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May 15, 2018

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

Re: Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company,  
Pennsylvania Power Company and West Penn Power Company for Approval of Their  
Default Service Program (DSP-V) – Docket Nos. P-2017-2637855; P-2017-2637857;  
P-2017-2637858; and P-2017-2637866

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Dear Secretary Chiavetta:

Enclosed for electronic filing please find Respond Power LLC's Reply Brief with regard to the  
above-referenced matters. Copies to be served in accordance with the attached Certificate of  
Service.

Sincerely,



Karen O. Moury

KOM/lww  
Enclosure

cc: Hon. Mary D. Long w/enc.  
Cert. of Service w/enc.

## CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Respond Power's Reply Brief upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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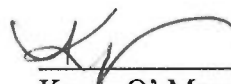
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Dated: May 15, 2018



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Karen O' Moury, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition of Metropolitan Edison	:	
Company, Pennsylvania Electric Company,	:	Docket Nos. P-2017-2637855
Pennsylvania Power Company, and West	:	P-2017-2637857
Penn Power Company for Approval of	:	P-2017-2637858
Their Default Service Programs	:	P-2017-2637866

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**REPLY BRIEF OF RESPOND POWER LLC**

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Date: May 15, 2018

Counsel for Respond Power LLC

## **I. INTRODUCTION**

Respond Power LLC (“Respond Power”) submits this Reply Brief that addresses only one aspect of the Joint Stipulation Regarding Purchase of Receivables (“POR”) Clawback, which was executed by Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, West Penn Power Company (collectively “the Companies”), the Bureau of Investigation and Enforcement (“I&E”), Respond Power, LLC (“Respond Power”) and the Retail Energy Supply Association (“RESA”) and admitted into the evidentiary record on April 10, 2018. Although Respond Power’s Main Brief, which is incorporated herein by reference, fully addressed issues relating to the Companies’ proposed POR Clawback and anticipated arguments of the Office of Consumer Advocate (“OCA”) concerning the Joint Stipulation Regarding POR Clawback, Respond Power’s Reply Brief is providing additional support for the element of that joint stipulation that would result in the Companies providing arrears reports to electric generation suppliers (“EGSs”) when the EGSs’ customers fail to pay their supply charges. Specifically, access to this information would enable by Respond Power to take measures to avoid assessment of the clawback charges, including a negotiation of different terms or cancellation of the contracts.

## **II. PURCHASE OF RECEIVABLES CLAWBACK PROVISION**

Under the Joint Stipulation Regarding POR Clawback, the Stipulating Parties agreed:

- to a four-year extension of the Companies’ POR clawback pilot, to begin with charges assessed in September 2018 based on a review of data for the twelve months ending August 31, 2018;
- that the Companies would continue to use a two-prong test to determine the clawback charge as described in its testimony; and
- that the Companies would also develop an EGS-specific customer arrears report with unpaid aged EGS account balances, which would be provided to EGSs participating the Companies’ POR programs on a quarterly basis, beginning no later than October 20, 2018 reflecting EGS arrears for third quarter 2018.

While Respond Power made significant concessions in executing the Joint Stipulation Regarding POR Clawback, by foregoing the many challenges raised during this proceeding about the timing of implementation and the structure of the clawback mechanism, it did so in exchange for the commitment of the Companies to develop an arrears report showing unpaid aged supply charge balances for the EGS's customers, on a quarterly basis starting in October 2018. The receipt of information from the Companies about the EGS customers who are not paying their supply charges is imperative to a fair and appropriate implementation of a clawback mechanism. Without this data, EGSs have no knowledge that their customers are not paying their bills and therefore no knowledge that they are at risk for imposition of clawback charges and no opportunity to avoid or minimize the assessment of such charges.

The EGS-specific customer arrears report would show unpaid aged EGS account balances and would be provided to EGSs participating in the Companies' POR programs on a quarterly basis, beginning no later than October 20, 2018, reflecting EGS arrears for the third quarter of 2018. This customer-specific arrears report would alert EGSs that customers are not paying their bills and enable EGSs to work with those customers in an effort to avoid the imposition of clawback charges. Making EGSs aware of these factors would not only allow them to take steps to avoid having clawback charges assessed, they should also have the effect of reducing write-offs. If nothing else, the EGSs would have the option of returning the customer to default service to minimize their liability for the customers' non-payment activities.

Only OCA objects to this element of the Joint Stipulation Regarding POR Clawback, claiming that "EGSs are not entitled to receive or permitted to access such customer information" and that "there has been no showing that proper customer consent has been obtained or will be obtained."<sup>1</sup> OCA's argument overlooks the important fact that the

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<sup>1</sup> OCA M.B. at 15-16.

Companies' would be providing information to Respond Power about its customers. Licensed by the Commission as an EGS, Respond Power is required to comply with the Commission's regulatory requirements governing the release of confidential customer information to third parties.<sup>2</sup> Moreover, the Commission has already concluded that a customer's privacy is not compromised when a utility shares non-payment information with the non-billing party regarding the non-billing party's charges.<sup>3</sup> Indeed, the Companies have noted that this information is already available to EGSs for their active customers – through a process that Respond Power has described as being overly burdensome.<sup>4</sup>

No rational reason exists for denying Respond Power access to the arrearage reports for its supply customers that the Companies are willing to provide. The clawback mechanism exposes Respond Power to the risk of uncollectible expense associated with serving residential and small commercial customers. Having this information about its own supply customers would enable Respond Power to more effectively manage this risk.

### III. CONCLUSION

WHEREFORE, Respond Power LLC respectfully requests that the Commission approve, without modification, the Joint Stipulation of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company, the Bureau of Investigation and Enforcement, Respond Power, LLC, and the Retail Energy Supply Association admitted into the record on April 10, 2018.

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<sup>2</sup> 52 Pa. Code §§ 54.8 and 54.43(d).

<sup>3</sup> See Secretarial Letter dated February 5, 1999 re: EDI – Providing Customer Payment Information, Docket No. M-00960890F.0015.

<sup>4</sup> Respond Power M.B. at 10-11.

Respectfully submitted,



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