security Information.

OCA's Response:

The OCA did not take a position on this issue. For the OCA's discussion of the "Transmission Assets to be Transferred" topic, please see above and the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 7-10.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA agree that MAIT would be subject to the provisions of 52 Pa. Code Chapters 101 and 102.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW agrees that MAIT would be subject to the provisions of 52 Pa. Code Chapters 101 and 102.

B. Anti-Competitive Impacts of the Transaction

1. How will this transaction impact the competitiveness of transmission service in the Commonwealth and the ability of the PAPUC to monitor and investigate anti-competitive behavior? The parties should address their respective positions on this issue.

Joint Applicants' Response:

PJM has been authorized by the FERC as the Regional Transmission Organization ("RTO") responsible for managing a regional transmission grid encompassing all or parts of

thirteen states and the District of Columbia, including the control areas of Met-Ed and Penelec. PJM has operational control over the Companies' transmission facilities and provides electric transmission service to Load Serving Entities ("LSEs") at rates and under terms and conditions of service set forth in its OATT, which is filed with, and approved by, the FERC. Joint Applicants' Statement No. 1S, p. 3.

Upon the completion of the proposed transaction, Met-Ed and Penelec will no longer own any facilities serving a transmission function. All transmission services over the transmission facilities transferred to MAIT will be provided on a non-discriminatory basis pursuant to the terms of PJM's OATT, in the same manner those services are currently furnished by Met-Ed and Penelec. The transmission facilities will remain subject to the terms of PJM's OATT before, during and after the proposed transaction. Rates for transmission service will remain subject to the jurisdiction of the FERC and be administered by PJM through the OATT. Additionally, Paragraph No. 33 of the Joint Petition provides that MAIT will not withdraw the transmission facilities from the operational control of PJM without prior Commission approval. Met-Ed and Penelec will continue to own and operate all distribution facilities they presently own and will continue to provide retail electric service within their existing service territories as they do today. *Id.* at 4.

Additionally, if the Commission grants MAIT's request for a certificate of public convenience, MAIT will have the status of a Pennsylvania public utility and, as such, the Commission will have the same authority to investigate alleged anti-competitive behavior with respect to its provision of transmission service that it has with respect to the transmission service currently furnished by the Companies. Consequently, the proposed transaction will not diminish

the Commission's ability as it exists today to monitor and investigate anti-competitive behavior.

Id. at 4.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

The OCA's expert witness, Richard S. Hahn, provided the following testimony:

Currently, the transmission assets owned by Met-Ed and Penelec are operated and controlled by PJM under PJM's Open Access Transmission Tariff ("OATT"). The OATT is designed for transmission owners in the bulk power system to provide non-discriminatory access to all shippers on a comparable basis to the service the owners provide to themselves. Through the OATT, PJM provides non-discriminatory access to these facilities at published rates. The Application states that if these assets are transferred to MAIT, these asset will remain under the control of PJM. As long as the transferred assets remain under PJM's control, the proposed transaction should not adversely impact the competitiveness of transmission service. If MAIT were to remove these assets from PJM's control, there could be an adverse impact. Therefore, if the proposed transaction is approved, the Commission should impose a condition that MAIT will place its assets under, and not remove its transmission assets from, PJM's control without Commission approval.

OCA St. No. 1 at 10.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding and has taken no position on this issue.

IBEW's Response:

IBEW does not take a position on this issue.

C. Reliability of Electric Service

1. The PAPUC currently exercises oversight of outage incidents by jurisdictional public utilities when outage events occur even if the cause of the outage occurred on transmission facilities. Does MAIT seek exemption from our jurisdiction over safety, adequacy, and reliability of electric service under Chapter 15 of the Public Utility Code and 52 Pa. Code §§ 57.191 et seq.? Should such an exemption be made for MAIT? The parties should address their respective positions on the issue of Commission jurisdiction over MAIT.

Joint Applicants' Response:

MAIT is not requesting any exemption from the jurisdiction the Commission may lawfully exercise over the safety, adequacy, and reliability of electric service under Chapter 15 of the Public Utility Code and 52 Pa. Code §§ 57.191 et seq. Consequently, the question of whether any such "exemption" should be made does not arise here. Joint Applicants' Statement No. 1S, pp. 4-5.

I&E's Response:

I&E agrees that MAIT has not requested an exemption from the Commission's jurisdiction, and, therefore, the question of whether an exemption should be made does not arise.

OCA's Response:

The OCA's expert witness, Richard S. Hahn, provided the following testimony:

The Commission should retain all of the oversight rights it currently has. I see no reason to change these, even if the proposed transaction is approved and the assets are transferred. If the

Commission's rights to oversee transmission activities for assets currently owned by Met-Ed and Penelec are in dispute, then that dispute should be resolved before the proposed transaction is considered. Once the Commission's current oversight rights are established for assets owned by the Operating Companies, the retention of those rights should be made a specific condition of the Commission's approval of the proposed transaction.

OCA St. No. 1 at 11.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA agree that MAIT would be subject to the provisions of Chapter 15 of the Public Utility Code and 52 Pa. Code Section 57.191, *et seq.*

PSU's Response:

MAIT is not requesting any exemption from the jurisdiction the Commission may lawfully exercise over the safety, adequacy, and reliability of electric service. PSU reserves the right to address, support or oppose such requests when made.

IBEW's Response:

IBEW agrees that MAIT would be subject to the provisions of Chapter 15 of the Public Utility Code and 52 Pa. Code §§ 57.191, *et seq.*

2. In paragraph 24 of its Application, MAIT states that it may petition the Commission to be relieved of certain requirements pertaining to its provision of interstate transmission service. List with specificity all requirements for which MAIT may seek exemptions and the reasons for seeking such exemptions. The parties should address their

respective positions over the issue of MAIT exemptions from certain Commission requirements.

Paragraph 24 of the Joint Application states as follows:

MAIT acknowledges that, as the holder of a certificate of public convenience, it will be required to comply with the Public Utility Code and the Commission's regulations and orders, excluding those provisions that expressly or by reasonable implication apply only to a public utility that furnishes intrastate service within Pennsylvania or that are preempted by the FERC's exclusive jurisdiction over transmission service and rates. Additionally, MAIT reserves the right to hereafter petition the Commission to be relieved of requirements that, given MAIT's provision of only interstate transmission service subject to the exclusive jurisdiction of the FERC, would not serve a reasonable regulatory purpose to impose on MAIT.

MAIT has not identified any such requirements at this time. If it had, it would have requested relief from those requirements in the Joint Application. For that reason, MAIT reserved the right to ask the Commission in the future to be relieved of those types of requirements if and when it is determined that they might apply and that the criteria for seeking relief explained in Paragraph 24 are present. Joint Applicants' Statement No. 1S, p. 5.

I&E's Response:

I&E did not dispute the Joint Applicant's testimony that no such requirements have been identified at this time.

OCA's Response:

For the OCA's discussion of the "Reliability of Electric Service" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at page 11.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

MAIT has not requested relief from any requirements pertaining to its provision of interstate transmission service. PSU reserves the right to address, support or oppose such requests when made.

IBEW's Response:

IBEW does not take a position on this issue.

3. In the same paragraph, MAIT refers generally to Pennsylvania laws and Commission orders that would not apply to it on account of its provision of interstate electric service. List with specificity the laws and Commission orders that MAIT does not believe apply to it. The parties should address their respective positions on whether these Pennsylvania laws and regulations do or do not apply to MAIT.

Joint Applicants' Response:

Paragraph 24 of the Joint Application was set forth in the Joint Applicants' response to the preceding question. Every one of the specific provisions of the Public Utility Code and the Commission's regulations that "expressly or by reasonable implication apply only to a public utility that furnishes intrastate service within Pennsylvania or that are preempted by the FERC's exclusive jurisdiction over transmission service and rates" has not been identified by the Joint Applicants at this time. The legislature has recognized that provisions of the Public Utility Code and the Commission's exercise of authority under the Public Utility Code may be preempted by Federal law (either currently or in the future), as reflected in sections of the Public Utility Code

that address such possibilities, namely, 66 Pa.C.S. § 104 and 314. Applying the criteria for making such determinations under the circumstances described in the first sentence of Paragraph 24 would, at a minimum, entail any statutory or regulatory requirements that apply only to a Pennsylvania public utility that owns or operates facilities for the distribution of electricity to retail customers in the Commonwealth. This determination was based upon, among other factors, the definition of “electric distribution company” in 66 Pa.C.S. § 2803. While not an exclusive list of all statutory and regulatory provisions that are within the exclusion identified in the first sentence of Paragraph 24 of the Joint Application, the Joint Applicants believe that the applicable criteria would encompass the following:

Title 66 of Pennsylvania Consolidated Statutes:

Section 510
Chapter 13
Chapter 14
Section 1703
Chapter 28

Title 52 of the Pennsylvania Code:

Chapter 54
Chapter 56
Chapter 58
Chapter 71
Chapter 73
Chapter 75
Chapter 111
Chapter 121

See Joint Applicants’ Statement No. 1S, pp. 5-7.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

Please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at page 11, and the Joint Applicants' response to the question.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding and has taken no position on this issue.

IBEW's Response:

IBEW does not take a position on this issue.

D. The Operation of the Ground Lease

1. MAIT will lease the property associated with the transferred transmission assets from the operating companies. Will there be any shared property by MAIT and the operating company? If so, how will the lease allocation formula operate for allocation of costs between facilities that are utilized for both transmission and distribution functions? The parties should address their respective positions on this issue.

Joint Applicants' Response:

Met-Ed and Penelec currently have, and may in the future construct, distribution lines suspended from structures that were built for transmission lines. Consequently, those structures and the right-of-way on which they were constructed are transmission facilities. Joint Applicants' Statement No. 1S, p. 7. As explained in K. Jon Taylor's direct testimony (Joint Applicants' Statement No. 4), Met-Ed and Penelec will own the land on which the transferred transmission assets are located and will lease it to MAIT under the proposed Ground Leases. Under Article 8 of their Ground Leases, Met-Ed and Penelec reserve the right to occupy the leased rights-of-way for compatible uses, including locating their distribution lines on such rights-of-way, subject to the conditions set forth in Article 8 and additional terms set forth in Article 7 of the Ground Leases. *Id.* The rent payable by MAIT to Met-Ed and Penelec under the Ground Lease will not be reduced for any use or assumed use of the transmission rights-of-way for distribution purposes because the primary use of the rights-of-way is and will continue to be for transmission facilities. *Id.* at 7-8.

I&E's Response:

I&E St. No. 1, pp. 4-5 discusses I&E's position on ground leases related to this transaction.

OCA's Response:

For the OCA's discussion of the "Operation of Ground Leases" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 11-16.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding and has taken no position on this issue.

IBEW's Response:

IBEW does not take a position on this issue.

2. Will MAIT or the operating company apply for and own new or expanded rights of way? Which party will own the existing rights of way? Who will be the applicant in transmission line siting applications? If eminent domain authority is required, will MAIT or the operating company apply for that authority? The parties should address their respective positions on this issue.

Joint Applicants' Response:

MAIT will own any new rights-of way. MAIT will also own expanded rights-of-way. However, there may be instances where both MAIT and one of the Companies will own the expanded rights-of-way depending on specific factual circumstances. Existing rights-of-way will continue to be owned by Met-Ed and Penelec. MAIT will be the applicant for siting authority for transmission lines with voltage above 100 kV that will be built and owned by MAIT and will also be the applicant requesting eminent domain authority from the PUC for rights-of-way or other interests in land needed to construct facilities in Pennsylvania. However,

there may be instances in which both MAIT and either or both of Met-Ed and Penelec would join in filing transmission line siting applications and/or eminent domain applications based on specific factual circumstances. Joint Applicants' Statement No. 1S, p. 8.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Operation of Ground Leases" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 11-16.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding and has taken no position on this issue.

IBEW's Response:

IBEW does not take a position on this issue.

E. Financing Arrangements

The operating companies will make a one-time contribution of their existing transmission assets to MAIT through a tax-free transfer in exchange for Class B membership interest. The operating companies will have a 95% class B ownership interest in MAIT with no operational or managerial control authority except for limited "special

rights.” FE Transmission LLC (FET) will make a cash contribution to MAIT in return for a 5% Class A membership interest conferring ownership and control of MAIT. The FE operating companies will participate in the investment in MAIT in the following percentages: JCP&L (54.8%); Met-Ed (17%); Penelec (23%). The parties should address the following issues to the extent relevant to their respective positions:

1. During the transition period of two years, MAIT will have a 100% equity capital structure for accounting purposes but a 50/50 capital structure for ratemaking purposes. What supports the value of the equity? Is it the combined value of all contributed assets from the operating companies plus the FET contribution? What will be the value of the equity contribution? What will be the value of the debt issuance following the creation of MAIT relative to the equity value that results in the 50/50 capital structure?

Joint Applicants’ Response:

The equity value of MAIT will be the combined value of all contributed assets less ADIT plus the contribution from FirstEnergy Transmission, LLC (“FET”). The value of the equity contribution has not yet been determined because it will have to be established as of the date of the asset transfer. MAIT will issue debt that aligns to its capital spending and will continue to issue debt until its capital structure is within the range of FERC-approved capital structures. Once its capital structure is within such a range, MAIT will issue debt and FET will contribute equity as necessary to maintain MAIT’s capital structure with that range. Joint Applicants’ Statement No. 3S, p. 3. In addition, the Settlement terms contain a provision concerning how MAIT will finance new capital additions over the next five to ten years (i.e., through the issuance of debt in its own name and not by utilizing equity financing, subject to specific enumerated exceptions (Joint Petition ¶ 25)) and a provision requiring it to propose in its FERC formula rate

filing a two-year commitment to use a transitional capital structure of 50% debt and 50% equity (Joint Petition ¶26).

I&E's Response:

I&E discussed, generally, MAIT's capital structure in I&E St. No. 1, pp. 3-4. Apart from this general discuss, I&E took no position on MAIT's capital structure.

OCA's Response:

For the OCA's discussion of the "Financing Arrangement" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 16-18; *see also* pages 18-22.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

2. Operating companies are contributing equity but not debt. What are the implications on operating company capital structure to a transfer of equity associated with transmission assets while transmission-related debt remains on the books of the operating

companies? How will this impact the capital structure of the operating companies and the ability of the operating companies to raise capital for future reliability improvements?

Joint Applicants' Response:

As explained in Joint Applicants' Statement No. 3, beginning on page 8, line 18, the capital structure of each Company will remain unchanged as a result of the consummation of the proposed transaction. Each Company will record an investment equivalent to the value of transmission assets contributed to MAIT (including goodwill and transmission-related regulatory assets and net of ADIT). As a result, the Companies do not anticipate any adverse impact on their ability to raise capital for future reliability improvements. Joint Applicants' Statement No. 3S, p. 3. *See also* Joint Applicants Statement No. 3-R, p. 8, line 19 through p. 9, line 7.

I&E's Response:

I&E discussed, generally, the operating companies' capital structure in I&E St. No. 1, pp. 3-4. On page 8 of the same testimony, I&E stated that "it is impossible to predict what impact retention of the total transmission and distribution debt may have on future debt rates available to the operating companies, so there may be a future impact to interest expense."

OCA's Response:

For the OCA's discussion of the "Financing Arrangement" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 19-20; *see also* pages 16-18 and 21-22.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

3. How will the concentration of equity, and not debt, impact the MAIT transmission rates after the expiration of the 2-year 50/50 capital structure commitment? What will be the costs and benefits of potentially lower debt costs, but a higher weighting of higher equity cost of capital?

Joint Applicants' Response:

The Companies have not determined the potential impact on MAIT's transmission rates of possible changes in the equity component after the expiration of the two-year commitment period nor has FERC authorized a future formula that would be used to establish MAIT's transmission rates. Joint Applicants' Statement No. 3S, p. 4. However, as previously explained in response to Question E.1, above, the Settlement terms contain a provision concerning how MAIT will finance new capital additions over the next five to ten years (i.e., through the issuance of debt in its own name and not by utilizing equity financing, subject to specific enumerated exceptions (Joint Petition ¶ 25)) and a provision requiring it to propose in its FERC formula rate filing a two-year commitment to use a transitional capital structure of 50% debt and 50% equity (Joint Petition ¶ 26).

I&E's Response:

I&E discussed, generally, MAIT's capital structure in I&E St. No. 1, pp. 3-4. Apart from this general discuss, I&E took no position on MAIT's capital structure.

OCA's Response:

For the OCA's discussion of the "Financing Arrangement" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 16-18; *see also* pages 18-22.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

4. How frequently will dividends be distributed to the operating companies and how will the dividends be accounted for on the books of the operating companies?

Joint Applicants' Response:

The Settlement terms contain a specific provision regarding the payment of dividends (Joint Petition ¶ 35). As MAIT earns a return on its investment, the Companies' investment accounts will increase. When dividends are paid by MAIT, the accounts will be reduced by the amount of such dividends. Joint Applicants' Statement No. 3S, p. 4. See also Joint Applicants' Statement No. 3, p. 6.

I&E's Response:

In testimony, I&E took no position on this issue. However, Paragraph 35 of the Joint Petition for Full Settlement discusses the frequency of dividend distribution.

OCA's Response:

The OCA's expert witness, Richard S. Hahn, provided the following testimony:

The Restated LLC Agreement discusses "distributions" and states that frequency of dividends will be determined by the Board of MAIT:¹⁷

(b) Distributions shall be made in cash to the Members of each Class pro rata in accordance with each Member's capital account balance, at the times and in the aggregate amounts determined by the Board.

¹⁷ Exhibit SRS-1, p. 6

OCA St. No. 1 at 21.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

5. Will the 5/95 dividend distribution ratio change over time and under what circumstances?

Joint Applicants Response:

The ratio of 5/95 referenced in the Commission’s question reflects the relative percentages of the initial equity investment in MAIT by FET (5%) and by the contribution of transmission assets to MAIT by the Companies, which consist of Met-Ed, Penelec and their affiliate, Jersey Central Power & Light Company (“JCP&L”), which provides electric transmission and distribution service in New Jersey. The 5/95 ratio will not change until FET contributes equity into MAIT. Joint Applicants’ Statement No. 3S, pp. 4-5. *See also* Joint Applicants’ Statement No. 3-R, pp. 11-12.

I&E’s Response:

I&E took no position on this issue.

OCA’s Response:

For the OCA’s discussion of the “Financing Arrangement” topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 21-22 and the Joint Applicants’ response above. *See also* OCA St. No. 1 at 16-20.

OSBA’s Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA’s Response:

MEIUG/PICA did not take a position on this issue.

PSU’s Response:

PSU did not submit testimony in this proceeding.

IBEW’s Response:

IBEW does not take a position on this issue.

6. **Members can make additional capital contributions to MAIT under Section 3.3 of the Operating Agreement. What circumstances are contemplated under this provision?**

Joint Applicants' Response:

Section 3.3 contemplates cash infusions from MAIT's parent, FET, in the event such infusions are required to maintain an acceptable capital structure. Joint Applicants' Statement No. 3S, p. 5. No additional equity infusions from the Companies are contemplated. Nonetheless, the Joint Petitioners agreed to the term of the Settlement set forth in Paragraph No. 32, which provides that Met-Ed and Penelec cannot make additional capital investments in MAIT without the Commission prior approval.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Financing Arrangement" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 21-22 and the Joint Applicants' response above. *See also* OCA St. No. 1 at 16-20.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

7. Section 5.4 of the Operating Agreement provides for assignment and transfer of ownership interest by Members. What circumstances are contemplated under this provision and are these circumstances justified?

Joint Applicants' Response:

Section 5.4 of the Operating Agreement is a standard provision found in such agreements. There are no transactions involving the assignment or transfer of ownership interests by the Members contemplated at this time. Joint Applicants' Statement No. 3S, p. 5.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

The OCA did not take a position on this issue. For a discussion of the OCA's positions on "Financing Arrangements" topic, please see above and the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 16-22.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

8. Sections 5.5 and 5.6 of the Operating Agreement provide for the addition and withdrawal of Members. What circumstances are contemplated under this provision and are these circumstances justified?

Joint Applicants' Response:

Sections 5.5 and 5.6 of the Operating Agreement are standard provisions found in such agreements. There are no transactions involving the assignment or transfer of ownership interests by the Members or the addition or withdrawal of Members contemplated at this time. Joint Applicants' Statement No. 3S, p. 5.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

The OCA did not take a position on this issue. For a discussion of the OCA's positions on the "Financing Arrangements" topic, please see above and the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 16-22.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

9. At what point will the rate base impacts of this transaction (such as transfer of transmission assets, goodwill, ADIT and receipt of lease payments) be reflected in retail rates of the PA operating companies?

Joint Applicants' Response:

In the electric distribution base rate cases filed by Met-Ed (Docket No. R-2014-2428745) and Penelec (Docket No. R-2014-2428743), the Companies excluded from the determination of their Pennsylvania jurisdictional rate bases all transmission-related assets, including transmission plant in service and allocable portions of transmission-related common, general and intangible plant, as well as transmission related ADIT. Goodwill is not recognized as an asset in rate base for ratemaking purposes in Pennsylvania and, therefore, no goodwill related to either the Companies' distribution or transmission functions was included in their rate bases in their 2014 cases. Additionally, transmission-related operating expenses were excluded from the Companies' operating and maintenance expenses in developing their claimed revenue requirements in those cases. Transmission revenues were excluded from the pro forma intrastate distribution revenues in developing the Companies' revenues at present and proposed rates and

in developing their proposed and final Pennsylvania electric distribution rates and proofs of revenues.³ Joint Applicants' Statement No. 1S, p. 9.

I&E's Response:

I&E took no position on at what point the rate base impacts of this transaction would be reflected in retail rates of the Pennsylvania operating companies.

OCA's Response:

For a discussion of the OCA's positions on the "Financing Arrangements" topic, please see above and the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 16-22.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

³ The Companies' base rate cases were concluded by settlements that were approved by the Commission in its Final Orders entered at the above-referenced dockets on April 9, 2015.

10. Will MAIT track savings associated with formation of MAIT? How will the costs of the transaction be tracked and should these costs be tracked?

Joint Applicants' Response:

MAIT is not planning to track savings associated with formation of MAIT. Joint Applicants' Statement No. 1S, p. 10.

I&E's Response:

I&E took no position on the issue of tracking savings associated with the formation of MAIT.

OCA's Response:

For a discussion of the OCA's positions on the "Financing Arrangements" topic, please see above and the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 16-22.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

11. The testimony of Mr. Taylor at page 15 indicates that transaction-related costs will be excluded from recovery in FERC transmission rates. How will these costs be recovered and will the operating customers be responsible for any of these costs?

Joint Applicants' Response:

Refer to Paragraph No. 27 of the Joint Petition, in which the Joint Applicants commit to exclude all costs to achieve the transaction (i.e., both transaction-related and transition costs associated with the transfer of assets) from distribution and transmission rates. The same paragraph also defines the relevant terms for purposes of the Joint Applicants' commitment.

I&E's Response:

I&E did not dispute the Joint Applicants' statement that all costs to achieve the transaction would be excluded from distribution and transmission rates.

OCA's Response:

For a discussion of the OCA's positions on the "Financing Arrangements" topic, please see above and the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 16-22 and the Joint Applicants' response above.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA concur with the Joint Applicants' response.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

12. At what point will the PJM transmission payments currently made to Met Ed and Penelec for Network Integrated Transmission Service (NITS) shift to MAIT?

Joint Applicants' Response:

The proposed transaction will close when the necessary regulatory approvals have been obtained for each proposed transfer of transmission facilities. MAIT, as the owner of the transmission assets, will then be entitled to receive all related transmission revenue from providing Network Integrated Transmission Service ("NITS"). Met-Ed and Penelec will, after the closing of this transaction, be entitled to receive their pro rata shares of dividends declared by MAIT and ground lease payments. Joint Applicants' Statement No. 1S, p. 10.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

The OCA did not take a position on this issue. For a discussion of the OCA's positions on the "Financing Arrangements" topic, please see above and the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 16-22.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

13. How will the value of the Operating Companies Class B Membership compare to the value of assets transferred?

Joint Applicants' Response:

When the proposed transaction is consummated, the value of the Companies' Class B Membership interests will equal the net book value of the assets and liabilities transferred to MAIT, including transmission plant, certain transmission-related regulatory assets, allocated goodwill and ADIT. The Companies' investment in MAIT, assuming for purposes of illustration a transaction closing date of December 31, 2014, is shown in Joint Applicants' Exhibit No. KJT-8, which accompanies Joint Applicants' Statement No. 4. Joint Applicants' Statement No. 4S, p. 4.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Financing Arrangement" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 16-22.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

The following questions are inter-related and, therefore, are being answered as a group.

14. Provide evidence of cost benefits to PA customers from the transaction and whether these cost benefits are sufficient to meet the standard contained in the City of York case that the proposed transaction “will affirmatively promote the service, accommodation, convenience and safety of the public.” Other parties should address whether the City of York standard has been met.

15. Provide evidence that the transfer of all existing transmission assets of Penelec and Met-Ed to MAIT versus continued retention as assets of the PA operating companies will be sufficient to meet the City of York standard that such transfer will produce affirmative benefits to the public with reference to service, accommodation, convenience and safety? This issue should be addressed by the parties with reference to whether the PAPUC should or should not maintain jurisdiction over MAIT under Section 1501 of the Public Utility Code and Chapter 57 of its regulations regarding safety and reliability.

16. How will the investment in MAIT provide cost savings over the same investment in the PA operating companies? The parties should address their respective positions as to whether these costs savings are justified to meet the City of York standard.

Joint Applicants' Response to Questions E.14, 15 and 16:

The benefits that will accrue from the creation of MAIT and the Companies' contribution of their transmission assets to MAIT are addressed at length in the Joint Application and in the direct testimony that accompanied the filing of the Joint Application, including a discussion of potential cost savings that are expected to be achieved with respect to future investments in transmission assets to be made by MAIT. *See* Joint Applicants Statement Nos. 1 and 3 and Joint Applicants Statement No. 3-R, pp. 4-6. The Joint Applicants explained in their witnesses' direct testimony, in the Joint Application, and in their Statement in Support of the Joint Petition for Full Settlement that the benefits that will accrue from the proposed transaction fully satisfy the applicable legal standard for the Commission to grant its approval of the transfer of Met-Ed's and Penelec's transmission assets to MAIT.

With specific reference to the portion of Question No. 15 asking whether the Commission should "maintain jurisdiction over MAIT under Section 1501 of the Public Utility Code and Chapter 57 of its regulations regarding safety and reliability," it should be noted that MAIT has requested – and the Joint Petitioners have agreed pursuant to the terms of the Joint Petition – that a certificate of public convenience be issued to MAIT as a Pennsylvania public utility. The Joint Applicants have acknowledged that, if the Commission issues the requested certificate of public convenience to MAIT, the Commission will continue to have the same jurisdiction over the transferred transmission facilities that it currently has under Met-Ed and Penelec ownership. *See* Joint Applicants' Statement No. 1-R, pp. 4-5.

I&E's Response:

As noted in I&E St. No. 1, p, 9, I&E recommends Commission approval of the application a stand-alone transmission entity through the transfer of transmission assets from the operating companies to MAIT. Therefore, I&E believes all applicable legal standards have been met.

OCA's Response:

Please generally see OCA St. No. 1 and the OCA's Statement in Support.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA concur with the Joint Applicants' response.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW agrees that the proposed transaction would provide a benefit to the public through enhanced investment in safety and reliability.

17. With reference to the testimony of Witness Staub at p. 8, line 13, MAIT indicates it will file an abbreviated securities certificate with the PAPUC for authority to issue long-term debt. What conditions does or should MAIT satisfy for this matter to be treated as an abbreviated as opposed to a regular securities certificate? The parties should

address whether it is appropriate to file an abbreviated versus a regular securities certificate.

Joint Applicants' Response:

The authority for MAIT to file abbreviated securities certificates is 52 Pa. Code § 3.602(a)(3)(ii) because MAIT will not have any gross operating revenues from service rendered under tariffs filed with the Commission for intra-state service. Joint Applicants' Statement No. 3S, p. 7. That regulation provides, in relevant part, as follows:

(a) *Scope of rule.* The abbreviated procedure of subsections (b) and (c) applies to an issuance or assumption of a security which meets one of the following requirements:

(1) The issuance or assumption of securities has been authorized by another state commission having primary jurisdiction.

(2) The financing is provided by an agency of a state or the United States government.

(3) *The issuance or assumption of securities is by a utility having a presence in this Commonwealth of less than 10% as measured by either:*

(i) The ratio of gross investment within this Commonwealth to the utility's total gross investment.

(ii) *The ratio of gross operating revenues from service rendered during the immediately preceding fiscal year under tariffs filed with the Commission for intra-State service to the total gross operating revenues of the public utility during the fiscal year from all service, wherever rendered, of the type described in section 102 of the act (relating to definitions). (Emphasis added.)*

I&E's Response:

I&E took no position on this issue.

OCA's Response:

The OCA did not take a position on this issue. For a discussion of the OCA's positions on the "Financing Arrangements" topic, please see above and the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 16-22.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding and has taken no position on this issue.

IBEW's Response:

IBEW does not take a position on this issue.

F. Energizing the Future Program (EtF) and Reliability Enhancement (RE) Process

FE indicates in its testimony (in considerable detail) that it is proposing the EtF and RE process to substantially upgrade and improve its transmission system in the service territories of its operating companies. These investments are expected to cost \$2.5-3.0 billion over the next 5-10 years which is a substantial investment. The parties should address the following issues with regard to the EtF/RE program:

- 1. Are there projects currently being undertaken or in the planning stages at Met-Ed and Penelec that are considered to be a part of the EtF/RE programs? Provide a description of these projects, expected completion dates and anticipated benefits. Other**

parties should address to what extent these projects may or should relate to existing reliability issues or other issues in the service areas of Met-Ed and Penelec.

Joint Applicants' Response:

Yes, there are projects currently being undertaken or in the planning stages at Met-Ed and Penelec that are considered part of the EtF/RE programs. The list of PJM's Regional Transmission Enhancement Plan ("RTEP") baseline projects encompassed by the Companies' Transmission Planning process that are currently being undertaken within the Met-Ed and Penelec portions of the proposed MAIT footprint and that have in-service dates after January 1, 2017 is provided in response to Part F, Question No. 3. Joint Applicants Statement No. 2S, p. 3. The Reliability Enhancement process projects in the planning stages within the Met-Ed and Penelec portions of the proposed MAIT footprint are currently still being evaluated. *Id.* Potential future Reliability Enhancement process PJM RTEP supplemental projects are discussed in response to Part F, Question No. 4. *Id.* at 3-4.

Potential future Reliability Enhancement process projects that will not become PJM RTEP supplemental projects consist of projects such as the following:

- Replacing older vintage oil and gas insulated breakers
- Replacing existing transformers with similar size new transformers
- Upgrading and rebuilding transmission lines with similar size wire
- Installation of real time transformer and circuit breaker monitoring
- Replacing older vintage relays
- Replacing Coupling Capacitor Voltage Transformers
- Installing Supervisory Control and Data Acquisition to switching devices
- Strategically installing automatic sectionalizing switches at tapped substations
- Transmission Communications Infrastructure projects
- Transmission Physical Security Enabling projects

- Transmission Cyber Security projects

A list of approved future Reliability Enhancement process projects has not yet been established, but it would include the types of projects described above. *Id.* at 4. The typical completion dates for many of the initial Reliability Enhancement process projects selected would be within a year or two after MAIT is established. *Id.*

The anticipated benefits from the Transmission Planning process PJM RTEP baseline projects can be found on the PJM RTEP website. *Id.* The anticipated benefits from the Reliability Enhancement process projects are discussed in Mr. Mackauer's Direct Testimony (Joint Applicants' Statement No. 2).

Additionally, Paragraph No. 36 of the Joint Petition provides that a meeting will be convened annually with the Joint Petitioners until the fifth anniversary of the completion of the asset contribution to MAIT by Met-Ed and Penelec to provide updates on the status of the EtF program.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Energizing the Future" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 22-23 and the Joint Applicants' response above.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA concur with the Joint Applicants' response.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW agrees that the EtF program would enhance the safety and reliability of the transmission network and create additional jobs within Pennsylvania.

2. To what extent will the various categories of EtF/RE projects described in Mr. Taylor's⁴ testimony require increased expense to the FE operating companies at the distribution level? Provide a projection, based on current information, of the expense level to PA operating companies. Other parties should address to what extent the expense levels projected are reasonable given the proposed improvements and upgrades.

Joint Applicants' Response:

All of the capital costs and operating and maintenance expenses of the various categories of projects in the EtF and RE processes described in Mr. Mackauer's direct testimony (Joint Applicants' Statement No. 2) will be borne by MAIT, which will build and own those transmission facilities after the proposed transaction is consummated. The revenue requirement associated with those projects will be reflected in the rates charged by PJM, as the transmission provider, to all transmission customers receiving service from those facilities, pursuant to the applicable terms of PJM's OATT, when such facilities are reflected in MAIT's FERC-approved rates included in the PJM OATT. It is possible that certain EtF/RE projects that interconnect

⁴ The Secretarial letter erroneously referred to Mr. Taylor's testimony when the reference should have been to the direct testimony of Mr. Mackauer, who is the Joint Applicants' witness that discussed the elements of the EtF and RE processes.

with the distribution facilities of the Companies may require Met-Ed and Penelec to make some modifications to their distribution facilities. If that occurs, the cost of the modifications made to the Companies' distribution facilities will be incurred by the Companies and will be reflected in their future distribution rates. Joint Applicants' Statement No. 1S, p. 11.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Energizing the Future" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 22-23 and the Joint Applicants' response above.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

3. To what extent are EtF/RE projects currently in the PJM RTEP process?

Provide details by project and projected cost. Provide PJM project ID numbers for each

indicated project. Other parties should address this issue to the extent relevant to their position in the proceeding.

Joint Applicants' Response:

The table below is a summary of baseline PJM RTEP projects within the Met-Ed and Penelec portions of the proposed MAIT footprint that have in-service dates after January 1, 2017:

FE PJM RTEP Projects with FE Projected ISD for 2017 and Beyond

Downloaded from PJM Website 08/04/2015

PJM Project ID #	Project Description	TO Projected InServiceDate	Transmission Zone	CostEstimate (\$M)
b1994	Convert Lewis Run-Farmers Valley to 230 kV using 1033.5 ACSR conductor. Project to be completed in conjunction with new Pierce Book Valley 345/230 kV transformation	10/1/2017	PENELEC	\$46.80
b2006.1.1	Loop the 2026 (TMI - Hosensack 500 kV) line in to the Laushtown substation and upgrade relay at TMI 500 kV	6/1/2017	ME	\$5.25
b2304	Replace the substation conductor and switch at South Troy 115 kV substation	6/1/2017	PENELEC	\$0.15
b2371	Install 75 MVAR capacitor at the Erie East 230 kV substation	6/1/2018	PENELEC	\$1.50
b2442	Install three 230 kV breakers on the 230 kV side of the Lewistown #1, #2 and #3 transformers	6/1/2018	PENELEC	\$2.30
b2450	Construct a new 115 kV line from Central City West to Bedford North	6/1/2018	PENELEC	\$37.50
b2452	Install 2nd Hunterstown 230/115 kV transformer	6/1/2017	ME	\$8.02
b2452.1	Reconductor Hunterstown - Oxford 115 kV line	6/1/2017	ME	Included in b2452
b2463	Rebuild and reconductor 115 kV line from East Towanda to S. Troy and upgrade terminal equipment at East Towanda, Tennessee Gas and South Troy	6/1/2017	PENELEC	\$40.00
b2552.1	Reconductor the North Meshoppen - Oxbow - Lackawanna 230 kV circuit and upgrade terminal equipment (PENELEC portion)	6/1/2019	PENELEC	\$26.50
b2571	Upgrade the limiting terminal facilities at both Jackson and North Hanover	6/1/2019	ME	\$0.10
b2587	Reconfigure Pierce Brook 345 kV station to a ring bus and install a 125 MVAR shunt reactor at the substation	9/1/2018	PENELEC	\$5.53
b2588	Install a 36.6 MVAR 115 kV capacitor at North Bangor substation	6/1/2019	ME	\$0.98
b2621	Replace relays at East Towanda and East Sayre 115 kV substations (158/191 MVA SN/SE)	6/1/2018	PENELEC	\$0.10
b2637	Convert Middletown Junction 230 kV substation to nine bay double breaker configuration.	6/1/2017	ME	\$15.50
b2644	Install a 28.8 MVAR 115 kV capacitor at the Mountain substation	6/1/2019	ME	\$0.96

Joint Applicants' Statement No. 2S, p. 5.

As previously noted in response to F.1., *supra*, Paragraph No. 36 of the Joint Petition provides that a meeting will be convened annually with the Joint Petitioners until the fifth anniversary of the completion of the asset contribution to MAIT by Met-Ed and Penelec to provide updates on the status of the EtF program.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Energizing the Future" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 22-23 and the Joint Applicants' response above.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA concur with the Joint Applicants' response.

PSU's Response:

PSU did not submit testimony in this proceeding and has not taken a position on this issue.

IBEW's Response:

IBEW does not take a position on this issue.

4. What future EtF/RE projects are anticipated to be part of the PJM RTEP process? Other parties should address this issue to the extent relevant to their position in the proceeding.

Joint Applicants' Response:

Future Transmission Planning process projects will be identified by PJM and become PJM RTEP baseline projects after PJM Board approval. Joint Applicants' Statement No. 2S, p.

5. Future Reliability Enhancement process projects that substantively change the electrical parameters of the transmission system or which change the electrical flows on that system will

be identified by MAIT, submitted to PJM, and become PJM RTEP supplemental projects without PJM Board approval. *Id.* at 6. Examples of such projects are:

- Replacing existing transformers with larger size new transformers
- Upgrading and rebuilding transmission lines with larger size wire
- Strategically installing breakers at tapped substations
- Converting radially fed substations to be network fed substations
- Converting a three terminal transmission line to two independent transmission lines

A list of approved future projects within the RE process has not yet been established, but it would include the types of projects described above. *Id.* at 6. Additionally, refer to Paragraph No. 36 of the Joint Petition providing for meetings to be convened annually with the Joint Petitioners until the fifth anniversary of the completion of the asset contribution to MAIT to provide updates on the status of the EtF program.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Energizing the Future" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 22-23 and the Joint Applicants' response above.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA concur with the Joint Applicants' response.

PSU's Response:

PSU did not submit testimony in this proceeding and has not taken a position on this issue.

IBEW's Response:

IBEW does not take a position on this issue.

5. Please provide a breakdown, based on current information, of how current and future MAIT projects and the associated cost anticipated to be part of the EtF will be allocated to PA operating companies and the New Jersey operating company (Jersey Central Power & Light). Other parties should address this issue to the extent relevant to their position in this proceeding.

Joint Applicants' Response:

The Transmission Planning process for PJM RTEP projects is designed to identify projects necessary for the safe and reliable operation of the transmission system, as explained in detail in Joint Applicants' Statement No. 2. An explanation of the Reliability Enhancement process employed by FirstEnergy was also provided in Joint Applicants' Statement No. 2. These processes do not entail an "allocation" of a pre-determined number of projects or a pre-determined amount of funding between states or among delivery zones. The specific projects to be undertaken in Pennsylvania will be determined after a list of approved future projects within these processes has been established (including the location and scope of each project). Joint Applicants' Statement No. 2S, p. 6. *See also* Joint Petition ¶ 36 (providing for meetings to be convened annually with the Joint Petitioners until the fifth anniversary of the completion of the asset contribution to MAIT to provide updates on the status of the EtF program).

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Energizing the Future" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 22-23 and the Joint Applicants' response above.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA concur with the Joint Applicants' response.

PSU's Response:

PSU did not submit testimony in this proceeding and has not taken a position on this issue.

IBEW's Response:

IBEW does not take a position on this issue.

G. Rate Impacts

The parties should address the following potential rate impacts of the proposed transaction to the extent relevant to their respective positions:

- 1. Will there be any impact on zonal rates for the operating companies from approval of this transaction? For example, does FE propose to have one NITS rate**

applicable for all three operating companies or will FE propose separate NITS rates for each operating company service area?

Joint Applicants' Response:

The approval of the proposed transaction will have no impact on zonal rates for the Companies. Since 1998, Met-Ed, Penelec and JCP&L have had a unified rate (i.e., the same rate) for NITS that applies across all three zones, as the FERC had required. MAIT expects to have one NITS rate across all three zones after the proposed transaction is consummated. Joint Applicants' Statement No. 1S, pp. 11-12; Joint Applicants' Exhibit 1-Settlement (Revised Response to Technical Utility Services Interrogatory Set I, Part F, No. 1)

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Rate Impacts" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 23-25 and the Joint Applicants' response above.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA agree that the Companies currently have a unified rate for NITS; however, MEIUG/PICA do not take a position on the Companies' future transmission rates, as the Companies have not yet made a formula rate filing at the FERC.

PSU's Response:

PSU did not submit testimony in this proceeding and has not taken a position on this issue.

IBEW's Response:

IBEW does not take a position on this issue.

2. What will be the rate impact to NITS as a result of the shifting from a stated rate to a formula rate, assuming no change in the current in-service transmission assets, in order to isolate both the impact of this ownership and rate mechanism change on ratepayers?

Joint Applicants' Response:

If the Companies were to make such a rate filing, and assuming the same test year and no change in the in-service transmission assets and related operating expenses, their NITS rates would be the same under stated rates as they would be under formula rates. Joint Applicants' Statement No. 1S, p. 12; Joint Applicants' Statement No. 1-R, pp. 30-33.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Rate Impacts" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 23-25.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA do not take a position on this issue, as the Companies have not yet made a formula rate filing at the FERC.

PSU's Response:

PSU did not submit testimony in this proceeding and has not taken a position on this issue.

IBEW's Response:

IBEW does not take a position on this issue.

3. The petition alleges debt savings associated with the asset transfer. What could be the impact on NITS costs as a result of the lifting of the 2-year transition period cap on the equity ratio of MAIT?

Joint Applicants' Response:

The Companies have not determined the impact on NITS costs after the two-year transition period cap of the equity ratio (nor has FERC authorized a future formula that would be used). Joint Applicants' Statement No. 3S, p. 7. However, as previously explained, the Settlement terms contain a provision concerning how MAIT will finance new capital additions over the next five to ten years (i.e., through the issuance of debt in its own name and not by utilizing equity financing, subject to specific enumerated exceptions (Joint Petition ¶ 25)) and a provision requiring it to propose in its FERC formula rate filing a two-year commitment to use a transitional capital structure of 50% debt and 50% equity (Joint Petition ¶ 26).

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Rate Impacts" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 23-25 and the Joint Applicants' response above.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

4. What impact, if any, does this transaction and rate mechanism have on the treatment of state and federal taxes as it relates to NITS rates?

Joint Applicants' Response:

The proposed transaction and the adoption of a formula rate will have no impact on the treatment of state and federal income taxes associated with NITS rates. Joint Applicants' Statement No. 1S, p. 12. *See also* Joint Applicants' Statement No. 4, pp. 12-14 (explaining that because the transaction is structured as a tax-free exchange, the ADIT associated with transmission assets recorded on the books of Met-Ed and Penelec will transfer MAIT's books.

Additionally, Paragraph No. 24 of the Joint Petition provides that customers will be held harmless in the event of the loss of the ADIT credit to MAIT as a result of the transaction.

I&E's Response:

I&E took no position on this issue.

OCA's Response:

For the OCA's discussion of the "Rate Impacts" topic, please see the Direct Testimony of OCA witness Richard S. Hahn, OCA St. No. 1, at pages 23-25.

OSBA's Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA's Response:

MEIUG/PICA did not take a position on this issue.

PSU's Response:

PSU did not submit testimony in this proceeding.

IBEW's Response:

IBEW does not take a position on this issue.

H. Conditions

1. What conditions, if any, should be imposed upon MAIT?

Joint Applicants' Response:

Section II of the Joint Petition sets forth twenty-four specific terms and conditions to which the Joint Petitioners have agreed. As explained in the Joint Petition and in Joint Applicants' Statement in Support of the Joint Petition, the terms and conditions of the Settlement

further enhance the benefits of the transaction. The Joint Petitioners agree that the terms and conditions in the Joint Petition, including those in Section II and the Additional Terms and Conditions in Section IV, should be approved by the Administrative Law Judges and the Commission.

I&E's Response:

I&E believes that the conditions set forth in Section II of the Joint Petition for Full Settlement should be imposed on MAIT.

OCA's Response:

The OCA's expert witness, Richard S. Hahn, provided the following testimony:

I believe that if the proposed transaction is approved, the Commission should establish several conditions. These conditions are provided in the list below.

- The Commission shall retain all of the oversight rights over MAIT that it currently has over the Operating Companies.
- To the extent that there is any controversy regarding the Commission's jurisdiction over the assets being transferred, that jurisdiction should be clarified in this proceeding prior to approval.
- Any Ground Lease Payments from MAIT to the Operating Companies shall be reflected as a credit in future distribution rate cases.
- The formula in the Ground Lease and its input variables should be defined with greater specificity.
- Since Joint Applicants claim the transaction will not trigger the payment of ADIT, but have not submitted a private letter ruling to confirm, customers should be held harmless for the loss of the ADIT credit if the Joint Applicants are required to pay ADIT.
- A cap of 55% on the MAIT equity ratio to be used for ratemaking purposes after 2 years.

- All “costs to achieve” the Transaction will be excluded from distribution and transmission rates and the FirstEnergy companies will not seek, at any point in the future, to recover those costs from customers. Customers will forever be held harmless from the costs to achieve the Transaction.
- Any Operating Company costs that were previously allocated to transmission activities shall be assigned to MAIT, and shall not be included in distribution rates.
- MAIT should not seek an ROE premium at FERC on the basis that it is a new company with no credit rating or that they are a single purpose entity which causes greater risk.
- The formula rate to be developed by MAIT shall include the benefits of any ADIT, ITCs, or deferred taxes associated with the transferred assets.
- Any Operating Companies’ investment in MAIT should require Commission approval.
- The level of future transmission investment should not change with or without MAIT.
- The OCA shall have the right to review in detail any transmission rate filing made by MAIT, and MAIT shall cooperate and assist the OCA in its review.
- The formula rate to be developed by MAIT and the ROE to be requested shall be provided to the statutory advocates at least 60 days before filing at FERC.
- MAIT will place its assets under PJM control and will not remove its transmission assets from PJM’s control without Commission approval.

OCA St. No. 1 at 33-34. *See also* the Joint Applicants’ response above.

OSBA’s Response:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

MEIUG/PICA’s Response:

MEIUG/PICA concur with the Joint Applicants’ response.

PSU's Response:

As a Joint Petitioner, PSU agrees that the terms and conditions in the Joint Petition including those in Section II and the Additional Terms and Conditions in Section IV, should be approved by the Administrative Law Judges and the Commission.

IBEW's Response:

IBEW agrees that the conditions contained in the Joint Petition for Full Settlement are reasonable and consistent with the public interest.

II. RESPONSES TO THE DIRECTIVES IN THE OCTOBER 1, 2015 SECRETARIAL LETTER

The October 1, 2015 Secretarial letter contains four directives – the first of which referred this case to the Office of Administrative Law Judge. The responses to the other three directives are set forth below.

Consistent with our concerns as stated herein, the Commission directs the Administrative Law Judge and the parties in the proceeding as follows:

- 2. That FE's Navigant Study be made part of the record at the above dockets;**
- 3. That FE's listing of transmission facilities to be transferred from MetEd and Penelec to MAIT be made a part of the record at the above dockets;**
- 4. That the parties to this proceeding independently examine the methodology and conclusions of the FE Navigant Study to aid the Commission in its application of the Seven Factor Test as it relates to the transmission facilities to be transferred.**

Joint Applicants' Responses:

With regard to the Commission's Ordering Paragraph No. 2, the Joint Applicants submitted the Navigant Study as Joint Applicants Exhibit CVF-2, which was admitted into the

evidentiary record at the hearing on February 29, 2016. *See* Joint Applicants’ Statement No. 1S, p. 2.

With regard to the Commission’s Ordering Paragraph No. 3, the Joint Applicants provided the requested information in Joint Applicants’ Exhibit KJT-9. *See* Joint Applicants’ Statement No. 1S, p. 2.

With regard to the Commission’s Ordering Paragraph No. 3, the Navigant Study explains the FERC’s “seven-factor” test articulated in FERC Order No. 888⁵. *See* Navigant Study, pp. 4-5. The balance of the Navigant Study sets describes in detail how Navigant⁶ applied the seven-factor test to classify Met-Ed’s and Penelec’s transmission facilities. The Navigant Study was also described in Mr. Fullem’s Direct Testimony (Joint Applicants’ Statement No. 1, pp. 14-15). No party took issue with the methodology or results of the Navigant Study, and the OCA’s witness, Mr. Hahn, testified that the Navigant Study is “reasonable for the purposes of this proceeding.” OCA Statement No. 1, p. 9.

I&E’s Responses:

I&E took no position on the Navigant Study.

OCA’s Responses:

Please see the Joint Applicants’ responses above.

OSBA’s Responses:

The OSBA did not submit testimony in this proceeding, and therefore, took no position on this issue.

⁵ *Promoting Wholesale Competition Through Open-Access Non-Discriminatory Transmission Service by Public Utilities and Recovery of Stranded Costs By Public Utilities and transmitting Utilities*, Order No. 888, Order No. 888, FERC Stats. & Regs. ¶¶ 31,036, 31,771, 31,981 (1996).

⁶ Navigant Consulting, Inc. is an international consulting firm with extensive experience and expertise in the electric utility industry, which is detailed on its website: <http://www.navigant.com/>

MEIUG/PICA's Responses:

MEIUG/PICA did not take a position on this issue.

PSU's Responses:

PSU has not submitted testimony in this proceeding.

IBEW's Responses:

IBEW does not take a position on this issue.

III. PROPOSED ORDERING PARAGRAPHS

The Joint Petitioners propose the following Ordering Paragraphs for the Initial Decision and final order in this case:

THEREFORE,

IT IS ORDERED:

1. That the unopposed Joint Petition for Full Settlement filed by the Joint Petitioners is granted and the Settlement embodied in the Joint Petition, including all terms and conditions thereof, is approved without modification;

2. That based on the evidence presented, the Commission finds that the proposed transaction will produce an affirmative public benefit and meets the legal standard for issuance of certificates of public convenience established in *City of York v. Pa. Pub. Util. Comm'n*, 449 Pa. 136, 151, 295 A.2d 825, 828 (1972);

3. That a certificate of public convenience shall be issued to Mid-Atlantic Interstate Transmission, LLC, under Section 1101 of the Public Utility Code, 66 Pa.C.S. § 1101, conferring upon it the status of a Pennsylvania public utility as defined in Section 102 of the Public Utility Code, 66 Pa.C.S. § 102, pursuant to the terms of the Joint Petition for Full Settlement;

4. That certificates of public convenience shall be issued to Metropolitan Edison Company and Pennsylvania Electric Company under Section 1102 of the Public Utility Code, 66 Pa.C.S. § 1102, evidencing the Commission's approval of the contribution of their transmission assets to MAIT on the terms set forth in the Joint Application, as modified by the terms of the Joint Petition for Full Settlement;

5. That, pursuant to the issuance of certificates of public convenience to Metropolitan Edison Company and Pennsylvania Electric Company as set forth above, the Commission finds and determines, pursuant to Section 2811(e)(1) of the Public Utility Code, 66 Pa.C.S. § 2811(e)(1), that the transaction as set forth in the Joint Application filed on June 19, 2015 in this case, as modified by the Joint Petition for Full Settlement, will not adversely affect the competitive retail electricity market in Pennsylvania;

6. That the affiliated interest agreements filed by the Joint Applicants with their Joint Application are hereby approved under Section 2102 of the Public Utility Code, 66 Pa.C.S. § 2102, and

7. That the Commission finds and determines that, pursuant to this Order, and the approvals granted herein, the Joint Applicants have all of the approvals required from this Commission to consummate the transaction described in the Joint Application.

Appendix C

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOINT APPLICATION OF MID-ATLANTIC INTERSTATE TRANSMISSION, LLC (“MAIT”); METROPOLITAN EDISON COMPANY (“MET-ED”) AND PENNSYLVANIA ELECTRIC COMPANY (“PENELEC”) FOR: (1) A CERTIFICATE OF PUBLIC CONVENIENCE UNDER 66 PA.C.S. § 1102(A)(3) AUTHORIZING THE TRANSFER OF CERTAIN TRANSMISSION ASSETS FROM MET-ED AND PENELEC TO MAIT; (2) A CERTIFICATE OF PUBLIC CONVENIENCE CONFERRING UPON MAIT THE STATUS OF A PENNSYLVANIA PUBLIC UTILITY UNDER 66 PA.C.S. § 102; AND (3) APPROVAL OF CERTAIN AFFILIATE INTEREST AGREEMENTS UNDER 66 PA.C.S. § 2102

**Docket Nos.: A-2015-2488903
A-2015-2488904
A-2015-2488905
G-2015-2488906
G-2015-2488907
G-2015-2489542
G-2015-2489543
G-2015-2489544
G-2015-2489545
G-2015-2489547
G-2015-2490801
G-2015-2490802**

**STATEMENT OF THE JOINT APPLICANTS
IN SUPPORT OF THE JOINT PETITION
FOR FULL SETTLEMENT**

March 4, 2016

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOINT APPLICATION OF MID-ATLANTIC INTERSTATE TRANSMISSION, LLC (“MAIT”); METROPOLITAN EDISON COMPANY (“MET-ED”) AND PENNSYLVANIA ELECTRIC COMPANY (“PENELEC”) FOR: (1) A CERTIFICATE OF PUBLIC CONVENIENCE UNDER 66 PA.C.S. § 1102(A)(3) AUTHORIZING THE TRANSFER OF CERTAIN TRANSMISSION ASSETS FROM MET-ED AND PENELEC TO MAIT; (2) A CERTIFICATE OF PUBLIC CONVENIENCE CONFERRING UPON MAIT THE STATUS OF A PENNSYLVANIA PUBLIC UTILITY UNDER 66 PA.C.S. § 102; AND (3) APPROVAL OF CERTAIN AFFILIATE INTEREST AGREEMENTS UNDER 66 PA.C.S. § 2102

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**STATEMENT OF THE JOINT APPLICANTS
IN SUPPORT OF THE JOINT PETITION
FOR FULL SETTLEMENT**

TO THE HONORABLE MARK A. HOYER, DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE, AND MARY D. LONG, ADMINISTRATIVE LAW JUDGE:

I. INTRODUCTION AND OVERVIEW

Mid-Atlantic Interstate Transmission, LLC (“MAIT”), Metropolitan Edison Company (“Met-Ed”) and Pennsylvania Electric Company (“Penelec”) (collectively, the “Joint

Applicants”) submit this Statement in Support with respect to the Joint Petition for Full Settlement (“Joint Petition”) entered into by and among the following Joint Petitioners¹:

Bureau of Investigation and Enforcement (“I&E”);

Office of Consumer Advocate (“OCA”);

Office of Small Business Advocate (“OSBA”);

Met-Ed Industrial Users Group (“MEIUG”) and Penelec Industrial Customer Alliance (“PICA”) (collectively, the “Industrials”);

The Pennsylvania State University (“PSU”); and

International Brotherhood of Electrical Workers Locals 459 and 777 (“Labor Intervenors”) (all of the above referred to hereafter as the “Joint Petitioners”).

If the settlement set forth in the Joint Petition (“Settlement”) is approved, it will provide a reasonable resolution of all issues in this proceeding.

The Settlement of this case was achieved only after a comprehensive investigation of the proposed transaction (“Transaction”) that the Joint Applicants asked the Pennsylvania Public Utility Commission (“PUC” or the “Commission”) to approve as well as the other approvals, findings and determinations requested in the above-captioned Joint Application (“Joint Application”), which included: (1) extensive discovery (the Joint Applicants responded to 163 interrogatories, including 48 interrogatories issued by the Bureau of Technical Utility Services (“TUS”)); (2) submission of direct, supplemental direct and rebuttal testimony; (3) informal discovery; and (4) negotiations among the Joint Petitioners as to Settlement terms that would

¹ Noble Americas Energy Solutions, LLC (“Noble”), which is an intervenor in this case, has indicated that it does not oppose the settlement and has submitted a letter of non-opposition, which is appended to the Joint Petition.

enhance the already substantial public benefits the record evidence demonstrates that the Transaction will provide, as set forth in detail in the Joint Petition.

The Settlement has been achieved among parties representing an array of stakeholder interests, including residential, commercial and industrial customers and a major government affiliated educational institution that is a large consumer of electricity. Additionally, Noble, an electric generation supplier (“EGS”) in Pennsylvania, has filed a Letter of Non-Opposition to the Settlement. The fact that the Settlement was reached among parties displaying such diverse interest is, in itself, strong evidence that the Settlement is reasonable and in the public interest.

Significantly, three of the signatories – I&E, OCA, and OSBA – are charged with specific legal obligations to carefully scrutinize all aspects of a utility’s requests for relief from the Commission to assure that such requests are lawful and consistent with the public interest. I&E, which has the broadest mandate, functions as an independent prosecutorial bureau within the Commission and, as such, is charged with representing the public interest in proceedings before the PUC.² The OCA has a statutory obligation to protect the interests of consumers of public utility service.³ And the OSBA represents the interests of small businesses.⁴ As evidenced by their participation in this case, these statutory parties have conscientiously discharged their statutory obligations. The statutory parties’ joining in, and fully supporting, the Settlement is strong evidence that the Settlement’s terms and conditions are just, reasonable and

² See *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Final Order entered August 11, 2011), p. 5 (“BI&E will serve as the prosecutory bureau for purposes of representing the public interest . . .”).

³ See 71 Pa.C.S. §§ 309-1 *et seq.*

⁴ See 73 P.S. §§ 399.41 *et seq.*

in the public interest and that the approvals sought by the Joint Applicants are lawful and satisfy all applicable requirements for the Commission to grant such approvals.⁵

Moreover, as explained hereafter, the Joint Applicants presented a compelling case that the Transaction should be approved, MAIT should be granted a certificate of public convenience as a Pennsylvania public utility and the affiliated interest agreements filed with the Joint Application satisfy the criteria for approval under Chapter 21 of the Public Utility Code. This is evidenced by, among other factors, the substantial public benefit that completing the Transaction on the terms set forth in the Settlement will provide. As explained hereafter, the Transaction will establish a transparent, stand-alone transmission entity that will reduce investors' perception of financial risk, strengthen the credit profile of the transmission function and, as a consequence, provide improved access to capital at reasonable rates. These benefits will better equip MAIT to implement the expansion of FirstEnergy Corp.'s ("FirstEnergy") Energizing the Future ("EtF") program to include transmission investments in the Met-Ed and Penelec zones designed to increase the reliability of the transmission system, improve the condition of equipment on the transmission system, enhance system performance and improve operational flexibility (*see* Joint Applicants' Statement Nos. 2, pp. 5-9, and 3, pp. 9-17). The expansion of the EtF program in the Met-Ed and Penelec zones will also have a beneficial effect on the economy of Pennsylvania by spurring job growth (*see* Joint Applicants' Statement No. 2, p. 23, explaining that preliminary estimates indicate the need for over 200 jobs for qualifying personnel in the areas covered by the EtF program expansion).

⁵ *See Pa. P.U.C. v. T.W. Phillips Gas and Oil Co.*, Docket Nos. R-2010-2167797 et al., 2010 Pa. PUC LEXIS 1598 at *80-85 (Recommended Decision issued October 5, 2010), relying upon the support of I&E's predecessor, the Office of Trial Staff ("OTS"), the OCA and the OSBA as evidence that the settlement in that case was reasonable and in the public interest. The Recommended Decision was expressly approved and adopted by the Commission in its Final Order entered November 4, 2010 at the above-referenced docket.

A. The Settlement Is Consistent With Commission Policy, Practice And Precedent Concerning Settlements

The Commission’s long-standing policy, practice and precedent, which are embodied in its regulation at 52 Pa. Code § 5.231 and its Policy Statement on Settlements at 52 Pa. Code § 69.401, strongly encourage parties to resolve contested proceedings by settlement. Indeed, in its Policy Statement, the Commission stated that “the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding.” There are many reasons why settlements can produce better outcomes and do a better job of promoting the public interest than full litigation, which have been repeatedly affirmed in decisions approving proposed settlements. Those reasons were aptly summarized in Administrative Law Judge Chestnut’s Recommended Decision⁶ approving a settlement of PECO’s 2010 electric rate case:

Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. . . . [A] settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission’s decision, yields significant expense savings for the company’s customers. That is one reason why settlements are encouraged by long-standing Commission policy.

⁶ *Pa. P.U.C. v. PECO Energy Co.*, Docket No. R-2010-2161575 (Recommended Decision issued November 2, 2010), p. 12. Judge Chestnut’s Recommended Decision was approved and adopted by the Commission in its Final Order entered December 21, 2010.

Although not explicitly discussed in Judge Chestnut’s Recommended Decision, settlements also promote the public interest in another important way. In settlements, parties can, through compromise and agreement, craft innovative and creative solutions that the Commission may not be in a position to develop and impose unilaterally. The Settlement in this case contains a number of terms that are excellent examples of innovative and creative solutions achieved by agreement of the parties, as more fully explained in the Joint Petition and summarized in Section VII below.

B. General Standard For Approval Of Settlements

It is well-established that, in order to approve a settlement, the Commission must determine that the proposed terms and conditions, viewed in the context of the settlement as a whole, are in the public interest. *See Pa. P.U.C. v. CS Water & Sewer Assoc.*, 74 Pa. P.U.C. 767, 771 (1991); *Pa. P.U.C. v. Philadelphia Elec. Co.*, 60 Pa. P.U.C. 1, 22 (1985). In Section VII, below, the principal terms of the Settlement are discussed in light of the record evidence and the parties’ positions. As explained, the resolution achieved by the agreement of the Joint Petitioners’ to those terms is consistent with, and promotes, the public interest and provides further assurance that the Transaction satisfies the applicable legal standard for approval.

II. PARTIES TO THE TRANSACTION, OVERVIEW OF THE TRANSACTION, THE APPROVALS REQUESTED AND THE APPLICABLE LEGAL STANDARDS

A. Parties To The Transaction

MAIT is a newly-formed limited liability company that will be jointly owned by Met-Ed, Penelec and Jersey Central Power & Light Company (“JCP&L”) (the “Operating Companies”) and FirstEnergy Transmission, LLC (“FET”). MAIT will provide interstate electric transmission

service subject to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”) (Joint Application, pp. 1-2). Upon obtaining the necessary approvals from the Commission, the New Jersey Board of Public Utilities (“NJBPU”) and the FERC,⁷ the Operating Companies will contribute their transmission assets to MAIT in exchange for membership interests in MAIT. *Id.* As explained in the Joint Application (pp. 1, 19-21), MAIT is also seeking a certificate of public convenience conferring the status of a public utility under Section 102 of the Public Utility Code.⁸

Met-Ed and Penelec are each wholly-owned subsidiaries of FirstEnergy that furnish electric distribution service within their certificated service territories in eastern Pennsylvania and central and western Pennsylvania, respectively, subject to the jurisdiction of the Commission (Joint Applicants’ Statement No. 1, p. 4). They are “public utilities,” as defined in Section 102 of the Public Utility Code, and “electric distribution companies” (“EDCs”), as defined in Section 2803. Met-Ed owns approximately 1,406 miles and Penelec 2,877 miles of transmission lines and related facilities within their respective service territories. *Id.*

All of the transmission facilities of Met-Ed and Penelec are under the operational control of the PJM Interconnection, L.L.C. (“PJM”) as the regional transmission organization (“RTO”) for thirteen states (including Pennsylvania) and the District of Columbia. *Id.* All transmission services are provided by PJM, which uses the facilities of Met-Ed and Penelec, as transmission owners, pursuant to the terms of the PJM Open Access Transmission Tariff (“OATT”) approved by the FERC. As such, the FERC has jurisdiction over transmission rates and practices as well

⁷ As explained in Paragraph 2(b) of the Joint Petition, the FERC has already granted the necessary approvals in its final order entered February 18, 2016 at Docket No. EC15-157-000. *See Pa. Elec. Co.*, 154 FERC ¶ 61,109 (2016). When it obtains the necessary approvals of the NJBPU, JCP&L will contribute its transmission assets to MAIT.

⁸ Unless stated or the context suggests otherwise, all references to a “Section” or “Sections” are to the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 101 *et seq.*

as contracts affecting transmission rates.⁹ The FERC will continue to have jurisdiction over transmission service furnished by MAIT pursuant to PJM's OATT following the completion of the Transaction.

JCP&L is also a wholly-owned subsidiary of FirstEnergy. JCP&L provides electric distribution service to retail customers in New Jersey (Joint Applicants' Statement No. 1, p. 4). In addition to its distribution facilities, JCP&L currently owns 2,569 circuit miles of transmission lines and related facilities within its service territory, which are also under the operational control of PJM as the RTO. *Id.* at 4-5.

FET is a subsidiary of FirstEnergy. FET's subsidiaries currently include American Transmission Systems, Inc. ("ATSI") and Trans-Allegheny Interstate Line Company ("TrAILCo"). ATSI provides transmission service in western Pennsylvania and Ohio and is comprised in large part of the transmission assets formerly owned by FirstEnergy's operating utilities in those states (Pennsylvania Power Company or "Penn Power" in Pennsylvania) and (Toledo Edison Company, Ohio Edison Company and the Cleveland Electric Illuminating Company in Ohio). Penn Power's transfer of its transmission assets to ATSI was approved by the Commission in 2000.¹⁰ TrAILCo owns and maintains transmission facilities primarily located in Pennsylvania, West Virginia and Virginia that are used to furnish interstate

⁹ See *New England Power Co. v. New Hampshire*, 455 U.S. 331, 340 (1982). Accord *New York v. FERC*, 535 U.S. 1, 18-19 (2002) ("the [Federal Power Act] gave FERC jurisdiction over the transmission of electric energy in interstate commerce"). See also *Pa. P.U.C. v. PECO Energy Co.*, Docket No. R-00973953, 1998 Pa. PUC LEXIS 2 at *12-14 (Feb. 5, 1998) ("Transmission services are FERC jurisdictional and, as such, the terms and conditions under which unbundled transmission services are to be provided to customers will be controlled by the FERC-approved PJM Open Access Tariff for the transmission services procured by PECO or a competitive supplier . . .").

¹⁰ *Application Of Pennsylvania Power Co. For (1) A Certificate Of Public Convenience Authorizing The Transfer Of Certain Transmission Assets To American Transmission Systems, Inc., And (2) Approval Of Certain Affiliated Interest Agreements Necessary To Effect The Transfer*, Docket No. A-110450F0016 (July 14, 2000).

transmission service. The establishment of TrAILCo as a separate, stand-alone transmission company was approved by the Commission in 2008.¹¹

B. Overview Of The Transaction

Following approval by this Commission, Met-Ed and Penelec will make a one-time contribution of their existing transmission assets to MAIT as a tax-free transfer in exchange for Class B membership interests in MAIT (Joint Applicants' Statement No. 1, pp. 7-8). As owners of Class B membership interests, the Companies will have voting rights over various fundamental structural matters, namely, the filing of a voluntary petition in bankruptcy, a merger or the sale of substantially all the assets of MAIT (*see* Joint Applicants' Statement No. 3, pp. 4-5).

FET will make a cash contribution to MAIT in exchange for Class A membership interests, which will give FET operating and management control of MAIT befitting its role as the member that will be responsible for the day-to-day business operation of MAIT (Joint Applicants' Statement No. 3-R, p. 3). As a consequence of FET receiving Class A shares, MAIT will be treated as a consolidated subsidiary of FET for financial reporting purposes. *Id.* Thus, FET will be the entity that consolidates MAIT's assets and liabilities on its balance sheet. *Id.* As a practical matter, this means that the substantial amounts of long-term debt that will be issued in the future for the planned expansion of the EtF program in the Met-Ed and Penelec zones will not appear on the balance sheets of Met-Ed and Penelec. *Id.* Keeping that debt off the balance

¹¹ *See Application of Trans-Allegheny Line Company (TrAILCo) For Approval: 1) for a Certificate of Public Convenience to Offer, Render Furnish or Supply Transmission Service in the Commonwealth of Pennsylvania; (2) Authorization and Certification to Locate, Construct, Operate and Maintain Certain High-Voltage Electric Substation Facilities; 3) Authority to Exercise the Power of Eminent Domain for the Construction and Installation of Aerial Electric Transmission Facilities Along the Proposed Transmission Line Routes in Pennsylvania; 4) Approval of an Exemption from Municipal Zoning Regulation With Respect to the Construction of Buildings; and 5) Approval of Certain Related Affiliated Interest Arrangements, Docket Nos. A-110172 et al. (December 13, 2008).*

sheets of the Companies is one of the important reasons for undertaking the Transaction. *Id.* Met-Ed and Penelec will record their investment in MAIT as an asset on their balance sheets, namely, as an investment in subsidiary companies (Joint Applicants' Statement No. 4, p. 14).

MAIT will be an affiliate of FirstEnergy Service Company ("FESC"), which will provide various administrative and management services to MAIT pursuant to the FirstEnergy Service Agreement (Joint Applicants' Exhibit KJT-5). The FirstEnergy Service Agreement is one of the affiliated interest agreements for which the Joint Applicants seek approval under Chapter 21 of the Public Utility Code (*see* Joint Applicants' Statement No. 4, p. 7; Joint Application ¶ 27).

As a result of the Transaction, Met-Ed and Penelec will no longer own any facilities serving a transmission function (Joint Applicants' Statement No. 1, pp. 6, 9). All transmission services over the transmission facilities will be provided by MAIT pursuant to the terms of PJM's OATT, consistent with the current operation of these facilities by Met-Ed and Penelec, which were described in Section II.A., above.

The transmission facilities transferred to MAIT will remain subject to the terms of the PJM OATT at all times before, during and after the Transaction. *Id.* at 9. Rates for transmission service will remain subject to the jurisdiction of the FERC and will be administered by PJM through its OATT. *Id.* Met-Ed and Penelec will continue to own and operate all distribution facilities they presently own and will continue to provide retail electric distribution service within their existing service territories as they do today (*see* Joint Application ¶ 13).

The existing transmission assets of Met-Ed and Penelec, including transmission-related regulatory assets, will be contributed to MAIT at book value (original cost less depreciation reserve), as required by generally accepted accounting principles ("GAAP") (Joint Applicants' Statement No. 4, pp. 10-11). The goodwill associated with those transmission assets, as recorded

on the books of account of Met-Ed and Penelec, will also be transferred to MAIT. *Id.* at 11-12. In exchange, the Companies will receive the Class B membership interests in MAIT previously described.

The Transaction is structured as a tax-free exchange of assets for ownership interests in a new limited liability company and, therefore, the Companies will not recognize taxable gain or loss on the Transaction (Joint Applicants' Statement No. 4, pp. 12-13). Because the Transaction is a tax-free exchange, the Accumulated Deferred Income Taxes ("ADIT") associated with transmission assets recorded on Met-Ed's and Penelec's books of account will transfer to MAIT's books. *Id.* at 13. The ADIT associated with transmission assets are properly not taken into account in determining the electric distribution rate base of Met-Ed and Penelec for Pennsylvania ratemaking purposes because no transmission assets are reflected in the distribution rate base (Joint Applicants' Statement No. 1, p. 8). However, transferring the ADIT to MAIT will assure that MAIT's FERC-jurisdictional rate base, like the existing FERC-jurisdictional rate bases of Met-Ed and Penelec, reflects the credit balance of ADIT (*Id.* and Joint Applicants' Statement No. 4, p. 13). Consequently, the Transaction will not result in any cost shifting between transmission and distribution customers nor will the FERC-jurisdictional rate base attributable to the transmission assets increase solely as a result of the Transaction (Joint Applicants' Statement No. 1, p. 8).

Met-Ed and Penelec will not transfer a fee interest in land and other real estate to MAIT in connection with the contribution of their transmission assets, and such fee interests will remain on Met-Ed's and Penelec's books (Joint Applicants' Statement No. 1, pp. 8-9; Joint Applicants' Statement No. 4, pp. 5-6). However, MAIT will need certain real estate interests and access rights in order to operate and maintain the transmission facilities going forward. *Id.*

Consequently, MAIT will enter into a ground lease with each of the Companies to govern those interactions (“Ground Leases”). *Id.* As Joint Applicants’ witness K. Jon Taylor explained:

[A Ground Lease] is an administratively more efficient way to effect the transfer. It is also consistent with the way transmission facilities located in western Pennsylvania and Ohio were transferred to American Transmission Systems, Incorporated (“ATSI”) in 1999 and 2000,¹² which experience has shown provided ATSI all of the interests in real property it needs to safely, reliably and efficiently furnish transmission service. In summary, the use of a ground lease to provide MAIT the interests in real property it needs to operate and maintain the transmission facilities enables a quicker transfer of property rights by avoiding the need for surveys, deed recordings, and easement negotiations.

The fee interest in land and other real estate used for furnishing transmission service, as well as the Ground Lease payments from MAIT to the Operating Companies, will be excluded in determining the distribution revenue requirement in future distribution base rate cases (Joint Applicants’ Statement No. 1, pp. 8-9). This approach is fully consistent with existing ratemaking treatment of the land interests and transmission revenues, which have historically been reflected in determining transmission rates and, therefore, excluded from the determination of distribution rates because they are non-jurisdictional to Pennsylvania. *Id.* at 9.

Under the terms of the Ground Leases, Met-Ed and Penelec will receive rental payments that replicate the FERC-jurisdictional revenue requirement associated with including the land and land rights subject to the Ground Leases in FERC-jurisdictional rates (Joint Applicants Statement No. 1-R, p. 29). Additionally, under the terms of the Ground Leases, Met-Ed and Penelec reserve and retain the right to use the leased premises and the transmission facilities for any purpose not inconsistent with MAIT’s use of the premises for furnishing transmission

¹² See *Application Of Pennsylvania Power Co. For (1) A Certificate Of Public Convenience Authorizing The Transfer Of Certain Transmission Assets To American Transmission Systems, Inc., And (2) Approval Of Certain Affiliated Interest Agreements Necessary To Effect The Transfer, supra.*

service (*see* Joint Applicants' Exhibit KJT-2 (Ground Lease Article 8)). As a consequence, Met-Ed and Penelec could, for example, use the leased right-of-way to locate distribution lines.

Neither Met-Ed, Penelec nor JCP&L will have an obligation to contribute any equity to MAIT after the Transaction is consummated (Joint Applicants' Statement No. 3, p. 5). This representation is bolstered by a commitment in the Settlement terms that requires Met-Ed and Penelec to obtain prior Commission approval to make any additional capital investments in MAIT (*see* Joint Petition ¶ 32). MAIT will pay dividends at regular intervals to Met-Ed, Penelec, JCP&L and FET in proportion to each Company's ownership interest in MAIT at the time the dividend distribution is made. *Id.* at 6. The Settlement terms provide for a minimum level of dividends that MAIT will pay to Met-Ed and Penelec, subject to certain reasonable limitations and qualifications (*see* Joint Petition ¶ 35). The dividends that Met-Ed, Penelec and JCP&L receive will be available for all of their corporate purposes, including investment in distribution plant. *Id.* at 6.

The capital structures of Met-Ed, Penelec and JCP&L will remain unchanged as a result of the Transaction (Joint Applicants' Statement No. 3, p. 8). Prior to the Transaction, each of the Companies had an investment that was recorded as an asset in their transmission plant accounts. After the Transaction, each Company will record its investment in MAIT in an asset account (investment in subsidiaries) in an amount equivalent to the transmission assets (including goodwill and transmission-related regulatory assets and net of ADIT) contributed to MAIT. *Id.* at 9. Thus, the Transaction will not change the net amount of assets on the book of account of Met-Ed and Penelec and will have no impact on the liabilities or owners' equity portion of their balance sheets. *Id.*

No debt will be issued in connection with the Transaction and none of the owners of MAIT will provide guarantees of MAIT's debt (Joint Applicants' Statement No. 3, p. 8). Once MAIT is operating, it will issue long-term debt securities to finance investment in transmission plant and equipment. *Id.* Precisely when the first issuance by MAIT will occur cannot be determined at this time. *Id.* MAIT will issue debt that aligns with its capital spending and will continue to issue debt until its capital structure is within the range of FERC-approved capital structures (Joint Applicants' Statement No. 3S, p. 3). Once its capital structure is within the range of FERC-approved capital structures, MAIT will issue debt and FET will contribute equity as necessary to maintain MAIT's capital structure within that range. *Id.*

MAIT will have short-term borrowing capability from two sources. First, pursuant to the Joint Application, the Joint Applicants request that MAIT be approved to participate as a member of FirstEnergy's regulated money pool (all members are regulated entities) (Joint Applicants' Statement No. 3, p. 8, and Exhibit SRS-3). In addition, MAIT will have short-term borrowing capability under FET's existing \$1.0 billion credit facility. *Id.* These two sources of funds should provide MAIT with sufficient liquidity for day-to-day operations. *Id. See also* Joint Applicants' Statement No. 1, p. 12).

The Joint Applicants committed that applicable Transaction-related costs will be tracked and will not be recovered in rates (Joint Applicants' Statement No. 4, pp. 15-16). This commitment was enhanced pursuant to the terms of the Settlement, as explained hereafter.

C. Approvals Requested And Applicable Legal Standards

1. Transfer Of Property Pursuant To Section 1102(a)(3)

Section 1102(a)(3) provides that the prior approval of the Commission, evidenced by a certificate of public convenience, is required for a "public utility or an affiliated interest of a

public utility” to “acquire from, or transfer to [any other entity by any means whatsoever] the title to, or the possession or use of, any tangible or intangible property used or useful in the public service.”

The Commission may issue a certificate of public convenience upon finding that “the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.”¹³ This standard requires the Commission to find that the elements of a proposed transaction will “affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way.”¹⁴ The “substantial public interest” standard is satisfied by a preponderance of the evidence that the requisite benefit will accrue from the transaction, and such burden can be met by showing a likelihood or probability of public benefits that need not be quantified or guaranteed.¹⁵ Further, the public benefit test does not require that every customer receive a benefit from a proposed transaction.¹⁶ As explained in Section III, *infra*, and in the testimony submitted by the Joint Applicants, the Transaction will produce substantial affirmative benefits that fully satisfy the *York* test.

Section 2811(e)(1) requires that, in the exercise of authority the Commission may otherwise have with respect to the disposition of assets of an electric distribution company, the Commission shall consider the potential anti-competitive effects or discriminatory conduct of the disposition and whether it will prevent retail electricity customers in this Commonwealth from obtaining the benefits of a properly functioning and workable competitive retail electricity

¹³ 66 Pa.C.S. § 1103(a).

¹⁴ *City of York v. Pa. Pub. Util. Comm’n*, 449 Pa. 136, 151, 295 A.2d 825, 828 (1972)(hereafter “*York*”).

¹⁵ *Popowsky v. Pa. Pub. Util. Comm’n*, 594 Pa. 583, 617, 937 A.2d 1040, 1057 (2007).

¹⁶ *Popowsky*, at 617-18, 937 A.2d at 1061.

market. As explained hereafter, the Transaction will not adversely affect the competitive retail electricity market.

2. Public Utility Status For MAIT

Upon completion of the Transaction, MAIT will furnish only interstate transmission service (*see* Joint Applicants' Statement No. 1, p. 9). Consequently, MAIT will be a "public utility" for purposes of the Federal Power Act ("FPA"), which grants the FERC "exclusive authority to regulate the transmission and sale at wholesale of electric energy in interstate commerce."¹⁷

Because the FERC has exclusive jurisdiction over the interstate transmission of electric energy and the public utilities that provide such service and because MAIT will not provide any Pennsylvania intrastate public utility service, the Commission will not have jurisdiction over MAIT's rates, terms or conditions of transmission service, as the Commission has previously recognized.¹⁸

Transmission services are FERC jurisdictional and, as such, the terms and conditions under which unbundled transmission services are to be provided to customers will be controlled by the FERC-approved PJM Open Access Tariff for the transmission services procured by PECO or a competitive supplier The terms and conditions for transmission services for each separate rate classification are those established by FERC.

Notwithstanding the exclusivity of FERC's jurisdiction over MAIT's transmission rates and service, MAIT has requested that the Commission issue it a certificate of public convenience under Section 1101 conferring public utility status under Section 102. Although a certificate of public convenience is not necessary for MAIT to exercise the power of eminent domain in

¹⁷ *New England Power Co. v. New Hampshire, supra. Accord New York v. FERC, supra.*

¹⁸ *Pa. P.U.C. v. PECO Energy Co., supra.*

Pennsylvania,¹⁹ the issuance of a certificate of public convenience will subject MAIT to the Commission's regulations pertaining to siting high voltage (i.e., greater than 100 kV) transmission lines and, as a consequence, MAIT will also be assured that its siting, location, construction and operation of transmission facilities in Pennsylvania, including the existing transmission facilities of Met-Ed and Penelec, will not be subject to municipal zoning and land use regulations.²⁰

MAIT further requests that the certificate of public convenience to be issued by the Commission: (1) demarcate a service area for MAIT that is coextensive with the combined authorized service territories of Met-Ed and Penelec; and (2) expressly state that MAIT is not thereby authorized to furnish any intrastate public utility service within Pennsylvania. These aspects of MAIT's request for a certificate of public convenience are also addressed by the terms of the Settlement.

MAIT acknowledges that, as the holder of a certificate of public convenience, it will be required to comply with the Public Utility Code and the Commission's regulations and orders, other than those provisions that apply only to a public utility that furnishes intrastate service within Pennsylvania or that are preempted by the FERC's exclusive jurisdiction over transmission service and rates. MAIT reserves the right, in the future, to petition the Commission to be relieved of requirements that, given MAIT's provision of only interstate transmission service subject to the exclusive jurisdiction of the FERC, would not serve a reasonable regulatory purpose to impose on MAIT (*see* Joint Application ¶ 24).

¹⁹ *Application Of New York State Elec. & Gas Corp.: Request For Approval Of Abandonment Of Elec. Serv.*, Docket Nos. A-93538, A-110001 F.200, P-900488 (January 17, 1991) ("NYSEG").

²⁰ *York Water Co. v. York*, 250 Pa. 115, 118, 95 A. 396, 397 (1915). *Accord Duquesne Light Co. v. Monroeville Borough*, 449 Pa. 573, 298 A.2d 256 (1972) (local zoning ordinances preempted); *County of Chester v. Philadelphia Elec. Co.*, 420 Pa. 422, 218 A.2d 331 (1966) (local land development planning requirements preempted); *Duquesne Light Co. v. Upper St. Clair Twp.*, 377 Pa. 323, 105 A.2d 287 (1954) (local zoning and building permit requirements preempted).

3. Affiliated Interest Transactions

Section 2102(a), requires that a utility's contracts with affiliates that provide for the "furnishing of ...construction, engineering...or similar services [or] ...purchase, sale, lease or exchange of any property, right or thing..." must be filed with the Commission for its approval. Pursuant to Section 2102, the Joint Applicants are requesting that the Commission approve as affiliated interest agreements the Ground Leases between MAIT and each Joint Applicant. Forms of the ground leases are provided as Joint Applicants' Exhibit KJT-2 accompanying Joint Applicants' Statement No. 4. Pursuant to the Ground Leases, each Joint Applicant will lease the real estate rights associated with the transmission assets being contributed to MAIT by that Joint Applicant.

The Joint Applicants are also requesting Commission approval of modifications to four existing affiliated interest agreements to include MAIT in order to facilitate its transmission-related activities and business operations:

- Under the FirstEnergy Service Agreement, MAIT will be entitled to receive administrative, management, and other services from FESC. A copy of this agreement, as amended, is provided as Joint Applicants' Exhibit KJT-5 and is addressed in Joint Applicants' Statement No. 4.
- A copy of the Mutual Assistance Agreement ("MAA") is provided as Joint Applicants' Exhibit KJT-6 and is also addressed in Joint Applicants' Statement No. 4. Under the amended MAA, MAIT will be able to request and receive non-power goods and services from any of the FirstEnergy operating companies, including Met-Ed and Penelec, consistent with the terms and conditions of the

MAA (e.g., technical support services and workers to assist MAIT in the performance of its operations as a stand-alone transmission asset owner).

- Under the Intercompany Income Tax Allocation Agreement, MAIT will be able to participate in FirstEnergy's filing of a consolidated tax return. A copy of this agreement is being provided as Joint Applicants' Exhibit KJT-7 and is discussed in Joint Applicants' Statement No. 4.
- Under the FirstEnergy Regulated Money Pool Agreement, MAIT will become a member of the FirstEnergy Regulated Money Pool and will be able to borrow from, or lend to, other regulated companies to manage its working capital requirements. A copy of this agreement is being provided as Joint Applicants' Exhibit SRS-4 and is discussed in Joint Applicants' Statement No. 3.

The Joint Applicants have also filed with the Joint Application the Capital Contribution Agreement (Joint Applicants' Exhibit KJT-1), which is the agreement pursuant to which the transfer of transmission assets to MAIT will be effected. As such, the Capital Contribution Agreement embodies the Transaction for which the Joint Applicants seek approval under Section 1102(a)(3). Accordingly, approval of the Transaction by the Commission as requested by the Joint Applicants will grant all of the approvals necessary to consummate the Transaction, including approval of the Capital Contribution Agreement under Chapter 21, if necessary (*see* Joint Application ¶ 46(5) requesting all approvals "as may be necessary to consummate the Transaction").

III. THE TRANSACTION FULLY SATISFIES THE YORK PUBLIC BENEFIT STANDARD

As previously explained, FirstEnergy has established the EtF program, which is designed to increase the reliability of the transmission system, improve the condition of equipment, enhance system performance, and improve operational flexibility (Joint Applicants' Statement No. 2, pp. 5-6). The EtF program initially focused on reliability enhancement investments in the ATSI transmission zone, and FirstEnergy now proposes to expand the program to include reliability enhancement investments in the Met-Ed, Penelec and JCP&L zones. *Id.*

Based on a preliminary assessment, increased transmission system capital investments in the service territories of Met-Ed, Penelec and JCP&L are needed that could total as much as \$2.5 to \$3.0 billion over the next five to ten years (Joint Applicants' Statement No. 3, p. 11). FirstEnergy has determined that significant investment in the transmission facilities within the Companies' respective service areas is needed to maintain reliability stemming from various changes on those transmission systems, including, among other factors, generation changes (i.e. the retirement of existing generation units and the addition of, new fossil fueled and renewable generating facilities); changes in load; the imposition of the North American Electric Reliability Corporation ("NERC") and ReliabilityFirst ("RF") reliability standards; increased reliance on demand-side resources; heightened concerns with cyber and physical security; the aging and deterioration of existing infrastructure; system conditions that FirstEnergy's periodic assessments have uncovered; and the need for additional operational flexibility (*see* Joint Applicants' Statement No. 2, pp. 6-7.) The expansion of the EtF program is the comprehensive plan for guiding these transmission investments and will improve the resilience, reliability, and capacity of the transmission system for the Companies' existing and new customers. *Id.*

Because of the levels of investment that will be needed to enhance the transmission grid, it will be increasingly challenging for utilities that are obligated to meet the service requirements of retail electric distribution customers to sustain transmission expansion and enhancement initiatives while maintaining investment grade credit ratings needed to support an adequate supply of investor capital (Joint Applicants' Statement No. 3, p. 11). Companies that are focused solely on the delivery of safe and reliable transmission service offer several advantages, which can result in enhanced reliability and lower overall costs for customers:

Reduced Cost of Capital. A transmission-only company improves transparency for investors, which can reduce perceived investor risk and improve the overall credit profile of the business (Joint Applicants' Statement No. 1, pp. 18-19 and Statement No. 3, p. 12). Higher credit ratings generally translate into greater access to capital at lower cost and provide a direct benefit to transmission customers and to the customers of public utilities that need transmission service to furnish retail distribution service (Joint Applicants' Statement No. 1, p. 19 and Statement No. 3, p. 12). Separate transmission companies, which have a singular focus on providing transmission service and transparent cost recovery mechanisms, are regarded as an attractive investment for a wider spectrum of investors and, therefore, provide added flexibility in raising capital through multiple avenues, whether public or private, at lower cost (Joint Applicants Statement No. 3, p. 14).

The Joint Applicants submitted extensive record evidence of the reduced cost of capital that can be achieved by a separate transmission company. Notably, TrAILCo, an existing subsidiary of FET, demonstrates this point. TrAILCo has been given stronger credit ratings by

Moody's (A3) than either Met-Ed (Baa1) or Penelec (Baa2) (Joint Applicants' Statement No. 3, p. 12).²¹

Additionally, Joint Applicants' Exhibit SRS-2, which accompanied Mr. Staub's Direct Testimony, shows the average spreads of corporate bond yields over U.S. Treasury yields for three different credit ratings assigned by S&P for the period from January 2013 through February 2015. The data show that higher credit ratings generally translate into a lower cost of capital, which is a direct benefit to customers of regulated utilities (Joint Applicants' Statement No. 3, pp. 12-13 and Statement No. 3-R, pp. 5-6). The four data points shown as red squares (labeled 1, 2, 3 & 4 on Exhibit SRS-2) reflect the actual spread of the yields on bonds issued by Met-Ed, Penelec, JCP&L and TrAILCo relative to the average spread of all corporate bonds issued with the specific credit ratings shown on the chart. The data show that the spreads for Met-Ed and JCP&L, which are rated Baa2 by Moody's, is nearly identical to the basis point spread for S&P's BBB rated bonds. Penelec had a larger spread. *Id.* Significantly, TrAILCo's debt at the time of issuance priced 30 basis points lower than the average spread for all BBB (S&P) bonds. *Id.* These data also demonstrate that it is reasonable to expect MAIT to have a lower cost of debt than the Companies. *Id.*

The effects of credit quality on price are also shown by six additional data points on Joint Applicants' Exhibit SRS-2. *Id.* The three data points shown as green circles (labeled 5, 6 and 7) reflect the actual spread of the yields on bonds issued by ITC Midwest LLC, ITC Great Plains LLC and Michigan Electric Transmission Company, LLC, all transmission-only utilities and

²¹ While Moody's derives a separate credit rating for each company under the same holding company umbrella, S&P employs a "group approach" that assigns the same long-term issuer rating to all members of a corporate holding company system, which cannot exceed the credit rating of the parent. However, S&P also provides a pure "stand-alone" credit profile for each member of a holding company group. The S&P stand-alone credit profile for TrAILCo is AA, which is at least three notches above that of Met-Ed, Penelec or JCP&L (Joint Applicants Statement No. 3-R, pp. 4-5).

wholly-owned subsidiaries of ITC Holdings Corp, the nation's largest independent electric transmission company. The three data points shown as orange triangles (labeled 8, 9 & 10) reflect the actual spread of the yields on bonds issued by American Transmission Company, a privately owned transmission-only company. As can be seen, all six issuances have a Moody's credit rating of A1, and are priced significantly lower than the spread for Moody's Baa2 and A3 bonds shown on the exhibit.

As Mr. Staub explained, because MAIT's structure and form of FERC cost recovery will be similar to TrAILCo's, it is reasonable to expect that MAIT will have at least a 30 basis point price advantage over the Companies (Joint Applicants' Statement No. 3, p. 13). From a financing perspective, a 30 basis point differential in long-term debt rates, when applied to \$1.5 billion of debt financed rate base for Met-Ed and Penelec would result in \$135 million in savings over a 30-year asset life. *Id.* Mr. Staub also explained that the estimated 30 basis point savings is conservative because it does not reflect the economies and increased liquidity benefits to be derived from the larger debt issuances to finance transmission assets that will be possible through MAIT following the completion of the Transaction. *Id.* at 14.

Reduced Competition for Capital. Because borrowing capacity is not unlimited, investment by each Company in transmission facilities competes with other necessary investments and may have to be deferred in favor of more immediate or emergency investments required with regard to distribution facilities (Joint Applicants' Statement No. 3, p. 15). Without such competing interests, MAIT will be able to pursue investment in necessary transmission facilities on which a reasonable return can be earned, while enhancing service to customers. *Id.*

Furthermore, MAIT's operational flexibility and access to capital will better equip it to respond promptly, efficiently, and cost-effectively to PJM and NERC reliability requirements.

Id. at 15-16. This is especially important because, under the existing structure where the Companies own the transmission assets, PJM requirements to construct new transmission projects increasingly commit a significant portion of their available capital to such projects, which is then unavailable for distribution system investment. *Id.* at 16. Consequently, the capital demands imposed by increasing investment in transmission projects could impinge on the Companies' ability to access the capital needed for distribution plant investments, and the associated increase in debt burden could adversely affect the financial condition and credit profiles of the Companies. *Id.* See also Joint Applicants' Statement No. 1, pp. 19-20.

Because MAIT will issue debt in its own name without a parent guarantee, any debt incurred by MAIT to finance new transmission will not affect the financial condition and credit ratings of Met-Ed or Penelec (Joint Applicants' Statement No. 3, p. 16). This will allow the Operating Companies to have greater control over annual expenditures dedicated to their distribution business and reduce the range of business lines that investors must evaluate to assess investment risks. *Id.* As a result, adopting a transmission-only model by the establishment of MAIT better supports the sustained level of transmission investment needed at MAIT while, at the same time, preserving the Companies' capacity to issue debt for their own distribution system needs. *Id.*

Efficiency. MAIT will be a much larger transmission owner than any one of the Operating Companies would ever be individually (Joint Applicants' Statement No. 3, p. 15). The larger transmission asset pool that MAIT represents makes it better equipped, from a financial perspective, to secure the debt required to make substantial investments in the transmission system on reasonable terms. *Id.* Rather than issuing debt at each of the Operating

Companies for needed transmission investments, debt only needs to be issued at the MAIT level. This makes the process more cost effective, efficient and less time consuming. *Id.*

Operational Benefits and Job Creation. The creation of MAIT will facilitate and accelerate the realization of the numerous operational benefits described by Mr. Mackauer (Joint Applicants' Statement No. 2), which will increase reliability and harden the transmission system against physical and cyber-attacks. Specifically, the formation of MAIT and completion of the proposed Transaction will enable increased and accelerated investment in projects such as constructing new and upgrading existing transmission lines and substations; enhancing the communications infrastructure; and modernizing the transmission system by, among other initiatives, enhancing physical and cyber security. *Id.* As described in detail by Mr. Mackauer, the projects to be undertaken can be grouped into one or more of five general categories, each of which will provide the direct benefits to system reliability, resilience and customer service, as summarized below:

(i) System Condition Projects are designed principally to enhance system reliability. Consequently, most of the projects in this category will reduce the frequency and/or duration of customer outages, although certain projects are also designed to reduce maintenance costs, increase safety, generally modernize the transmission system and address environmental concerns (Joint Applicants' Statement No. 2, pp. 9-4).

(ii) System Performance Projects will help to increase real-time operational "visibility" into the status of the transmission system and conditions existing on the system and, thereby, improve situational awareness, which, in turn, will enable quicker analysis of, and response to, system events. The addition of breakers and automatic sectionalizing switches at

tapped substations will enhance reliability and improve service to customers by increasing the speed of system restoration and reducing the frequency and duration of outages. *Id.* at 14-16.

(iii) Operational Flexibility Projects will, as their name suggests, provide more flexibility in dealing with both scheduled and unscheduled outages and, in that way, enhance reliability. Such projects will also add load-serving capability, increase the transmission system's operating margin to better respond to future unexpected shifts in generation and system loading, and, in general, establish a more robust transmission system. *Id.* at 16-17.

(iv) Transmission Communications Infrastructure, Physical Security Enabling and Cyber Security Projects will enhance the reliability, security and general capability of the communications systems that are required to monitor, control, and protect the transmission system. These projects will also help to reduce maintenance costs, employee overtime expenses and equipment failures. *Id.* at 18-20.

(v) Physical Security Projects will enhance reliability and increase situational awareness by providing the means for earlier identification of potential threats to critical substation assets. These measures, which include installing or enhancing security systems, will also safeguard the public from electrical hazards and deter criminal activity through faster detection of unusual events, thus enabling appropriate responses to be initiated sooner. These projects will also harden the transmission system through additional or enhanced physical security measures and monitoring. *Id.* at 20-21.

In addition to the numerous operational benefits outlined above, increasing and accelerating investment in the transmission system will create benefits for the economy (Joint Applicants' Statement No. 2, p. 23). In that regard, based upon initial assessments of the scope and nature of the work encompassed by the proposed expansion of the EtF, it is estimated that

the increased investments MAIT will facilitate will have a material, positive effect on job creation in the states covered by the Companies' transmission zones. *Id.*

Increased Transparency and Regulatory Oversight Benefits. Met-Ed's and Penelec's financial reports historically have either shown earnings on a combined basis for the transmission and distribution functions or included specific exclusions and allocations to reflect the earnings of the distribution portion of each utility (Joint Applicants' Statement No. 1, p. 17). After the Transaction, Met-Ed's and Penelec's quarterly financial reports will be better aligned with the assets recorded on their books and will not require adjustments to isolate the earned rate of return of their intrastate retail distribution businesses. *Id.* at 17-18. Likewise, Met-Ed and Penelec will no longer need to exclude transmission plant, revenue and expenses or calculate allocations to assign a portion of their total costs to transmission service as part of the process of preparing distribution rate filings, which will simplify and streamline those filings and should reduce the time and resources required for other parties to review and analyze the Companies' supporting data. *Id.* at 18.

From a transmission perspective, the consolidation of the Met-Ed and Penelec transmission assets within MAIT will allow interested parties to easily review the annual updates to the transmission revenue requirement because that review can be focused on a single entity that owns only transmission assets. *Id.* The Transaction will also provide both the FERC and the Commission increased clarity with respect to the business functions that each commission regulates. This will provide greater certainty that there is no potential for any misallocation between the transmission and distribution functions of what currently are treated as common assets and common costs. *Id.*

The Transaction will also provide an additional level of assurance that customers and suppliers have nondiscriminatory access to the transmission system. *Id.* Today, Met-Ed and Penelec maintain nondiscriminatory access to the transmission system through functional separation and strict adherence to the FERC Standards of Conduct. *Id.* The Transaction will create a true corporate separation of the transmission business, rather than the functional separation that exists today. *Id.*

For all the reasons set forth above, there is substantial record evidence to establish that the Transaction will produce affirmative public benefits that will fully satisfy the *York* standard for issuance of a certificate of public convenience approving the Transaction.

IV. NO ADVERSE IMPACT ON COMPETITION

Met-Ed and Penelec seek to separate their transmission facilities from their distribution facilities in order to pave the way for a more efficient vehicle to finance significant investment in transmission assets (Joint Applicants' Statement No. 1, p. 18). MAIT does not currently own any generation or transmission facilities and will not own or control any generation upon completion of the proposed Transaction. *Id.* When the contribution of the Companies' transmission assets to MAIT is completed, Met-Ed and Penelec will no longer own any facilities serving a transmission function. *Id.* Consequently, the proposed contribution will have no effect on the concentration of generation or transmission assets or upon market power. *Id.* Moreover, the proposed Transaction will leave the transmission facilities under the operational control of an RTO and, therefore, it will have no adverse effect on competition in the wholesale power market. *Id.* The undisputed record evidence fully supports a Commission finding under Section 2811(e)(1) that the Transaction will not result in the unlawful exercise of market power that

would prevent retail electricity customers in Pennsylvania from obtaining the benefits of a properly functioning and workable competitive retail electricity market.

V. THE RECORD EVIDENCE SUPPORTS THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE TO MAIT CONFERRING THE STATUS OF A PENNSYLVANIA PUBLIC UTILITY

In the Joint Application, MAIT requested the issuance of a certificate of public convenience conferring upon it public utility status pursuant to Section 1101, which provides, in relevant part, as follows:

Upon the application of any proposed public utility and the approval of such application by the commission evidenced by its certificate of public convenience first had and obtained, it shall be lawful for any such proposed public utility to begin to offer, render, furnish, or supply service within this Commonwealth. The commission's certificate of public convenience granted under the authority of this section shall include a description of the nature of the service and of the territory in which it may be offered, rendered, furnished or supplied.

Section 1103 provides that a certificate of public convenience should be issued if the Commission "shall find and determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public." In applying Sections 1101 and 1103, the Commission has held that a certificate of public convenience conferring public utility status will be issued where there is a need for the proposed service and the applicant had demonstrated its fitness to provide that service.²²

When the assets and service territory of an existing utility are being transferred to another utility, there is a rebuttable presumption that need for the transferor's service continues and

²² See *Application of Newtown Artesian Water Co.*, 2003 Pa. PUC LEXIS 40 (July 1, 2003).

satisfies the applicable legal standard.²³ Moreover, as explained previously, after the Transaction is consummated, MAIT will provide financial and operational benefits that would not be achieved by the Companies' continuing to own the transmission assets being contributed to MAIT.

The Commission has held that "fitness" encompasses: (1) the technical capacity to fulfill the identified service need in a satisfactory fashion; (2) the financial capacity to obtain the plant and equipment needed to perform the proposed service in a reliable and responsible fashion; and (3) a propensity to operate safely and legally.²⁴ As explained in Joint Applicants' Statement No. 1, pp. 11-13, MAIT satisfies each of the components of the fitness requirement:

(i) **Technical Capacity.** Like Met-Ed and Penelec, MAIT will be a member of the FirstEnergy holding company system and, as such, will have access to the resources and expertise available from FESC. MAIT will also be able to call upon and use the existing well-trained complement of Operating Companies' employees, which has extensive experience in operating and maintaining the Operating Companies' transmission systems. *Id.* at 12.

(ii) **Financial Capacity.** MAIT will have adequate short-term borrowing capacity through its participation in the FirstEnergy Money Pool Agreement and FET's \$1.0 billion credit facility to meet all of the obligations of its day-to-day operations. *Id.* at 12-13. Additionally, MAIT's strengthened financial metrics will facilitate obtaining long-term debt at reasonable rates, as explained in detail previously. MAIT's access to debt capital and the opportunity for FET to make additional equity contributions will be sufficient to maintain and, as necessary, expand MAIT's transmission system. *Id.*

²³ *Applications of Pennsylvania-American Water Company*, Docket Nos. A-212285F019; A-212285F020; A-212285F021, 1995 Pa. PUC LEXIS 197 at *6-7 (October 26, 1995).

²⁴ *Re William O'Connor*, 54 Pa. P.U.C. 547, 549 (1980).

(iii) **Propensity To Operate Safely and Legally.** MAIT will operate safely and in full compliance with applicable legal requirements and, as the successor to the Operating Companies' transmission functions, MAIT will continue the Companies' track record of satisfying all applicable legal and regulatory obligations and consistently furnishing safe and reliable transmission service. *Id.* at 13. Moreover, MAIT acknowledges that, as the holder of a certificate of public convenience, it will be required to comply with the Public Utility Code and the Commission's regulations and orders, excluding those provisions that expressly or by reasonable implication apply only to a public utility that furnishes intrastate service within Pennsylvania or that are preempted by the FERC's exclusive jurisdiction over transmission service and rates.

For all of the reasons set forth above, MAIT fully satisfies all three components of the fitness requirement for issuance of a certificate of public convenience as a Pennsylvania public utility.

VI. THE AFFILIATED INTEREST AGREEMENTS FILED WITH THE JOINT APPLICATION SHOULD BE APPROVED

Section 2102(b) provides that the Commission "shall approve" an affiliated interest agreement "only if it shall clearly appear and be established upon investigation that it is reasonable and consistent with the public interest." The affiliated interest agreements filed with the Joint Application fully satisfy the statutory criteria for approval.

The use of the Ground Leases to provide MAIT the interests in land and land rights necessary to own and maintain the transmission facilities it will receive as well as subsequent additions is the same approach employed by Penn Power and ATSI, which the Commission

found reasonable and approved.²⁵ As previously explained, the Ground Leases provide that Met-Ed and Penelec will be compensated by rental payments that replicate the FERC revenue requirement associated with the Ground Leases used to furnish transmission service. Additionally, and also discussed previously, the Companies have retained the right to use and occupy the leased premises as may be necessary for them to provide distribution service. The Ground Leases have been thoroughly investigated by the other Joint Petitioners, who agree that they should be approved.

The other affiliated interest agreements (i.e., the FirstEnergy Service Agreement, the MAA, the Intercompany Tax Allocation Agreement and the FirstEnergy Regulated Money Pool Agreement) are agreements that are already in effect with the prior approval of the Commission, and the only change for which approval is requested is to add MAIT to the list of parties. Accordingly, these agreements as modified in the manner requested also satisfy the statutory criteria for approval under Section 2102(b).

VII. SPECIFIC SETTLEMENT TERMS²⁶

The public benefits that the Transaction will produce are explained above and are fully supported by the record evidence. Section II of the Joint Petition sets forth twenty-four specific terms and conditions to which the Joint Petitioners have agreed that further enhance the already substantial benefits that will be created by completing the Transaction and granting the other

²⁵ *Application Of Pennsylvania Power Co. For (1) A Certificate Of Public Convenience Authorizing The Transfer Of Certain Transmission Assets To American Transmission Systems, Inc., And (2) Approval Of Certain Affiliated Interest Agreements Necessary To Effect The Transfer, supra.*

²⁶ This Section contains a general description of the terms and conditions of the Settlement set forth in the Joint Petition. While every effort has been made to try to ensure that the descriptions are accurate, if any inconsistency exists or is perceived between the Statement in Support and the terms and conditions of the Joint Petition, the Joint Petition shall take precedence and should control.

approvals requested in the Joint Application. The Settlement's terms and conditions are summarized below.

Paragraph Nos. 18 and 19. Paragraph No. 18 sets forth the Joint Petitioners' agreement that: (1) all the legal requirements have been met for the Commission to issue certificates of public convenience under Sections 1101 and 1102, respectively, conferring public utility status on MAIT and approving the Transaction subject to the terms and conditions of the Settlement; (2) pursuant to Section 2811(e)(1) the Commission should find the Transaction will not adversely affect retail electricity competition in Pennsylvania; (3) the agreements filed with the Joint Application should be approved under Chapter 21; and (4) upon issuance of the foregoing certificates of public convenience and granting the foregoing approvals, the Joint Applicants will have all the approvals necessary from the Commission to consummate the Transaction. Paragraph 19 demarcates the service area of MAIT, which will be coextensive with the combined service areas of Met-Ed and Penelec.

Paragraph No. 20 acknowledges that the Commission will have the same jurisdiction over MAIT's transmission asset that it currently retains over Met-Ed's and Penelec's transmission assets.

Paragraph No. 21 is an affirmation and agreement that Ground Lease payments received by the Companies are properly excluded from distribution revenue for Pennsylvania ratemaking purposes as are the underlying property and associated accumulated depreciation, annual depreciation and any associated expenses.

Paragraph Nos. 22 and 23 clarify the terms of the formula in the Ground Leases to calculate rental payment to the Companies.

Paragraph No. 24 provides assurance that customers will be held harmless if the ADIT (a credit against rate base) were to be lost to MAIT as a result of the Transaction.

Paragraph No. 25 sets forth provisions committing MAIT to finance new capital investments over the next five to ten years by issuing debt in its own name, subject to certain qualifiers set forth in this paragraph, which are designed to facilitate MAIT's achieving an actual capital structure within the range of FERC-approved capital structures.

Paragraph No. 26 provides that MAIT will propose, in its FERC formula rate filing, a two-year commitment to use a transitional capital structure of 50% equity and 50% debt.

Paragraph No. 27 provides that Joint Applicants commit to exclude Transaction-related and transition costs related to the Transaction from distribution and transmission rates. It also defines the relevant terms necessary to implement this commitment.

Paragraph No. 28 provides that transmission-related costs that, prior to the Transaction, were assigned or allocated to transmission activities will, after the contribution of Met-Ed's and Penelec's assets to MAIT, be recovered by those Companies through the MAA or allocated to MAIT pursuant to the FirstEnergy Service Agreement. It also provides that any future changes to such agreements must be approved by the Commission.

Paragraph No. 29 allows MAIT to seek a return on equity incentive or premium in FERC rates, but it may not seek such incentive or premium return on the basis that it is a new company without an established credit rating or that it is a single purpose entity and, therefore, has greater risk.

Paragraph No. 30 provides that the FERC formula rate to be developed by MAIT will reflect the benefits of any ADIT, inter-company tax costs, or deferred taxes associated with the transferred assets to the extent consistent with FERC-approved practice.

Paragraph No. 31 provides that MAIT will give Joint Petitioners thirty-days prior notice that it will make a formula rate filing at the FERC and will hold a pre-filing meeting with them.

Paragraph No. 32 requires Met-Ed and Penelec to obtain prior Commission approval before making any additional capital investment in MAIT.

Paragraph No. 33 provides that MAIT is bound by the condition attached to the Commission's approval of the merger of FirstEnergy and GPU Inc. that the merged company will not withdraw the transmission facilities from the operational control of PJM without prior Commission approval.

Paragraph No. 34 provides for annual reporting for five years with respect to the calculation of Ground Lease payments, the annual dividends paid by MAIT to the Companies, and the actual costs assigned or allocated between MAIT and the Companies by FESC with an explanation of how such assignment or allocation was performed. If the other Joint Petitioners request, a meeting will be convened to review the report(s) and answer questions.

Paragraph No. 35 provides the minimum level of dividends that MAIT will pay to the Companies, subject to certain limitations and qualifications set forth in this paragraph.

Paragraph No. 36 provides that a meeting will be convened annually with the Joint Petitioners until the fifth anniversary of the completion of the asset contribution to MAIT by Met-Ed and Penelec to provide updates on the status of the EtF program.

Paragraph No. 37 provides that transmission regulatory assets related to storm damage and vegetation management are to be transferred to MAIT along with the transmission assets.

Paragraph No. 38 provides for filing with the Commission an updated list of transmission assets transferred from Met-Ed and Penelec to MAIT after the contribution of those Companies' assets to MAIT is completed and a final list of transferred assets is known.

Paragraph No. 39 is the Joint Petitioners' agreement that the Joint Applicants' answers to all of the TUS Interrogatories will be entered into the record. These answers were admitted as Joint Applicants' Exhibit 1-Settlement on February 29, 2016.

Paragraph No. 40 provides that in future distribution base rate cases filed during a period of five years from the date Met-Ed's and Penelec's transmission assets are contributed to MAIT, they will provide a detailed breakdown of mutual assistance revenues received from MAIT for transmission activities performed by Met-Ed and Penelec during the historic test year in each such filing.

Paragraph No. 41 provides that the conditions and commitments in Section II of the Joint Petition become effective only upon the completion of the contribution of the transmission assets from Met-Ed and Penelec to MAIT.

VIII. THE JOINT APPLICANTS HAVE PROVIDED FULL AND COMPLETE ANSWERS TO THE QUESTIONS POSED IN THE AUGUST 10, 2015 AND OCTOBER 1, 2015 SECRETARIAL LETTERS

As explained in the Joint Petition's recitation of the procedural history of this case (Joint Petition ¶ 6), on August 10, 2015 the Commission issued a Secretarial letter setting forth various questions to be addressed in this proceeding and permitting those questions to be answered by the submission of supplemental direct testimony. As discussed in the Paragraph 12 of the Joint Petition, the Joint Applicants submitted the Supplemental Direct Testimony of four witnesses who answered all of the questions posed by the Commission. The Supplemental Direct Testimony and accompanying exhibits were carefully reviewed by the other parties and the information provided therein was considered by them in reaching their independent judgments to enter into the Settlement (or in the case of Noble, to not oppose it). Accordingly, the instructions set forth in the August 10, 2015 Secretarial letter have been properly and fully complied with.

The October 1, 2015 Secretarial letter directed the Joint Applicants to place the Navigant Study on the record and invited other parties to independently examine the study's methodology and results. The same Secretarial letter directed that the record contain the "listing of transmission assets to be transferred from Met-Ed and Penelec to MAIT". *See* Joint Petition ¶ 8. The Navigant Study was placed in the record as Joint Applicants' Exhibit CVF-2 and was discussed in Joint Applicants' Statement No. 1, pp. 14-16. The list of transmission assets to be transferred was placed in the record as Joint Applicants' Exhibit KJT-9 and, as previously explained, will be updated pursuant to the terms of the Settlement when the transfer is completed.

I&E did not see any issue with the Navigant Study (*see* I&E Statement No. 1). The OCA's witness, Mr. Richard D. Hahn, testified that he reviewed the Navigant Study and found it to be "reasonable for the purposes of this proceeding." Accordingly, no party disagrees with the Joint Applicants' classification of transmission and distribution assets in this case.

Pursuant to the ALJs' directive at the February 29, 2016 hearing in this case, the Joint Petitioners prepared and attached to the Joint Petition as Appendix B responses to the questions posed by the Commission in its Secretarial letters dated August 10 and October 1, 2015. Appendix B also sets forth proposed ordering paragraphs.

IX. SUMMARY: THE SETTLEMENT IS IN THE PUBLIC INTEREST

The Settlement, both in its specific terms and viewed holistically, is reasonable, supported by record evidence, and is in the public interest for, among others, the following principal reasons:

- The creation of MAIT and the contribution to it of Met-Ed's and Penelec's transmission assets will establish a transparent, stand-alone transmission entity that is

expected to reduce investors' perception of financial risk, strengthen the credit profile of the transmission function and, as a consequence, provide improved access to capital at reasonable rates.

- Better credit metrics and improved access to capital are important at this time because FirstEnergy is expanding the scope of the EtF program to include transmission investments in the Met-Ed, Penelec and JCP&L zones designed to increase the reliability of the transmission system, improve the condition of equipment on the transmission system, enhance system performance and improve operational flexibility. A preliminary assessment indicates that increased transmission system capital investments in the Operating Companies' transmission zones could total as much as \$2.5 billion to \$3.0 billion over the next five to ten years.
- The expected stronger credit metrics of MAIT and the cost savings expected to be realized by having one company issue all of the debt needed to finance future transmission investments (conservatively estimated to total \$135 million for Met-Ed and Penelec over a 30-year asset life), rather than separate issuances by each Company, will contribute to successfully implementing the expansion of the EtF program. It will also benefit Met-Ed and Penelec by relieving them of the obligation to finance those significant transmission investments in addition to the financings required to support their continuing investment in distribution plant additions and enhancements.
- The Commonwealth of Pennsylvania is also expected to realize an economic benefit from the expansion of the EtF, including spurring job creation.

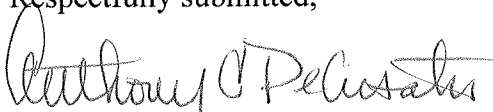
- In reaching this Settlement, the Joint Petitioners thoroughly considered all issues, including those raised in the testimony and evidence presented by the parties to this proceeding. They also carefully considered the information provided in responses to interrogatories and informal discovery. As a result of that consideration, the Joint Petitioners have agreed to the Settlement as a lawful and reasonable resolution of the issues in this case.
- All of the foregoing benefits are achieved while also conserving the time, resources and money that would otherwise have to be expended if this case were to be fully litigated. Customers are direct beneficiaries of these savings.
- The Settlement is consistent with the Commission's regulations, policies and prior orders promoting negotiated settlements.

X. CONCLUSION

For all of the reasons set forth above, in the Joint Application, and in the testimony and exhibits submitted by the Joint Applicants, the Settlement embodied in the Joint Petition, including all terms and conditions thereof, should be approved without modification and the Commission should: (1) issue a certificate of public convenience to MAIT under Section 1101 as a Pennsylvania public utility as defined in Section 102; (2) issue certificates of public convenience to Met-Ed and Penelec under Section 1102 approving the contribution of their transmission assets to MAIT on the terms set forth in the Joint Application, as modified by the terms of the Joint Petition, and, thereby, reflecting a finding, pursuant to Section 2811(e)(1), that the Transaction will not adversely affect the competitive retail electricity market in Pennsylvania; (3) approve the affiliated interest agreements filed by the Joint Applicants under

Section 2102; and (4) find and determine that, upon issuing the foregoing certificates of public convenience and granting the foregoing approvals, the Joint Applicants will have all of the approvals required from the Commission to consummate the Transaction.

Respectfully submitted,



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Dated: March 4, 2016

Appendix D

interest is served. Based upon I&E's analysis of the Joint Applicant's filing, acceptance of this proposed Settlement is in the public interest and I&E recommends that the Administrative Law Judges and the Commission approve the Settlement in its entirety.

2. On June 19, 2015, the Joint Applicants filed an Application to obtain Commission approval for Met-Ed and Penelec to contribute their existing transmission assets to MAIT, for MAIT to obtain a certificate of public convenience, and for approval of certain affiliated interest agreements.

3. Administrative Law Judges Mary Long and Mark A Hoyer were assigned to this proceeding for purposes of conducting hearings and issuing a Recommended Decision.

4. I&E entered the Notice of Appearance of Prosecutor Carrie B. Wright in this proceeding on August 28, 2015.

5. The ALJs held a prehearing conference on October 27, 2015, during which the parties agreed to a schedule for the conduct of the case including the service of testimony among the parties and the dates for evidentiary hearings.

6. All statutory parties undertook comprehensive discovery in this proceeding.

7. In accordance with the procedural schedule established at the prehearing conference, I&E served to all active parties the following testimony:

I&E Statement No. 1 – the Direct Testimony of Lisa A. Gumby.

8. In accordance with Commission policy favoring settlements at 52 Pa. Code § 5.231, I&E participated in multiple in-person and telephonic settlement discussions

with the Company and other parties to the proceeding. Following extensive settlement negotiations, the parties reached a settlement of all issues.

II. TERMS AND CONDITIONS OF SETTLEMENT

9. It is the policy of the Commission to encourage settlements.¹ Regarding Settlements, the Commission has issued a policy statement stating the following:

In the Commission's judgment, the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding²

10. This policy statement highlights the importance of settlement in Commission proceedings. The instant case was filed approximately six months ago, and over the past six months, the parties engaged in extensive formal and informal discovery, preparation of testimony, and lengthy settlement discussions. All signatories to the Joint Petition actively participated in and vigorously represented their respective positions during the course of the settlement process. As such, the issues raised by I&E have been satisfactorily resolved through discovery and discussions with the parties and are incorporated in the Joint Petition. I&E represents that the Settlement satisfies all applicable legal standards and results in terms that are preferable to those that may have been achieved at the end of a fully litigated proceeding. Accordingly, for the reasons articulated below, I&E maintains that the proposed Settlement is in the public interest and

¹ 52 Pa. Code § 5.231.

² 52 Pa. Code § 69.401.

requests that the Settlement be approved by the ALJ and the Commission without modification:

A. Ground Lease Revenue (Joint Petition ¶ 21)

The Joint Applicants proposed that revenue received for ground leases would be excluded in determining the revenue requirement in future distribution base rate cases.³ I&E recommended that ground lease revenues be considered above the line as part of distribution revenue in determining the revenue requirement in a distribution base rate case.⁴

As part of the Settlement, the Joint Petitioners have agreed that:

[t]he Joint Petitioners will not object to the exclusion of the Ground Lease revenue as a component of distribution revenue in a Met-Ed or Penelec distribution base rate case as non-jurisdictional...[i]f Met-Ed and/or Penelec seek to include in distribution rates the revenue requirement related to any underlying land, or a proportional share of underlying land, that is subject to the Ground Leases, Met-Ed and Penelec agree that any Ground Lease revenues associated with that underlying land, or proportional share of the underlying land, will also be included as a component of their distribution revenue in the future Met-Ed and Penelec distribution rate proceedings before the Commission where such revenue requirements are claimed.⁵

This provision addresses I&E's concern and is in the public interest. The choice to utilize ground leases is a more efficient and less costly option than the undertaking necessary to transfer the transmission land to MAIT.⁶ However, if the distribution

³ Joint Application p. 8, ¶ 15.

⁴ I&E St. No. 1, p. 11.

⁵ Settlement Petition p. 15, ¶ 21.

⁶ Joint Applicants' Statement No. 4-R, pp. 3-4.

companies, Met-Ed and Penelec, choose to add land to rate base where distribution facilities exist and meet used and useful requirement, any revenues received for rental of that land for other uses would correctly be considered above-the-line for distribution revenue purposes.

Therefore, I&E believes this provision is in the public interest, and I&E's concerns about the ground lease revenues has been satisfied.

B. Annual Reporting (Joint Petition ¶ 34)

As part of the Settlement, the Joint Applicants have agreed that on May 1st of each year for five years after the MAIT transaction has been completed an annual report will be provided to the Joint Petitioners that identifies the following: (1) the calculation of Ground Lease payments; (2) the annual dividends paid by MAIT to Met-Ed and Penelec during the prior calendar year; and (3) the actual costs assigned or allocated between MAIT, Met-Ed, and Penelec by the FirstEnergy Service Company ("FESC"). Further the Joint Applicants have agreed to provide a brief explanation as to why costs were assigned in the manner that they were and convene a technical session to answer any further questions if necessary.⁷

One of I&E main concerns in this proceeding was that costs be assigned and allocated correctly. At the close of a transaction such as this, it can take a few years for costs to stabilize. The Joint Applicants willingness to provide and discuss the information referenced in this Settlement provision will allow I&E to form a better

⁷ Settlement Petition, p. 19, ¶ 34.

picture of how cost are being assigned and allocated. Because of this, in future base rate proceedings I&E will be able to more easily analyze whether certain O&M costs were correctly allocated and make recommendations as to cost allocations.

C. Future Base Rate Filings (Joint Petition ¶ 40)

In Settlement, Met-Ed and Penelec have agreed that for future distribution base rate filings made during the five year period from the date the contribution of transmission assets from Met-Ed and Penelec to MAIT is completed, they will provide a detailed breakdown of mutual assistance revenues received from MAIT.

This provision will assist the Parties to any future base rate filings more accurately assess the utility's financial picture. The costs and revenue concerns identified by I&E in testimony can be addressed in future base rate proceedings. In order to accurately address the cost and revenue concerns, the Company must include with future distribution base rate filings a detailed breakdown of MAIT FESC allocated costs and of MAIT MAA revenues paid to the operating companies. With this information, the Parties to a base rate case will be able to determine whether costs have been accurately assigned.

III. THE SETTLEMENT SATISFIES THE PUBLIC INTEREST

11. I&E represents that all issues raised in testimony have been satisfactorily resolved through discovery and discussions with the Company or are incorporated or considered in the resolution proposed in the Settlement. The very nature of a settlement requires compromise on the part of all parties. This Settlement exemplifies the benefits

to be derived from a negotiated approach to resolving what can appear at first blush to be irreconcilable regulatory differences. Joint Petitioners have carefully discussed and negotiated all issues raised in this proceeding, and specifically those addressed and resolved in this Settlement. I&E is satisfied that no further action is necessary and considers its investigation of this filing complete.

12. Based upon I&E's analysis of the filing, acceptance of this proposed Settlement is in the public interest. Resolution of this case by settlement rather than litigation will avoid the substantial time and effort involved in continuing to formally pursue all issues in this proceeding at the risk of accumulating excessive expense.

13. I&E further submits that the acceptance of this Settlement will negate the need for evidentiary hearings, which would compel the extensive devotion of time and expense for the preparation, presentation, and cross-examination of multiple witnesses, the preparation of Main and Reply Briefs, the preparation of Exceptions and Replies, and the potential of filed appeals, all yielding substantial savings for all parties, as well as certainty on the regulatory disposition of issues.

14. The Settlement is conditioned upon the Commission's approval of all terms without modification. Should the Commission fail to grant such approval or otherwise modify the terms and conditions of the Settlement in any way, it may be withdrawn by the Company, I&E, or any other Joint Petitioner.

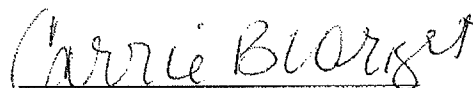
15. I&E's agreement to settle this case is made without any admission or prejudice to any position that I&E might adopt during subsequent litigation in the event

that the Settlement is rejected by the Commission or otherwise properly withdrawn by any other parties to the Settlement.

16. If the ALJs recommend that the Commission adopt the Settlement as proposed, I&E agrees to waive the filing of Exceptions. However, I&E does not waive its right to file Replies to Exceptions with respect to any modifications to the terms and conditions of the Settlement or any additional matters that may be proposed by the ALJs in the Recommended Decision. I&E also does not waive the right to file Replies in the event any party files Exceptions.

WHEREFORE, the Commission's Bureau of Investigation and Enforcement represents that it supports the Joint Petition for Settlement as being in the public interest and respectfully requests that Administrative Law Judges Mary Long and Mark A. Hoyer recommend, and the Commission approve, the terms and conditions contained in the Settlement.

Respectfully submitted,



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Pennsylvania Public Utility Commission
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Dated: March 4, 2016

Appendix E

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of Mid-Atlantic Interstate	:	A-2015-2488903
Transmission, LLC (“MAIT”); Metropolitan	:	A-2015-2488904
Edison Company (“Met-Ed”) and	:	A-2015-2488905
Pennsylvania Electric Company (“Penelec”)	:	G-2015-2488906
for: (1) a Certificate of Public Convenience	:	G-2015-2488907
Under 66 Pa.C.S. § 1102(A)(3) Authorizing	:	G-2015-2489542
the Transfer of Certain Transmission Assets	:	G-2015-2489543
from Met-Ed and Penelec to MAIT; (2) a	:	G-2015-2489544
Certificate of Public Convenience Conferring	:	G-2015-2489545
Upon MAIT the Status of a Pennsylvania	:	G-2015-2489547
Public Utility Under 66 Pa.C.S. § 102; and (3)	:	G-2015-2490801
Approval of Certain Affiliate Interest	:	G-2015-2490802
Agreements Under 66 Pa.C.S. § 2102	:	

STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE
IN SUPPORT OF THE
JOINT PETITION FOR FULL SETTLEMENT

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Full Settlement (Settlement), respectfully requests that the terms and conditions of the Settlement be approved by Administrative Law Judges Mark A. Hoyer and Mary D. Long and the Pennsylvania Public Utility Commission (Commission). This request is based upon the OCA’s conclusion that the proposed Settlement reasonably resolves the issues raised in this proceeding and is in the public interest.

I. INTRODUCTION

On June 19, 2015, Mid-Atlantic Interstate Transmission, LLC (MAIT), Metropolitan Edison Company (Met-Ed), and Pennsylvania Electric Company (Penelec) (collectively, the Joint Applicants) filed an application for certificates of public convenience for authorization (1) to contribute assets to MAIT, (2) to certify MAIT as a public utility, and (3) to approve certain

affiliated interest agreements (collectively, the Proposed Transaction). Under the Proposed Transaction, MAIT, a newly-formed stand-alone transmission company and indirect subsidiary of FirstEnergy Corp., will acquire Met-Ed's and Penelec's transmission assets and provide interstate transmission service. In exchange for its transmission assets, Met-Ed and Penelec will receive Class B membership interests in MAIT. Met-Ed and Penelec will no longer own or operate any transmission facilities subject to FERC jurisdiction.

On July 9, 2015, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention, Protest and Public Statement. On July 30, 2015, the International Brotherhood of Electrical Workers Locals 459 and 777 (Labor Intervenors) filed a Petition to Intervene. On July 31, 2015, The Pennsylvania State University filed a Petition to Intervene. On August 3, 2015, the Tri-County Rural Electric Cooperative and Wellsboro Electric Company filed a Petition to Intervene.¹ Also on August 3, 2015, the OCA filed a Protest and Public Statement, Noble Americas Energy Solutions, LLC (Noble) filed a Petition to Intervene, and Met-Ed Industrial Users Group (MEIUG) and the Penelec Industrial Customer Alliance (PICA) (collectively, the Industrials) filed a Petition to Intervene. On August 28, 2015, the Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance.

On August 10, 2015, the Commission issued a Secretarial Letter in this proceeding. The Secretarial Letter contained 38 questions on the following eight (8) topics:

- (A) the transmission assets to be transferred;
- (B) the anti-competitive impacts of the transaction;
- (C) reliability of electric service;
- (D) the operation of the ground leases;

¹ The Wellsboro Electric Company filed an Amended Petition to Intervene on August 17, 2015, removing Tri-County Rural Electric Cooperative as a party to the Petition to Intervene. On February 16, 2016, Wellsboro filed a Notice of Withdrawal of Intervention and is no longer a party to this proceeding.

- (E) the financing arrangements;
- (F) Energizing the Future Program (EtF) and Reliability Enhancement Process;
- (G) rate impacts; and
- (H) the conditions, if any, that the Commission should impose upon MAIT.

The Commission requested that each of its questions be addressed in the record, either in testimonial form or as exhibits in the record.²

On October 1, 2015, the Commission issued a second Secretarial Letter, directing the Joint Applicants to make the Navigant Study³ and a listing of the transmission facilities to be transferred to MAIT a part of the record. The October 1st Secretarial Letter also directed that the proceeding be referred to the Office of Administrative Law Judge, and that the parties to this proceeding examine the Navigant Study to aid the Commission in applying the Seven Factor Test. Administrative Law Judges Mark A. Hoyer and Mary D. Long (ALJs) were assigned to this proceeding. A prehearing conference was held on October 27, 2015, at which a procedural schedule was adopted and the aforementioned Petitions to Intervene were granted.

Consistent with its Protest and Prehearing Memorandum in this matter, the OCA preliminarily identified a number of issues presented by the Joint Application that required investigation and analysis. In order to adequately investigate these issues and the issues raised in the August 10th Secretarial Letter, the OCA's expert witnesses, Richard S. Hahn⁴, submitted

² In compliance with the Commission's directive, on February 29, 2016, the parties stipulated to the admission to the record the Joint Applicant's Supplemental Direct Testimony (Joint Applicants' Statements No. 1S, 2S, 3S, and 4S) and Joint Applicant Exhibit 1-S (Joint Applicants' Responses to TUS's Set I and II Interrogatories), which responded to the Commission's questions in the August 10th Secretarial Letter.

³ The Navigant Study was a study conducted by an independent consultant hired by Joint Petitioners to identify the transmission assets owned by Met-Ed and Penelec. The study applies the FERC "Seven Factor Test" to distinguish between transmission facilities and distribution facilities by identifying the primary function of the facilities. See Joint Applicants' St. 1 at 14.

⁴ Mr. Hahn is a principal consultant with Daymark Energy Advisors in Boston, Massachusetts. Mr. Hahn has a Bachelor of Science in Electrical Engineering, a Master of Science in Electrical Engineering, both from Northeastern University (1973 and 1974, respectively). He also has a Master in Business Administration from

multiple sets of formal discovery to the Joint Applicants. The OCA also engaged in informal discovery with the Joint Applicants. In accord with the procedural schedule established for this matter, on December 22, 2015, the OCA submitted OCA Statement No. 1, the Direct Testimony of Richard S. Hahn.

During the course of this proceeding, the parties engaged in extensive negotiations. As a result of those discussions, OCA, I&E, OSBA, PSU, the Labor Intervenors, and the Joint Applicants (referred to hereafter as the Joint Petitioners)⁵ reached a Settlement prior to the start of evidentiary hearings. On February 29, 2016, ALJs Hoyer and Long held a one-day evidentiary hearing where the parties submitted testimony into the record.

The Joint Petition for Settlement and Statements in Support from the Joint Petitioners are due on March 4, 2016. The OCA submits this Statement in Support to provide its position on why this Settlement should be approved by the ALJs and the Commission.

II. TERMS AND CONDITIONS OF SETTLEMENT

For the Proposed Transaction to be approved, the Commission must find that it will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way.” City of York v. Pa. PUC, 295 A.2d 825, 828 (1972). The Proposed Transaction, modified by the Settlement, satisfies that standard. In this Statement of Support, the OCA will address the terms of the Settlement that directly address the issues raised by the OCA in this proceeding, as well as identify how the Settlement terms address the eight (8) topics highlighted in the Commission’s August 10th Secretarial Letter. The OCA expects that the other signatory parties will address those areas of the Settlement that apply to their issues.

Boston College (1982). Mr. Hahn is a registered professional engineer in Massachusetts. He has worked in the electric utility industry for over 35 years and has diverse experience with both regulated and unregulated companies. Mr. Hahn’s qualifications are detailed in OCA St. 1 at 2, Exh. OCA-RSH-1.

⁵ Noble has indicated that it does not oppose the settlement and will submit a letter of non-opposition.

A. The Transmission Assets to be Transferred (Settlement ¶¶ 37 & 38)

The Joint Petitioners determined which assets qualified as transmission assets and therefore should be transferred to MAIT by applying FERC's seven factor test.⁶ OCA witness Mr. Hahn reviewed the results of the applying the Navigant Study applying the seven factor test, and testified that he found the results to be reasonable. See OCA St. 1 at 9. Regarding the transmission assets that would be transferred to MAIT if the Proposed Transaction is approved, Mr. Hahn recommended that the regulatory assets related to storm damage and vegetation management that are associated with the transmission facilities being transferred to MAIT should also be transferred to MAIT. OCA St. No. 1 at 9. Mr. Hahn explained that those "regulatory assets were created through the ownership of transmission facilities, and thus should be transferred with the transmission assets." Id. at 10.

Under the Settlement, Joint Applicants agree to "ensure that transmission regulatory assets related to storm damage and vegetation management are transferred with the transmission assets." Settlement ¶ 37. This settlement term adopts Mr. Hahn's recommendation and protects the distribution customers of Met-Ed and Penelec from being responsible for transmission costs through their distribution rates once the companies no longer own the transmission assets. The Settlement further provides that the Joint Petitioners will include as part of the Settlement the list of facilities to be transferred to MAIT as of December 31, 2014, and the Joint Applicants agree to file with the Commission an updated and final list of assets transferred to MAIT when the Proposed Transaction is completed. Settlement ¶ 38. This settlement provision ensures that at the conclusion of the Proposed Transaction, the Commission, as well as the statutory parties, have an accurate record of which assets have been transferred from Met-Ed and Penelec to MAIT. This provision also responds to the Commission's October 1st Secretarial Letter, which

⁶ See OCA St. No. 1 at page 8 for a listing of the factors included in the FERC Seven Factor Test.

directed the Joint Applicants to provide in the record a listing of the transmission assets to be transferred to MAIT.

B. Anti-Competitive Impacts (Settlement ¶ 33)

OCA witness Hahn reviewed the Proposed Transaction for anti-competitive impacts. See OCA St. No. 1 at 10. Mr. Hahn noted that the transmission assets owned by Met-Ed and Penelec are controlled by PJM under PJM's Open Access Transmission Tariff (OATT). Id. Mr. Hahn explained that the OATT is designed to provide non-discriminatory access to all shippers using the transmission facilities, and that the assets being transferred to MAIT would remain subject to the OATT under the Proposed Transaction. Id. Mr. Hahn testified that the Proposed Transaction should not have any anti-competitive impacts so long as the transmission assets remain under PJM's control. Id. As such, Mr. Hahn recommended that approval of the Proposed Transaction be conditioned on MAIT not removing the transmission assets from PJM's operation and control without the Commission's prior approval. Id.

Under the Settlement, the Joint Applicants agree not to remove the transmission assets from PJM's control unless MAIT seeks and obtains the Commission's approval to do so. Settlement ¶ 33. The OCA submits that this term is in the public interest because it confirms that the transmission assets being transferred to MAIT will remain under PJM's operation and control, eliminating the potential for adverse impacts on the competitiveness of transmission service.

C. Reliability (Settlement ¶ 20)

In the August 10th Secretarial Letter, the Commission requests that the parties address whether the Commission will retain oversight over the transmission assets being transferred. OCA witness Mr. Hahn specifically addressed this issue in his testimony, stating that approval of the Proposed Transaction should be conditioned on the Commission retaining "all of the

oversight rights it currently has.” OCA St. No. 1 at 11. Under the Settlement, MAIT agrees that the Commission retains the same jurisdiction over MAIT’s transmission assets as it currently has over the transmission assets owned by Met-Ed and Penelec. Settlement ¶ 20. Including this term in the Settlement is in the public interest because it confirms that the Commission will retain its jurisdiction over the transmission assets being transferred to MAIT.

D. The Operation of the Ground Leases (Settlement ¶¶ 21, 22, 23)

Under the Proposed Transaction, Met-Ed and Penelec will transfer their transmission assets to MAIT and lease the related land and right-of-ways to MAIT. See OCA St. 1 at 11. MAIT, in turn, will make rent payments to Met-Ed and Penelec. The amount of rent that MAIT will pay to pay Met-Ed and Penelec is established by the rent payment formula provided in the ground lease. See OCA St. 1 at 12-13. Although OCA witness Mr. Hahn questioned why Met-Ed and Penelec would lease its lands instead of transferring the land to MAIT, Mr. Hahn did not object to Met-Ed and Penelec proceeding in this manner. See OCA St. 1 at 11-12. Mr. Hahn, however, did address how Met-Ed and Penelec should reflect the rent payments received from MAIT in future distribution rates, testifying that the rent payments should be applied as a credit to the revenue requirement of Met-Ed and Penelec. Id. at 13. Mr. Hahn stated that applying the rent payments in this manner would pass on some benefit of the Proposed Transaction to the customers of Met-Ed and Penelec. See Id.

To settle the issue of how the ground lease payments should be applied, the Joint Petitioners agreed that both the revenues and expenses associated with the land subject to the ground lease will be excluded from future distribution rates. Settlement ¶ 20. In other words, under the Settlement, Met-Ed is not required to apply the rent payments they receive from MAIT as a credit to future distribution rates, as Mr. Hahn recommended, but Met-Ed and Penelec may not seek to recoup any expenses associated with the land subject to the ground lease through

future distribution rates. Settlement ¶ 20. This compromise achieves a balance for the customers of Met-Ed and Penelec because although they will not receive the benefit of the rent payments, they will not be harmed either.

The Settlement also addresses the situation where Met-Ed or Penelec may need to use a portion of the land subject to the ground lease for distribution-related purposes. Under the Settlement, in this situation Met-Ed and Penelec are permitted to seek Commission approval to include in their revenue requirement expenses related to the land that is utilized for distribution purposes and is subject to the Ground Leases, but Met-Ed and Penelec agree that any revenues associated with that underlying land will also be included as a component of their distribution revenue in the future Met-Ed and Penelec distribution rate proceedings. Settlement ¶ 20. This provision maintains the balance between rent payments and expenses associated with the ground leases.

The Settlement also provides clarity to the rent formula contained in the ground lease. Settlement ¶ 22-23. These two paragraphs address Mr. Hahn's concern that there was ambiguity in the rent formula. See OCA St. No. 1 at 15-16. Removing ambiguity before the ground lease takes effect should prevent dispute from arising between the Joint Petitioners in future proceedings where the rent payments are at issue.

D. The Financing Arrangement

In this proceeding, the OCA had several major concerns regarding the Proposed Transaction's financing arrangement. These concerns related to MAIT's projected capital structure, the dividend payments to be made from MAIT to Met-Ed and Penelec, and the transfer of Accumulated Deferred Income Tax (ADIT) to MAIT. The Commission's August 10th Secretarial Letter raised similar issues regarding the financing arrangement of the Proposed

Transaction. The OCA submits that the Settlement addresses the OCA's concerns with the proposed financing arrangement, as set forth in more detail below.

1. Capital Structure (Settlement ¶ 25)

The Joint Application provides that MAIT will be financed initially with 100% equity, and that for the two years following the approval of the Proposed Transaction, MAIT will use a 50% equity ratio for ratemaking purposes. OCA St. 1 at 16. The OCA submits that MAIT's capital structure was a major concern for the OCA in this proceeding. As OCA witness Mr. Hahn explained in his testimony, there would be no constraint on the capital structure used by MAIT to develop its rates. Id. Mr. Hahn illustrated in his testimony that even if MAIT finances its new transmission facilities using 50% debt and 50% equity, a \$1.0 billion investment would result in an equity ratio of 80%, and a \$3.0 billion investment would result in an equity ratio of 67%. Id. at 16-18. Mr. Hahn demonstrated that even after significant new investment, MAIT's equity ratio would likely be high, resulting in higher rates for customers. OCA St. No. 1 at 18.

The Settlement addresses the OCA's concern with MAIT's capital structure. Under the settlement, MAIT will finance all new transmission investment over the next five to ten years through the issuance of debt only, unless (1) MAIT's capital structure falls within the range of FERC-approved capital structures, or (2) MAIT is unable to obtain the necessary capital through debt. Settlement ¶ 24. Requiring MAIT to finance new transmission investment only with debt for a period of time should bring its capital structure within a reasonable range more rapidly than if the new investment were financed by both debt and equity. This provision is in the public interest because it allows MAIT the flexibility to acquire the necessary capital while protecting customers from unduly high rates.

2. Dividends (Settlement ¶ 35)

The Joint Application provides that the frequency of MAIT's payment of dividends to Met-Ed and Penelec will be determined by the Board of MAIT. See Joint Application, Exhibit SRS-1 at 6. In other words, MAIT's dividend payments to Met-Ed and Penelec would be at the discretion of MAIT's Board. OCA witness Mr. Hahn testified that it is unclear whether Met-Ed and Penelec will receive more or less financial support from the dividends payment received from MAIT than by continuing to own the transmission assets. See OCA St. No. 1 at 21. The Settlement requires MAIT to make annual dividend payments until the five-year anniversary of the completion of the contribution of assets from Met-Ed and Penelec to MAIT, with limited exceptions. Settlement ¶ 35. The Settlement also establishes the minimum amount of the annual dividend payment (i.e., Threshold Dividend Amount). Establishing a minimum threshold for the frequency and amount of the dividend payments made by MAIT guarantees some cash dividends to Met-Ed and Penelec, and mitigates risk to Met-Ed and Penelec, and their customers.

3. ADIT (Settlement ¶ 24)

Currently, Met-Ed and Penelec have Accumulated Deferred Income Tax (ADIT) associated with their transmission assets that acts as a credit to their FERC-jurisdictional rate bases. See Joint Applicants' St. No. 4 at 12-13. According to the Joint Application, this ADIT will be transferred to MAIT as part of the Proposed Transaction and the ADIT will be applied as a credit to MAIT's FERC-jurisdictional rate base. See Id. In testimony, OCA witness Mr. Hahn recommended that a condition of approval of the Proposed Transaction should be that customers must be held harmless in the event that the ADIT is lost through the Proposed Transaction. OCA St. No. 1 at 34. Under the Settlement, the Joint Applicants agree that customers will be held harmless in the event ADIT is not transferred to MAIT. Settlement ¶ 24. The OCA submits that including this guarantee in the Settlement protects the customers of the Joint Applicants because

it ensures that these customers will continue to receive the benefit of ADIT in the rates that they pay for transmission service. This condition also places the risk of losing the ADIT on the Joint Applicants.

4. Investing Equity in MAIT (Settlement ¶ 32)

Under the Settlement, Met-Ed and Penelec must seek Commission approval prior to making any additional capital investment in MAIT. Settlement ¶ 32. This term specifically adopts the recommendation of OCA witness Mr. Hahn. See OCA St. No. 1 at 21. In testimony, Mr. Hahn explained that if Met-Ed or Penelec invest additional equity in MAIT, this could cause the companies to have lower earnings and be less financially secure. See Id. at 22. By requiring the Joint Applicants to seek Commission approval prior to making additional investments in MAIT, the consequences of such a transaction can be examined, which protects customers from harm.

E. Energizing the Future Program (Settlement ¶ 36)

The Energizing the Future Program (EtF) is a FirstEnergy program designed to improve the reliability of its transmission systems by building transmission facilities identified by its Transmission Planning Process. See OCA St. 1 at 22. The Joint Application provides that if the Proposed Transaction is approved, the EtF projects located within Met-Ed and Penelec's operating zones will be completed at an accelerated rate due to MAIT having access to less expensive capital. See Joint Application ¶ 4; Joint Applicants' St. No. 1 at 19. The Joint Application also states that MAIT is expected to invest between \$2.5 and \$3.0 billion on EtF projects over the next ten years if the Proposed Transaction is approved. Reliability, along with safety, is a primary issue for the OCA when reviewing any proposals regarding electric service. Electric distribution and transmission companies must provide reliable service, and expansion and upgrades to existing transmission facilities are often required to maintain reliable service.

However, as OCA witness Mr. Hahn noted in testimony, investment in transmission facilities should only be driven by need, not based on the availability of capital. See OCA St. No. 1 at 23. Mr. Hahn further testified that the Joint Applicants provided no evidence that Met-Ed and Penelec would be unable to expand and upgrade their transmission systems as necessary to meet reliability requirements. Id. at 27.

As the Joint Applicants point to MAIT's ability to accelerate the EtF projects in Met-Ed and Penelec's service territories as a benefit of the Proposed Transaction, the Settlement requires that the Joint Applicants hold annual meetings with the other Joint Petitioners, until the five-year anniversary of the completion of the contribution of the transmission assets, to provide updates on the EtF projects for the upcoming year. Settlement ¶ 36. This Settlement provision gives the other Joint Petitioners the opportunity to monitor the progress of the EtF projects being undertaken in Met-Ed and Penelec's service territories.

F. Rate Impacts (Settlement ¶¶ 25, 26, 27 & 29)

Another major issue in this proceeding was how the Proposed Transaction would impact the distribution and transmission rates of customers. In the OCA's view, the Proposed Transaction should not be approved unless customers are protected from increases in their distribution and transmission rates that would not have occurred but for the Proposed Transaction. As such, this Settlement contains provisions that will protect customers from adverse rate impacts.

Regarding the transmission rate to be charged by MAIT, the ROE that will be included in MAIT's proposed formula rate has not yet been determined. See OCA St. 1 at 23. In testimony, OCA witness Mr. Hahn cautioned that FERC offers incentives and premiums to ROEs of transmission-only companies, such as MAIT, which can result in higher rates. See Id. at 25. Mr.

Hahn testified that premium ROEs can be awarded based on the transmission company being a new company with no credit rating or because it is a single purpose entity with greater risk. Id. Mr. Hahn recommended that as a condition of approval for the Proposed Transaction, MAIT should not be allowed to seek a premium ROE in its FERC formula rate filing based on being a new company or because it is a single purpose entity. Id. Mr. Hahn explained that MAIT should not be permitted to seek such premiums because the Joint Applicants have asserted that MAIT will be more creditworthy than Met-Ed and Penelec. Id.

The Settlement adopts Mr. Hahn's recommendation. Under the Settlement, the Joint Applicants agree that MAIT will not seek, in any FERC filing, an incentive or premium on the basis that it is a new company with no credit rating or that it is a single purpose entity, which causes greater risk. Settlement ¶ 29. This settlement term ensures that MAIT's formula rate filing with FERC will reflect MAIT's creditworthiness, which the Joint Applicants assert is a primary reason for the Proposed Transaction. The Settlement also provides that the formula rate developed by MAIT must include the benefits of ADIT, inter-company tax costs, or deferred taxes associated with the transferred transmission assets. Settlement ¶ 30. Also, as discussed above, the Settlement includes a term aimed at protecting customers against MAIT's unbalanced capital structure. See Settlement ¶¶ 25 & 26. Although the transmission rate will likely increase once MAIT is awarded a formula rate (as rates would also likely increase if Met-Ed and Penelec sought formula rates from FERC), these settlement terms seek to limit any such increases, and eliminate increases that could result from approval of the Proposed Transaction.

Regarding both transmission and distribution rates, the Settlement provides that the Joint Applicants agree to exclude all "costs-to-achieve" arising from the Proposed Transaction from transmission and distribution rates. Settlement ¶ 27. This settlement term adopts the OCA

recommendation included in Mr. Hahn's testimony, and should ensure that no costs will be passed on to customers that would not otherwise exist but for the Proposed Transaction. The Settlement also requires the Joint Applicants to provide an annual report to the other Joint Petitioners for a period of five years that identifies certain costs and how the costs were assigned, and a brief explanation of why the costs were assigned or allocated as they were. Settlement ¶ 34. This term will aid the OCA and other statutory parties in ensuring that these costs have been properly assigned in future rate proceedings, and thereby protect customers from bearing any improper costs.

G. Other Conditions

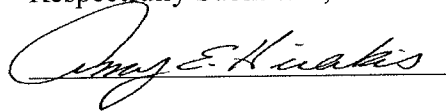
The Commission's August 10th Secretarial Letter sought input from parties as to what conditions should be placed on the Proposed Transaction if approved. As reflected above, OCA witness Mr. Hahn recommended numerous conditions to the Proposed Transaction, if approved. Many of Mr. Hahn's recommendations were adopted in the Settlement; other recommendations were used as a starting place in negotiations that resulted in other terms to the Settlement. These terms have been discussed above, and the OCA submits that approval of the Proposed Transaction should be conditioned on the terms of the Settlement.

III. CONCLUSION

The OCA submits that the terms and conditions of the proposed Settlement represent a fair and reasonable resolution of the issues and claims arising in this matter. If approved, the proposed Settlement will benefit the Commission and all Parties by foregoing the additional costs of litigation and will provide appropriate protections from possible harms arising from the Proposed Transaction. For the foregoing reasons, the Office of Consumer Advocate submits that

the Settlement is in the public interest and should be approved.

Respectfully Submitted,



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March 4, 2016

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Appendix F

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Joint Application of Mid-Atlantic	:	
Interstate Transmission, LLC (“MAIT”);	:	
Metropolitan Edison Company (“Met-Ed”) and	:	
Pennsylvania Electric Company (“Penelec”)	:	Docket No. A-2015-2488903
For: (1) a Certificate of Public Convenience	:	A-2015-2488904
Under 66 Pa. C.C. §1102(A)(3) Authorizing the	:	A-2015-2488905
Transfer of Certain Transmission Assets from	:	G-2015-2488906
Met-Ed and Penelec to MAIT; (2) a Certificate	:	G-2015-2488907
of Public Convenience Conferring Upon MAIT	:	
the Status of a Pennsylvania Public Utility under	:	
66 Pa. C.S. §102; and (3) Approval of Certain	:	
Affiliate Interest Agreements under 66 Pa. C.S.	:	
§2102	:	

**STATEMENT OF THE OFFICE OF SMALL BUSINESS ADVOCATE
IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT**

I. INTRODUCTION

The Small Business Advocate is authorized and directed to represent the interests of small business consumers in proceedings before the Pennsylvania Public Utility Commission (“Commission”) under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. In order to discharge this statutory duty, the Office of Small Business Advocate (“OSBA”) is participating as a party to this proceeding to ensure that the interests of small commercial and industrial (“Small C&I”) customers of Metropolitan Edison Company (“Met-Ed”) and Pennsylvania Electric Company (“Penelec”) are adequately represented and protected.

II. PROCEDURAL BACKGROUND

1. On June 19, 2015, a Joint Application (“Application”) of Mid--Atlantic Interstate Transmission, LLC (“MAIT”); Metropolitan Edison Company (“Met-Ed”); and Pennsylvania Electric Company (“Penelec”) was filed by MAIT, Met-Ed and Penelec, seeking all approvals which may be required from the Commission with respect to the proposed acquisition of certain transmission assets of Met-Ed and Penelec by MAIT. MAIT, Met-Ed and Penelec are wholly-owned subsidiaries of FirstEnergy Corp., an Akron, Ohio-based utility holding company. At the same time, another FirstEnergy company, Jersey Central Power and Light Company (“JCP&L”) is seeking similar approvals from the New Jersey Board of Public Utilities (“NJBPU”) for the transfer of its transmission assets to MAIT. (Met-Ed, Penelec, and JCP&L are hereafter referred to jointly as the “Operating Companies”) (Application, at ¶ 1).

2. MAIT is a newly-formed company which will be jointly owned by the Operating Companies and FirstEnergy Transmission, LLC, (“FET”) another FirstEnergy company. After obtaining the necessary approvals, the Operating Companies plan to divest their transmission assets to MAIT in exchange for ownership interests in MAIT (the “Transaction”).¹ (Application at ¶ 2).

3. The OSBA filed a Notice of Intervention and Protest on July 9, 2015. Other parties participating in this proceeding include the Commission’s Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), and intervenors the Metropolitan Edison Industrial Users Group (“MEIUG”), the Penelec Industrial Customer Alliance (“PICA”), International Brotherhood of Electrical Workers Locals 459 and 777, the

¹ The necessary approvals include those from the Commission, NJBPU, and the Federal Energy Regulatory Commission (“FERC”)

Pennsylvania State University (“Penn State”), and Noble Americas Energy Solutions, LLC (“Noble Americas”). Tri-County Rural Electric Cooperative (“Tri-County”) and Wellsboro Electric Company (“Wellsboro”) initially filed an intervention in this matter. Wellsboro subsequently filed an amended Petition to Intervene which did not include Tri-County; Wellsboro’s intervention was granted over the objections of the Joint Applicants. During the discovery phase of this proceeding, Wellsboro withdrew its intervention, and is no longer a party to this case.

4. A telephonic prehearing conference was held on October 27, 2015, with Administrative Law Judges (“ALJs”) Mark A. Hoyer and Mary D. Long presiding, during which a schedule was established for the submission of testimony and the conduct of evidentiary hearings. The ALJs granted a request from the Joint Applicants to address in Supplemental Direct testimony a list of issues identified by the Commission in a Secretarial Letter dated August 10, 2015. The Joint Applicants filed that Supplemental Direct testimony on October 27, 2015 (the Joint Applicants’ Direct Testimony was filed as part of the Application).

5. Subsequently, direct testimony was submitted by I&E, OCA and Wellsboro, and rebuttal testimony was served by the Joint Applicants. Because of its withdrawal from this proceeding, Wellsboro’s testimony has not been made a part of the record, and that portion of the Joint Applicant’s rebuttal testimony that responds to Wellsboro’s direct testimony has been removed, and revised rebuttal testimony submitted for the record.

6. On October 1, 2015, the Commission issued a second Secretarial Letter, referring the proceeding to the Office of Administrative Law Judge, and directing that the FirstEnergy Navigant Study and listing of transmission facilities to be transferred be made a part of the

records. The letter also directed the parties to examine the Navigant Study in order to aid the Commission in its application of the Seven Factor Test. The Navigant Study and listing of transmission facilities has been made a part of the record in this case.

7. The parties negotiated a Joint Settlement of the issues raised in this proceeding, which resulted in the filing of this Joint Petition for Settlement and the parties' Statements in Support of that Petition.

8. On February 29, 2016, the parties convened in a hearing room in Harrisburg, with the ALJs presiding by telephone, to conduct the scheduled hearing in this matter. Testimony was entered into the record and instructions given by the ALJs for the content of Statements in Support of the Joint Petition for Settlement. Hearings scheduled for March 1, 2, and 3, 2016, were cancelled.

III. STATEMENT IN SUPPORT

9. On October 6, 2014, the OSBA filed its Prehearing Memorandum in this proceeding. In the Prehearing Memorandum, the OSBA identified the following specific issues of concern:

- a. Whether transferring ownership of transmission assets from Met-Ed and Penelec to MAIT, another company wholly-owned by FirstEnergy would be anti-competitive;
- b. Whether ratepayers would benefit or be harmed by the transfer of transmission assets from Met-Ed and Penelec to MAIT.

10. The Settlement sets forth a comprehensive list of issues that were resolved through the negotiation process. This statement outlines the OSBA's specific reasons for

concluding that the Settlement is in the best interests of small business customers.

A. Whether Transfer of Assets Would be Anticompetitive

11. After careful examination of the materials filed by the Joint Applicants, the OSBA has concluded that the proposed Transaction, if approved, would not result in harm to the competitive market. Accordingly, the OSBA did not file any testimony regarding this issue. It is apparent that the transmission facilities consolidated under the MAIT umbrella will continue to be under the operational control of PJM Interconnection, LLC (“PJM”), as they are now, and transmission rates will remain subject to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”) as administered by PJM. According to the proposed Transaction, MAIT will have the status of a regulated Pennsylvania public utility, and as such, will be subject to the Commission’s oversight with respect to its operations, including the Commission’s power to investigate anticompetitive behavior. Further, there is nothing that the OSBA has found in this proposed Transaction that would appear to negatively impact the current competitive market for the provision of retail electric service. The expressed purpose of this Transaction is to achieve a more efficient and attractive investment vehicle.² The OSBA, therefore, is satisfied that its initial concern over possible anticompetitive effects of this asset transfer has been alleviated.

B. Whether Small Business Ratepayers Would Benefit or be Harmed

12. In this proposed Transaction, the OSBA could not determine whether there would be a disparate impact on small business rate payers that would result from Commission approval of the Joint Application. While the OSBA traditionally looks at such things as revenue

² Joint Applicants Statement No. 1, Direct Testimony of Charles V. Fullem at 18.

allocation, rate design, and cost of service, those are rate case issues that do not appear to be implicated in this proceeding. Consequently, it is more difficult to determine to what extent, if any, small business customers would either benefit or be harmed from this transaction, and particularly whether that benefit or harm might be unequal among the various classes of ratepayers. Both MAIT (on the transmission side) and MetEd/Penelec (on the distribution side) convincingly argue that approval of the proposed Transaction will allow both entities to attract new and more favorable investment. If that be true, and the OSBA believes that it is, all MetEd and Penelec ratepayers will benefit from the increased ability of the Joint Applicants to attract investment on beneficial terms, and this Joint Application deserves Commission approval.³

IV. CONCLUSION

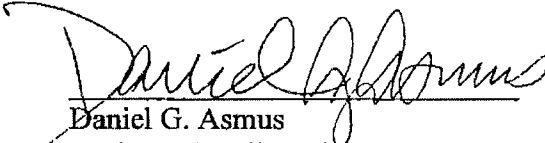
13. The settlement of this proceeding avoids the litigation of many complex, competing proposals and saves the possibly significant costs of further and more extended administrative proceedings. Such costs are borne not only by the Joint Petitioners, but ultimately by the Company's customers as well. Avoiding extended litigation of this matter has served judicial efficiency, and allows the OSBA to more efficiently employ its resources in other areas.

³ See generally, Joint Applicants Statement No. 1, Direct Testimony of Charles V. Fullem; I&E Statement No. 1, Direct Testimony of Lisa A. Gumby; Joint Applicants Statement No. 3, Rebuttal Testimony of Steven R. Staub.

14. The OSBA acknowledges and is in full agreement that this Settlement is in the best interest of customers and the Joint Petitioners and, therefore, is in the public interest.

15. For the reasons set forth in the Joint Petition, as well as the additional factors enumerated in this statement, the OSBA supports the proposed Joint Petition and respectfully requests that ALJs Long and Hoyer and the Commission approve the Joint Petition in its entirety without modification.

Respectfully submitted,


Daniel G. Asmus
Assistant Small Business Advocate
Attorney ID No. 83789

For:

John R. Evans
Small Business Advocate

Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101

Dated: March 4, 2016

Appendix G

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of Mid-Atlantic	:	Docket Nos.: A-2015-2488903
Interstate Transmission LLC ("MAIT");	:	A-2015-2488904
Metropolitan Edison Company ("Met-Ed")	:	A-2015-2488905
and Pennsylvania Electric Company	:	G-2015-2488906
("Penelec") for: (1) A Certificate of Public	:	G-2015-2488907
Convenience Under 66 Pa. C.S. § 1102(a)(3)	:	G-2015-2489542
Authorizing the Transfer of Certain	:	G-2015-2489543
Transmission Assets from Met-Ed and	:	G-2015-2489544
Penelec to MAIT; (2) A Certificate of Public	:	G-2015-2489545
Convenience Conferring Upon MAIT	:	G-2015-2489547
The Status of A Pennsylvania Public	:	G-2015-2490801
Utility Under 66 Pa. C.S. § 102; and	:	G-2015-2490802
(3) Approval of Certain Affiliate Interest	:	
Agreements Under 66 Pa. C.S. § 2102	:	

**STATEMENT IN SUPPORT OF
THE MET-ED INDUSTRIAL USERS GROUP AND
THE PENELEC INDUSTRIAL CUSTOMER ALLIANCE**

The Met-Ed Industrial Users Group ("MEIUG") and the Penelec Industrial Customer Alliance ("PICA") ("Industrials") by and through their counsel, submit that the Joint Petition for Full Settlement ("Settlement" or "Joint Petition") filed in the above-captioned proceeding is in the public interest and represents a fair, just, and reasonable resolution of the Mid-Atlantic Interstate Transmission, LLC ("MAIT"), Metropolitan Edison Company ("Met-Ed") and Pennsylvania Electric Company ("Penelec") (collectively, "Joint Applicants") Joint Application for approval under Chapters 11, 21 and 28 of the Public Utility Code ("Joint Application"). As a result of settlement discussions, MAIT; Met-Ed; Penelec; the Industrials; the Office of Consumer Advocate ("OCA"); the Office of Small Business Advocate ("OSBA"); the Bureau of Investigation and Enforcement ("I&E"); the Pennsylvania State University ("PSU"); and the International Brotherhood of Electrical Workers Locals 459 and 777 ("Labor Intervenors")

(collectively, "Settling Parties"), have agreed upon the terms embodied in the foregoing Settlement. The Industrials offer this Statement in Support to further demonstrate that the Settlement is in the public interest and should be approved without modification.

I. BACKGROUND

1. On June 19, 2015, the Joint Applicants filed with the Commission the aforementioned Joint Application. Specifically, the Joint Application requested approval for: (1) Met-Ed and Penelec to contribute their existing transmission assets to MAIT; (2) MAIT to receive the status of a Pennsylvania public utility; and (3) approval of certain affiliated interest agreements.

2. On August 3, 2015, the Industrials filed a Petition to Intervene in the Joint Application proceeding. The Industrials are *ad hoc* associations of energy-intensive Large Commercial and Industrial ("C&I") customers receiving electric service in Met-Ed's and Penelec's service territories. As some of Met-Ed's and Penelec's largest customers, whose manufacturing processes require significant amounts of electricity, any proposed modifications to Met-Ed's and Penelec's electric rates could significantly impact the Industrials' production costs.

3. A Prehearing Conference was held on October 27, 2015, before presiding Administrative Law Judges ("ALJs") Mark A. Hoyer and Mary D. Long. A procedural schedule was established for discovery, written testimony, settlement discussions, and hearings.

4. On February 19, 2016, the Parties informed the ALJs that a settlement had been reached on all of the issues in these proceedings.

II. STATEMENT IN SUPPORT

5. The Commission has a strong policy favoring settlements. As set forth in the Commission's regulations, "[t]he Commission encourages parties to seek negotiated settlements of contested proceedings in lieu of incurring the time, expense and uncertainty of litigation." 52 Pa. Code § 69.391; *see also* 52 Pa. Code § 5.231. Consistent with the Commission's policy, the Settling Parties engaged in several negotiations to resolve the issues raised by the various parties. These ongoing discussions produced the proposed Settlement in these proceedings.

6. The Settling Parties agree that approval of the proposed Settlement is overwhelmingly in the best interest of the parties involved.

7. The Joint Petition is in the public interest for the following reasons:

- a. As a result of the Settlement, expenses incurred by the Settling Parties and the Commission for completing these proceedings will be substantially less than they would have been if the proceedings had been fully litigated.
- b. Uncertainties regarding further expenses associated with possible appeals from the Final Order of the Commission are avoided as a result of the Settlement.
- c. The Settlement results in terms and provisions that present a just and reasonable resolution of the Joint Applicants' proposed Joint Application.
- d. The Settlement reflects compromises on all sides presented without prejudice to any position any Settling Party may have advanced so far in these proceedings. Similarly, the Settlement is presented without prejudice to any position any party may advance in future proceedings involving the Joint Applicants.

8. In addition, the Settlement satisfies the specific concerns of the Industrials by providing: (a) for a commitment by MAIT that it will give the Settling Parties thirty (30) days' prior notice of its formula rate filing, will convene a pre-filing meeting with the Settling Parties, and will serve the formula rate filing on the Settling Parties, *see* Settlement, ¶ 31; (b) a

commitment by the Joint Applicants to annually convene a meeting with the Settling Parties to provide updates on the status of the Energizing the Future program for the upcoming year, *see id.* ¶ 36; and (c) that the Joint Applicants will provide an annual report to the other Joint Petitioners on May 1st of each year for five years after the contribution of the transmission assets from Met-Ed and Penelec to MAIT has been completed, which will identify: (1) the calculation of ground lease payments; (2) the annual dividends paid by MAIT to Met-Ed and Penelec during the prior calendar year; and (3) the actual costs assigned or allocated between MAIT and Met-Ed, Penelec, by FESC, *see id.* ¶ 34.

9. The Industrials support the Settlement because it is in the public interest; however, in the event the Settlement is rejected by the ALJs or the Commission, the Industrials will resume their litigation position.

10. Pursuant to the ALJs' request, the Industrials responses to the PUC's Secretarial Letters, issued on August 10 and October 1, 2015, are set forth in Appendix B to the Joint Petition.

11. Pursuant to the ALJs' request, Appendix B to the Joint Petition contains proposed ordering paragraphs. The Industrials concur with the proposed ordering paragraphs set forth in Appendix B.

12. As set forth above and in Appendix B of the Joint Petition, the Industrials submit that the proposed Settlement is in the public interest and adheres to the Commission's policies promoting negotiated settlements. The Settlement was achieved after settlement discussions. While the Settling Parties have invested time and resources in the negotiation of the Settlement, this process has allowed the Settling Parties and the Commission to avoid expending the substantial resources that would have been required to fully litigate these proceedings while still

reaching a just, reasonable and non-discriminatory result. The Settling Parties have thus reached an amicable resolution to this dispute as embodied in the proposed Settlement. Approval of the Settlement will permit the Commission and the Settling Parties to avoid incurring the additional time, expense and uncertainty of further litigation of issues in these proceedings. *See* 52 Pa. Code § 69.391.

III. CONCLUSION

WHEREFORE, the Met-Ed Industrial Users Group and the Penelec Industrial Customer Alliance request that the Pennsylvania Public Utility Commission approve the Joint Petition for Full Settlement submitted in these proceedings.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 
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the Penelec Industrial Customer Alliance

Dated: March 4, 2016

Appendix H

Appendix H

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Application of Mid-Atlantic Interstate	:	
Transmission LLC (MAIT), Metropolitan Edison	:	
Company (Met-Ed) and Pennsylvania Electric	:	
Company (Penelec) for: (1) a Certificate of Public	:	Docket No. A-2015-2488903
Convenience Under 66 Pa. C.S. § 1102(a)(3)	:	Docket No. A-2015-2488904
Authorizing the Transfer of Certain Transmission	:	Docket No. A-2015-2488905
Assets from Met-Ed and Penelec to MAIT; (2) a	:	Docket No. G-2015-2488906
Certificate of Public Convenience Conferring Upon	:	Docket No. G-2015-2488907
MAIT the Status of a Pennsylvania Public Utility	:	
Under 66 Pa. C.S. § 102; and (3) Approval of	:	
Certain Affiliated Interest Agreements Under 66 Pa.	:	
C.S. § 2102	:	

STATEMENT IN SUPPORT OF SETTLEMENT
OF
LABOR INTERVENORS

The International Brotherhood of Electrical Workers Locals 459 and 777 ("Labor Intervenors") represent hundreds of employees of Pennsylvania Electric Company ("Penelec") and Metropolitan Edison Company ("Met Ed"). Labor Intervenors intervened in this proceeding to ensure that the proposed transfer of transmission assets from Met Ed and Penelec to Mid-Atlantic Interstate Transmission LLC ("MAIT") would not have an adverse effect on the members of Labor Intervenors, particularly those members who work on the transmission assets that would be transferred to MAIT.

During the course of this proceeding, Met Ed, Penelec, and MAIT have provided additional information about the effects of the proposed transaction on Labor Intervenors' members who work on the transmission system. Through that process, Met Ed, Penelec,

and MAIT have provided assurances that MAIT will use the highly skilled employees of Met Ed and Penelec to perform work on the transmission system in a manner similar to the way in which those employees are used today by Met Ed and Penelec.

In particular, Mr. Fullem's rebuttal testimony contains the following statements concerning MAIT's intended use of Met Ed and Penelec employees:

"After the Transaction is completed, the Companies' employees will continue to be used to operate and maintain the transmission facilities of MAIT. In short, nothing about the way the current workforce is used will change and, as I will explain later, there is no plan for MAIT to use contractors to displace the Companies' workforces." (Joint Applicants' St. 1-R, p. 12, lines 15-19)

MAIT's "use of contractors will supplement and will not displace MAIT's use of the Companies' employees." (Id., p. 15, lines 16-17)

"To reiterate, there is no expectation, and there is certainly no plan, to use the Companies' workforces any differently or any less than they are currently used for transmission work." (Id., p. 15, lines 21-22)

In addition, the Executive Director of Labor Relations for FirstEnergy (the ultimate parent company of Met Ed, Penelec, and MAIT) has committed to Labor Intervenors that Met Ed and Penelec employees "will continue to perform the same work on the transmission assets that they perform today." Joint Applicants' Exh. CVF-3. In addition, if FirstEnergy were ever to divest MAIT, the new owner would be required to "abide by the obligations imposed on successors" in the relevant collective bargaining agreements. Id.

Finally, Labor Intervenors recognize the benefits to their members and the public from MAIT's plans to make substantial new investments in the transmission assets, a program FirstEnergy calls Energizing the Future ("EtF"). Such investments should enhance reliability, improve the quality of service for customers, increase safety for Labor

Intervenors' members who work on the transmission system, and create opportunities for new jobs and other economic benefits within the Commonwealth. As Mr. Mackauer testified:

The increased and accelerated levels of transmission investment that MAIT will enable will benefit the economy of Pennsylvania by creating jobs and by supporting vendors, suppliers and various service providers. Initial assessments of the additional engineering, material management, project management and construction services to implement the expanded EtF transmission program outlined above estimate the need for over 200 jobs for qualified personnel in the states covered by the Operating Companies' Zones.

Joint Applicants' St. 2, p. 23, lines 10-16.

WHEREFORE, for the reasons discussed above, Labor Intervenors are of the opinion that the Joint Petition for Full Settlement is consistent with the public interest. Labor Intervenors fully support the settlement and respectfully request the Commission to approve the proposed transaction subject to the terms and conditions contained in the Joint Petition for Full Settlement.

Respectfully submitted,



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Counsel for Labor Intervenors

Dated: March 4, 2016

Appendix I

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOINT APPLICATION OF MID-ATLANTIC INTERSTATE TRANSMISSION, LLC (“MAIT”); METROPOLITAN EDISON COMPANY (“MET-ED”) AND PENNSYLVANIA ELECTRIC COMPANY (“PENELEC”) FOR: (1) A CERTIFICATE OF PUBLIC CONVENIENCE UNDER 66 PA.C.S. § 1102(A)(3) AUTHORIZING THE TRANSFER OF CERTAIN TRANSMISSION ASSETS FROM MET-ED AND PENELEC TO MAIT; (2) A CERTIFICATE OF PUBLIC CONVENIENCE CONFERRING UPON MAIT THE STATUS OF A PENNSYLVANIA PUBLIC UTILITY UNDER 66 PA.C.S. § 102; AND (3) APPROVAL OF CERTAIN AFFILIATE INTEREST AGREEMENTS UNDER 66 PA.C.S. § 2102

Docket Nos.: A-2015-2488903
A-2015-2488904
A-2015-2488905
G-2015-2488906
G-2015-2488907
G-2015-2489542
G-2015-2489543
G-2015-2489544
G-2015-2489545
G-2015-2489547
G-2015-2490801
G-2015-2490802

**STATEMENT OF THE PENNSYLVANIA STATE UNIVERSITY
IN SUPPORT OF THE JOINT PETITION
FOR FULL SETTLEMENT**

TO: THE HONORABLE MARK A. HOYER, DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE, AND MARY D. LONG, ADMINISTRATIVE LAW JUDGE

I. INTRODUCTION

The Pennsylvania State University (“PSU” or “Penn State”) respectfully submits this statement in support of the Joint Petition for Full Settlement (“Joint Petition”) entered into by and among the following parties (the “Joint Petitioners”): Mid-Atlantic Interstate Transmission,

LLC (“MAIT”), Metropolitan Edison Company (“MET-ED”) and Pennsylvania Electric Company (“Penelec”) (collectively, the “Joint Applicants”); Bureau of Investigation and Enforcement (“I&E”); Office of Consumer Advocate (“OCA”); Office of Small Business Advocate (“OSBA”); Met-Ed Industrial Users Group (“MEIUG”) and Penelec Industrial Customer Alliance (“PICA”) (collectively, the “Industrials”); PSU; and International Brotherhood of Electrical Workers Locals 459 and 777 (“Labor Intervenors”).

The settlement set forth in the Joint Petition (the “Settlement”) is in the public interest. First, in accordance with the Commission’s policy encouraging settlements, the Settlement will conserve ratepayer and Commission resources that otherwise would be spent on litigating this matter to conclusion. Second, the Settlement will maintain and enhance Commission protection of customers’ interests. Third, the Settlement and the underlying transaction will provide increased transparency and regulatory oversight with respect to the Joint Applicants’ transmission services and rates. Fourth, the Settlement will also provide an additional level of assurance that customers and suppliers have nondiscriminatory access to the transmission system. Therefore, the Joint Petition should be granted and the Settlement approved by the Commission without modification.

II. BACKGROUND

On June 19, 2015, the Joint Applicants filed their application for: (1) a certificate of public convenience under 66 Pa.C.S. § 1102(A)(3) (relating to enumeration of acts requiring certificate) authorizing the transfer of certain transmission assets from MET-ED and PENELEC to MAIT; (2) a certificate of public convenience conferring upon MAIT the Status of a Pennsylvania Public Utility under 66 Pa.C.S. § 102 (relating to definitions); and (3) approval of

certain affiliated interest agreements under 66 Pa. C.S. § 2102 (relating to approval of contracts with affiliated interests).

PSU is a is a generation, transmission and distribution service customer of PENELEC subsidiary at Penn State Erie, the Behrend College and the Altoona and Dubois campuses, along with some accounts near University Park. PSU receives service from MET-ED subsidiary for campuses at York and Lehigh Valley, and at the Fruit Research and Extension Center at Biglerville.

On July 31, 2015, PSU intervened in this matter in order to receive notice of and, if necessary, be heard on the effects of the proposed transactions on PSU's generation, transmission and distribution service and on any proposal by any other party that might have had an impact on PSU's rates and conditions of service. The public interest was well-represented in this proceeding by I&E, OCA and OSBA, and it was unnecessary for PSU to submit testimony or any other evidence.

The transactions proposed by the Joint Applicants, the background and procedural history of these consolidated matters, and the terms and conditions of the proposed settlement are described in detail in the Joint Petition, which is hereby incorporated into this Statement of Support as if set forth at length.

III. RESPONSES TO THE QUESTIONS POSED IN THE AUGUST 10 AND OCTOBER 1, 2015 SECRETARIAL LETTERS.

On August 10, 2015, the Commission issued a Secretarial Letter identifying a number of issues and posing a number of questions to be addressed in this proceeding. On October 1, 2015, the Commission issued as Secretarial Letter that, among other things, asked the parties to "independently examine the methodology and conclusions of the FE Navigant Study to aid the

Commission in its application of the Seven Factor Test as it relates to the transmission facilities to be transferred.” At the evidentiary hearing held on February 29, 2016, the ALJs directed the Joint Petitioners to submit their responses to the issues and questions raised in the Secretarial Letters with the Joint Petition, explaining that that if a Joint Petitioner had not submitted evidence or taken a position with respect to a particular issue or question, it should so state in its response. PSU’s responses to the Secretarial Letters are set forth together with those of the other Joint Petitioners in Appendix B to the Joint Petition.

IV. THE SETTLEMENT IS IN THE PUBLIC INTEREST

It is the Commission’s policy to encourage settlements. 52 Pa. Code § 5.231. The Commission must review proposed settlements to determine whether the terms are in the public interest. *Pennsylvania Public Utility Commission v. Philadelphia Gas Works*, M-00031768 (Pa. P.U.C. Jan. 7, 2004). PSU believes that the Settlement is in the public interest for the following reasons.

First, the Settlement provides a reasonable resolution of all issues raised in these consolidated proceedings and avoids the time and expense of further litigation and possible appeals, thus conserving ratepayer, Commission and party resources.

Second, the Settlement will maintain and enhance Commission protection of customers’ interests. The Settlement confirms that the Commission will retain the jurisdiction over the transmission assets to be transferred (Joint Petition ¶ 20), and it includes a number of terms designed to ensure proper rate treatment of various costs associated with those assets (*id.* ¶¶ 21-32).

Third, the Settlement will provide increased transparency to customers with respect to the Joint Applicants’ transmission services and rates. For example, pursuant to the Settlement,

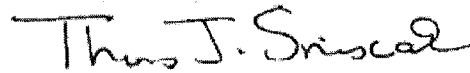
MAIT will give the Joint Petitioners advance notice when a formula rate filing will be made, do a pre-filing meeting with the Joint Petitioners and serve the filing on the Joint Petitioners. (*Id.* ¶ 31.) The Joint Applicants will provide an annual report to the other Joint Petitioners for five years after the contribution of the transmission assets from Met-Ed and Penelec to MAIT has been completed that identifies payments made and costs assigned or allocated by and between MAIT, Met-Ed and Penelec, together with an explanation as to why such costs were assigned or allocated in the manner that they were; in addition, the Joint Applicants will convene a technical session to answer questions regarding the report if requested to do so by the other Joint Petitioners. (*Id.* ¶ 34.) The Joint Applicants will annually convene a meeting with the other Joint Petitioners until the five-year anniversary of the completion of the contribution of the transmission assets from Met-Ed and Penelec to MAIT for the purpose of providing updates on the status of FirstEnergy's Energizing the Future ("EtF") program for the upcoming year. (*Id.* ¶ 36.)

Fourth, the transfer of transmission assets to MAIT facilitated by the Settlement will provide an additional level of assurance that customers and suppliers have nondiscriminatory access to the transmission system by replacing the current functional separation of the transmission system from the supply and distribution systems to a true corporate separation. The transfer and consolidation of transmission assets to MAIT will also reduce the potential for any misallocation between the transmission and distribution functions of what currently are treated as common assets and common costs, thus reducing potential anticompetitive cross-subsidization or price distortion.

V. CONCLUSION

For all of the foregoing reasons, as well as for the reasons stated in the Joint Petition and in the Statements in Support of Settlement submitted by the other Joint Petitioners, PSU supports the issuance of an order granting the Joint Petition and approving the Settlement without modification.

Respectfully submitted,



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DATED: March 4, 2016

Counsel for The Pennsylvania State University

Appendix J



THOMAS, NIESEN & THOMAS, LLC

Attorneys and Counsellors at Law

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March 4, 2016

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Joint Application of Mid-Atlantic Interstate Transmission, LLC,
Metropolitan Edison Company, and Pennsylvania Electric Company;
Docket Nos. A-2015-2488903, A-2015-2488904, A-2015-2488905, G-
2015-2488906, G-2015-2488907, G-2015-2489542, G-2015-2489543, G-
2015-2489544, G-2015-2489545, G-2015-2489547, G-2015-2490801, and
G-2015-2490802; **NOBLE AMERICAS ENERGY SOLUTIONS LLC**
LETTER OF NON-OPPOSITION TO JOINT PETITION FOR
FULL SETTLEMENT

Dear Secretary Chaivetta:

We represent Noble Americas Energy Solutions LLC ("Noble"), an intervenor to the above-referenced proceeding. Noble has reviewed the terms and conditions set forth in the Joint Petition for Full Settlement ("Settlement") being filed on even date herewith and to which this letter is appended. Noble is not a signatory to the Settlement, as it did not present any testimony or evidence in this matter. However, Noble does not oppose the Settlement and submits that the Settlement reflects a carefully balanced compromise of interests and is in the public interest.

Thank you for your consideration.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By

Charles E. Thomas, III