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September 11, 2020

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

**VIA ELECTRONIC FILING**

**RE: Joint Default Service Plan for Citizens' Electric Company of Lewisburg, PA and  
Wellsboro Electric Company For the Period June 1, 2021 through May 31, 2025  
Docket Nos. P-2020-3019383 and P-2020-3019384**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Joint Petition for Settlement of Citizens' Electric Company of Lewisburg, PA's and Wellsboro Electric Company's Joint Default Service Program in the above-referenced proceeding.

As shown by the attached Certificate of Service and per the Commission's March 20, 2020, Emergency Order, all parties to this proceeding are being duly served via email only due to the current COVID-19 pandemic. Upon lifting of the aforementioned Emergency Order, we can provide parties with a hard copy of this document upon request.

Very truly yours,

McNEES WALLACE & NURICK LLC

By   
Adeolu A. Bakare

Counsel to Citizens' Electric Company of  
Lewisburg, PA and Wellsboro Electric Company

c: Administrative Law Judge Benjamin J. Myers (via email)  
Certificate of Service

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Adeolu A. Bakare

Counsel to Citizens' Electric Company of  
Lewisburg PA and Wellsboro Electric Company

Dated this 11<sup>th</sup> day of September, 2020, at Harrisburg, Pennsylvania

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Default Service Plan for Citizens'	:	
Electric Company of Lewisburg, PA and	:	Docket Nos.: P-2020-3019383
Wellsboro Electric Company for the Period	:	P-2020-3019384
of June 1, 2021 Through May 31, 2025	:	

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**JOINT PETITION FOR SETTLEMENT  
OF CITIZENS' ELECTRIC COMPANY OF LEWISBURG, PA'S AND  
WELLSBORO ELECTRIC COMPANY'S JOINT DEFAULT SERVICE PROGRAM**

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**I. INTRODUCTION**

Citizens' Electric Company of Lewisburg, PA ("Citizens"), Wellsboro Electric Company ("Wellsboro") (collectively, "Companies"), the Office of Consumer Advocate ("OCA") and the Office of Small Business Advocate ("OSBA") (individually, "Party," and collectively, "Parties") submit this Joint Petition for Settlement ("Joint Petition" or "Settlement") regarding the Companies' Sixth Joint Default Service Plan ("DSP VI"). The Parties respectfully request that Administrative Law Judge ("ALJ") Benjamin Myers and the Pennsylvania Public Utility Commission ("PUC" or "Commission") approve all of the terms and conditions set forth in this Settlement. Additionally, to enable seamless continuation of the Companies' Stratified Procurement Plan, the Parties request consideration of the Settlement on an expedited basis.

**II. BACKGROUND**

1. On March 31, 2020, the Companies filed with the Commission a Joint Petition for Approval of their DSP VI ("DSP Petition") with the Commission. Through that filing, Citizens' and Wellsboro requested that the Commission approve the Companies' proposal to generally adopt the terms and conditions of the current Default Service Program ("DSP V") for the period June 1, 2021, through May 31, 2025.

2. The OSBA filed an Answer, Notice of Intervention and Public Statement to the DSP Petition on April 20, 2020.

3. On April 29, 2020, the OCA filed an Answer, Notice of Intervention and Public Statement.

4. A Prehearing Conference was held on May 18, 2020, at which time the Parties developed a litigation schedule.

5. On April 9, 2020, the Companies submitted the Direct Testimony and Exhibits of Byron Farnsworth, John Kelchner, and Melissa Sullivan.

6. On June 18, 2020, the OCA submitted the Direct Testimony of Serhan Ogur, and the OSBA submitted the Direct Testimony of Brian Kalcic.

7. On July 10, the Companies circulated a settlement term sheet to the parties. The parties subsequently participated in productive settlement discussions.

8. As a result of settlement discussions, a settlement-in-principle was reached among the Parties. Upon receiving notice of the proposed settlement-in-principle on July 21, 2020, ALJ Myers canceled the hearings scheduled for August 6-7, 2020. The agreement of the Parties is embodied in this Settlement. In addition, all prepared Statements and Exhibits will be entered into the record by stipulation.

### **III. TERMS OF SETTLEMENT**

The terms of the Settlement are as follows:

9. The Companies will modify the Supplier Master Agreement to add a targeted "Change in Law" provision for renegotiation of the supplier adder if there is a statutory change to the Alternative Energy Compliance ("AEC") compliance mandates, as follows:

- a. In the event of a change to the AEPS Act compliance mandates ("Change in Law"), DS Supplier shall be responsible for procuring additional AECs required due to the Change in Law for Citizens'/Wellsboro default service

load. DS Supplier shall be able to pass through without markup the additional costs incurred due to the Change in Law; however, such additional costs shall not exceed 105% of the reported mid-price on AMEREX for the product or products on the 60<sup>th</sup> day preceding commencement of the PJM Compliance Year(s) (May 31 – June 1) for which the Change in Law applies. If the 60<sup>th</sup> day preceding commencement of the Compliance Year is not a trading day, then the reported price(s) shall be as of the first trading day after that date.

If the Alternative Energy Portfolio Requirements change for reason other than a change to the AEPS Act, such as an update to Section 2814(c) of the Public Utility Code, 66 Pa. C.S. § 2814(c), the DS Supplier shall be responsible for providing the credits at its expense in order to comply with its obligations under Full Requirements Service.

10. The Companies will continue to monitor the Federal Energy Regulatory Commission's ("FERC") Minimum Offer Price Rule ("MOPR") proceeding at FERC Docket EL18-178 (Consolidated) regarding the OCA's proposal to use an outside evaluator to ensure that successful respondent(s) to the Companies' Requests for Proposals ("RFPs") are not subject to the MOPR capacity bidding adjustments.

11. After FERC issues a final determination on the PJM Interconnection LLC ("PJM") Compliance Filing, the Companies will contact PJM and/or the Independent Market Monitor ("IMM") to discuss whether an outside evaluator is needed, and the minimum requirements for an entity in the role, if one is needed.

12. After consulting with PJM and/or the IMM, the Companies will reconvene with the parties to discuss whether an outside evaluator will be necessary, and to discuss any proposed method to include such an entity.

13. The Companies will revise their DSP VI to include a two-bidder minimum; however, if either Company receives a single bid in the RFP, it will have the option to request Commission approval of that bid as the Contingency Plan to address its default service supply for the period from June 1, 2021, through May 31, 2025. The Parties will develop procedures as

part of this Settlement to address the process for reviewing the bid, including providing the following additional information as part of the Confidential Summary of Bid Results to support the reasonableness of a single bid for Citizens' and/or Wellsboro's default service supply:

- a. Current PPL Electric Utilities Corporation ("PPL")/Pennsylvania Electric Company ("Penelec") Prices to Compare ("PTCs");
- b. Results of the most recent PPL/Penelec default service solicitations;
- c. Citizens'/Wellsboro's historical three-years' PTCs;
- d. Historical three-years' comparison of PPL/Penelec residual aggregate Locational Marginal Prices ("LMPs") to the PJM West Hub LMPs; and
- e. Results of Citizens'/Wellsboro's DSP IV and V solicitations.

14. The Companies' DSP VI is otherwise approved without modification, except that the Companies reserve the right to amend the schedule set forth in Appendix D to the DSP VI (Draft RFP) to allow for issuance of the RFP as promptly as reasonably possible following entry of a Commission Order approving the Settlement.

15. In light of the unopposed Settlement and the parties' waiver of Exception and Reply Exceptions to a Recommended Decision adopting the Settlement, the Parties request that the Commission approve this Settlement on an expedited basis and enter such Order on or before the Public Meeting scheduled for November 19, 2020.

#### **IV. THE SETTLEMENT IS IN THE PUBLIC INTEREST**

16. This Settlement was achieved by the Parties after investigation of the Companies' proposed DSP VI, including formal discovery and the exchange of Direct Testimony by each of the Parties. The Settlement is lawful and supported by the record in this proceeding.

17. With the approval of the Settlement, the Parties and the Commission avoid the time, expense and uncertainty that would occur if the Parties were required to litigate the issues in this proceeding.

18. The Parties are providing support for the Settlement via Statements in Support, which are attached to the Settlement as Attachments A through C. These Statements will set forth additional arguments and reasons as to why approval of this Settlement without modification is appropriate and in the public interest.

#### **V. CONDITIONS OF SETTLEMENT**

19. This Settlement is conditioned upon the Commission's approval of terms and conditions contained herein without modification. If the Commission modifies the Settlement, any Party may elect to withdraw from this Settlement and may proceed with litigation, and, in such event, this Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon the other Parties within five (5) business days after the entry of an order modifying the Settlement.

20. The Settlement is proposed by the Parties to resolve all issues in the instant proceeding and is made without any admission against, or prejudice to, any position that any Party may adopt during any subsequent litigation of this proceeding or any other proceeding.

21. As previously referenced, the Parties waive their rights to file Exceptions and Reply Exceptions if the ALJ adopts the Settlement without modification.

22. If the Commission does not approve the Settlement unmodified and in full, and the proceeding continues to further hearing, the Parties reserve their respective rights to present testimony and to conduct full cross-examination, briefing and argument.

23. The Commission's approval of this Settlement shall not be construed to represent approval of any Party's position on any issue.

24. It is understood and agreed among the Parties that this Settlement is the result of compromises and does not necessarily represent the position(s) that would be advanced by any Party if this proceeding were fully litigated.

## **VI. CONCLUSION**

WHEREFORE, the Parties respectfully request as follows:

1. That the ALJ and the Commission make the following findings (and any other findings and conclusions as may be required or appropriate):
  - a. The Companies' proposed DSP VI for the period June 1, 2021 through May 31, 2025, as amended by the terms of this Settlement, is compliant with the requirements of the Public Utility Code;
  - b. The Companies adopt the modified Appendix E to the Supplier Master Agreement adding the targeted "Change in Law" provision for renegotiation of the supplier adder if there is a change to the AEPS Act compliance mandates as set forth in Attachment D;
  - c. The Companies shall continue to monitor FERC Docket EL18-178 (Consolidated) regarding the OCA's proposal to use an outside evaluator to ensure that successful respondents to the Companies' RFPs are not subject to the MOPR capacity bidding adjustments;
  - d. The Companies shall contact PJM and/or the IMM to discuss whether an outside evaluator is needed and the minimum requirements for an entity in that role;
  - e. The Companies shall reconvene with the Parties to discuss whether an outside evaluator will be necessary and any proposed method to include such an entity;
  - f. The DSP VI is amended to include a two-bidder minimum requirement for the Request for Proposals for default service supply, subject to the Contingency Plan set forth in the Settlement;
  - g. The Companies may amend the schedule set forth in Appendix D to the Joint Petition (Draft RFP) provided that such amended schedule is filed with the Commission as a compliance filing; and
  - h. Approval of this Settlement is in the public interest.



2. That the Commission enter an Order approving the Companies' proposed DSP VI, as amended by the terms of this Settlement.

Respectfully submitted,



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Dated: September 11, 2020

**ATTACHMENT A**  
**Citizens'/Wellsboro Statement in Support**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Default Service Plan for Citizens'	:	
Electric Company of Lewisburg, PA and	:	Docket Nos.: P-2020-3019383
Wellsboro Electric Company for the Period	:	P-2020-3019384
of June 1, 2021 Through May 31, 2025	:	

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**STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT OF  
CITIZENS' ELECTRIC COMPANY OF LEWISBURG, PA AND WELLSBORO  
ELECTRIC COMPANY'S JOINT DEFAULT SERVICE PROGRAM**

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On August 13, 2020, Citizens' Electric Company of Lewisburg, PA ("Citizens") and Wellsboro Electric Company ("Wellsboro") (collectively, "Companies"), the Office of Consumer Advocate ("OCA") and the Office of Small Business Advocate ("OSBA") (collectively, "Parties") submitted to the Pennsylvania Public Utility Commission ("PUC" or "Commission") a Joint Petition for Settlement ("Joint Petition" or "Settlement") proposing a negotiated resolution of all outstanding issues in the above-captioned proceedings. The Companies hereby provide a Statement in Support, which explains the background and provisions of the Settlement, and establishes that expeditious approval of the Settlement, without modification, is appropriate and in the public interest.

**I. BACKGROUND**

1. On March 31, 2020, the Companies filed with the Commission a Joint Petition for Approval of their Sixth Default Service Plan ("DSP VI" or "Joint Petition") with the Commission.

2. On April 20, 2020, OSBA filed an Answer, Notice of Intervention and Public Statement to the DSP Petition. OCA filed an Answer, Notice of Intervention and Public

Statement to the DSP VI on April 29, 2020. As a result, the Commission assigned the filing to the Office of Administrative Law where Administrative Law Judge ("ALJ") Benjamin Myers was assigned both cases.

3. A Prehearing Conference was held in this proceeding, at which time a litigation schedule was developed. Pursuant to that schedule, the Parties submitted testimony. The Companies also responded to several sets of interrogatories providing detailed explanations of various issues related to the DSP VI.

4. 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 Parties also engaged in settlement discussions and exchanged settlement terms to amicably resolve this matter. As a result of those efforts, the Parties reached an agreement in principle, which has been memorialized in the Joint Petition.

## **II. STATEMENT IN SUPPORT**

5. The Joint Petition reflects a reasonable balance and appropriate compromise of the Parties' positions while providing the Companies with a default service plan that complies with the directives in the Electric Generation Customer Choice and Competition Act, 66 Pa. C.S. § 2801 et seq. ("Competition Act"), as amended by Act 129 of 2008 ("Act 129"), the Commission's Default Service Regulations, 52 Pa. Code §§ 54.181 – 54.189,<sup>1</sup> the Policy Statement on Default Service ("Policy Statement"), 52 Pa. Code §§ 69.1801 – 69.1817, and the

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<sup>1</sup> See *Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa. C.S. § 2807(e)(2)*, Docket No. L-00040169 (Order entered May 10, 2007) ("First Rulemaking Order"); *See Implementation of Act 129 of October 15, 2008; Default Service and Electric Markets*, Docket No. L-2009-2095604 (Order entered Oct. 4, 2011) ("Second Rulemaking Order").

Commission's Order at Docket No. I-2011-2237952 ("End State Order").<sup>2</sup> The Joint Petition generally maintains the Procurement and Implementation Plan approved by the Commission in the Companies' Fifth DSP proceeding and adopts limited modifications to address issues raised by intervenors in the proceeding.

6. Under the terms of the Settlement, the Companies will:
  - a. Modify the Supplier Master Agreement to add a targeted "Change in Law" provision for renegotiation of the supplier adder if there is a statutory change to Alternative Energy Credit ("AEC") compliance mandates;
  - b. Continue to monitor the Federal Energy Regulatory Commission's ("FERC") Minimum Offer Price Rule ("MOPR") proceeding at FERC Docket EL18-178 (Consolidated), convene with PJM Interconnection, LLC and the Independent Market Monitor to discuss the applicability of any requirement to include an outside evaluator in the default service procurement process, and reconvene with the parties for further discussion; and
  - c. Implement a two-bidder minimum requirement provided that, if either Company receives a single bid in response to a Request for Proposals for default service supply, it will have the option to request Commission approval of that bid as the Contingency Plan to address its default service supply for the period from June 1, 2021, through May 31, 2025.

7. These modifications to the Companies as-filed DSP VI address issues raised in testimony submitted by OCA and OSBA. The modification to the Supplier Master Agreement addresses OCA's concerns that exposure to future increases to AEPS compliance mandates could

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<sup>2</sup> See *Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952.

incentivize suppliers to increase the risk premiums priced into their bids. OCA Statement No. 1 at 15-16. The insertion of a "Change in Law" clause mitigates this risk. The Joint Petition similarly addresses OCA's recommendation that the Companies should utilize an outside evaluator in line with proposals submitted in FERC's ongoing MOPR docket. OCA Statement No. 1 at 19. The Settlement implements an alternative process providing for continued monitoring of the FERC proceedings, further stakeholder discussion, and potential amendment to the DSP VI as may be necessary following review of FERC's final directives. Lastly, the two-bidder minimum rule balances OSBA's interest in ensuring a competitive procurement process with the Companies' position that a single bid may be shown to be reasonable upon analysis of objective benchmarks. OSBA Statement No. 1, at 5.

8. As explained in the Companies' Joint Petition, the Companies also respectfully request to extend the Sixth Joint DSP by an additional two years in line with the Commission's previous approval of an extension of the Companies' Fifth Joint DSP by a year. Granting this extension will allow the Companies to reduce the administrative costs of preparing and filing default service plans with the Commission. Extensions of this nature are not uncommon, as similar waivers were provided to other EDCs granting longer time periods. *See Petition of Metropolitan Edison Company, et al., for Approval of a Default Service Program for the Period Beginning June 1, 2017 through May 31, 2019*, Docket Nos. P-2015-2511333, P-2015-2511351, P-2015-2511355, and P-2015-2511355 (Order entered May 19, 2016); *Petition of Duquesne Light Company for Approval of a Default Service Plan for the Period June 1, 2017 to May 31, 2021*, Docket No. P-2016-2543140 (Order entered Dec. 22, 2016).

9. The Companies also propose a threshold of 400 kW for Hourly-Priced Service ("HPS") offered to Large Commercial & Industrial customers, which, though different from the



guidance set forth in the End State Order, is still in line with the Commission's observation therein that smaller EDCs may furnish evidence showing why the 100 kW demarcation, suggested by the End State Order, would not be appropriate for their service territories. Citizens'/Wellsboro Statement No. 1, Direct Testimony of Byron Farnsworth ("Citizens'/Wellsboro St. No. 1") at 12-13; Citizens'/Wellsboro Statement No. 2, Direct Testimony of John Kelchner ("Citizens'/Wellsboro St. No. 2") at 10. Based on the customer characteristics in their territories, the Companies believe that maintaining the current 400 kW threshold previously approved for the Companies' DSP V remains appropriate and, therefore, requests a waiver of the 100kW demarcation. Citizens'/Wellsboro St. No. 2 at 10, 12.

10. With the conditions described in paragraphs 6 and 7 in place, the Companies will continue to meet their DSP obligations by conducting an RFP and entering into Load-Following FR contracts with one or more wholesale suppliers, which is consistent with the Commission's directive that all default service procurements include auctions, requests for proposals or bilateral agreements. Further, consistent with the Commission's Regulations, the proposed procurement plan offers a prudent mix of products because the proposed wholesale default service product will consist of five principal cost components: (1) an energy component that will be priced using an index; (2) a direct pass through of Network Integrated Transmission Service ("NITS") costs for default service customers; (3) a direct pass-through of Regional Transmission Expansion Plan ("RTEP")/Transmission Enhancement Charge ("TEC") costs for default service customers; (4) a direct pass-through of Capacity Costs (Locational Reliability and Capacity Performance) for default service customers; and (5) a fixed Supplier Adder covering all other costs to deliver default service to the wholesale meter and the Citizens' or Wellsboro Aggregate Bus. *See* Citizens'/Wellsboro St. No. 2 at 13-14.

11. Consistent with the Companies' DSP V, the energy component for Residential and Small Commercial Customers will set a fixed price to be adjusted every six months based on the Intercontinental Exchange's ("ICE") published PJM West on-peak monthly forward pricing as of selected "Trigger Dates". Citizens'/Wellsboro St. No. 1 at 9-10.

12. As indicated above Large Commercial & Industrial customers, with monthly billing demand at or above 400 kW during any billing period over the prior 12 months, will receive HPS based on the real-time PJM Locational Marginal Pricing ("LMP") for the PJM West Hub. Citizens'/Wellsboro St. No. 1 at 10.

13. Where rate design is concerned, the Companies intend to preserve the design and structure of the existing GSSRs with a few refinements to reduce the effectiveness timeframe for interim filings. For the GSSR-1, the Companies propose to continue to adjust rates every 6 months. Citizens'/Wellsboro Statement No. 3, Direct Testimony of Melissa Sullivan ("Citizens' Wellsboro St. No. 3") at 6. Consistent with the Commission's End State Order, preliminary rates will be filed 45 days prior to the effective date for new rates, provided the Companies retain authority to update preliminary rates up to 10 days prior to the effective date. *Id.* at 9. One refinement to the existing GSSR is the Companies' request to reduce the notice period for the Companies to make interim filings to address cost or computational changes from ten (10) days to five (5) days. *Id.* This change will ensure that the GSSR can be modified more expeditiously and will minimize the length of time that an inaccurate GSSR rate is applied. *Id.* Concerning the GSSR-2, the Companies' model reflects the real-time pricing now available to Large C&I customers. *Id.* at 4. Capacity, NITS, RTEP/TEC and hourly LMPs are direct pass-throughs based on PJM rates and billing determinants. *Id.* at 5. The Supplier Adder also is a direct pass through on a per kWh basis. *Id.*

14. Further, pursuant to 66 Pa. C.S. § 1307, the GSSR will recover through an automatic adjustment mechanism all bidding, contracting, risk management, scheduling and forecasting costs, as well as other costs that are required to procure default service supply. In this manner, the Companies will also recover all administrative costs, applicable taxes, and costs associated with the Companies' AEPS compliance. Citizens'/Wellsboro St. No. 3 at 11-12.

15. The Companies' DSP VI continues the Retail Market Enhancement programs approved as part of the Companies' DSP V. Specifically, the Companies will continue offering the Seamless Moves and Instant Connect programs under the DSP VI. Citizens'/Wellsboro St. No. 1 at 14.-15. The DSP VI also responds to the Commission's Secretarial Letter at Docket No. M-2019-3007102, which directed EDCs to address adoption of time of use rates for electric vehicle charging. The Companies commit to actively monitor issues related to electric vehicles and the adoption of related programs by larger EDCs, but do not propose to implement a time of use rate for electric vehicles at this time. *Id.* at 15.

16. Finally, in case a selected wholesale supplier fails to deliver energy supply or the 2021 RFP fails to yield qualified bids, the Companies' DSP VI preserves the Contingency Plan approved by the Commission for the DSP V. Citizens'/Wellsboro St. No. 3 at 11-12.


17. As detailed above, the Settlement represents a compromise solution that adequately addresses the needs of all parties to this proceeding. Furthermore, the Settlement avoids the expense and uncertainty of fully litigating all of the matters in this proceeding and otherwise advances the policy of this Commission to encourage parties to resolve contested proceedings through settlement. Accordingly, the Companies respectfully submit that expeditious approval of the Joint Petition, without modification, is appropriate and in the public interest.

**III. CONCLUSION**

**WHEREFORE**, Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company request that the Administrative Law Judge and the Commission expeditiously approve the Joint Petition for Settlement without modification.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Counsel to Citizens' Electric Company of  
Lewisburg, PA and Wellsboro Electric Company

Dated: September 11, 2020

**ATTACHMENT B**  
**OCA Statement in Support**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Default Service Plan for Citizens'	:	
Electric Company of Lewisburg, PA and	:	Docket Nos.: P-2020-3019383
Wellsboro Electric Company for the Period	:	P-2020-3019384
of June 1, 2021 Through May 31, 2025	:	

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

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The Office of Consumer Advocate (OCA), a signatory party to the Joint Petition for Settlement (Settlement) in the above-captioned proceeding, respectfully requests that the terms and conditions of the Settlement be approved by Administrative Law Judge Benjamin J. Myers and the Pennsylvania Public Utility Commission (Commission). It is the position of the OCA that the proposed Settlement is in the public interest and in the interests of the residential customers of Citizens' Electric Company and Wellsboro Electric Company (collectively, the Companies).

I. INTRODUCTION

On March 31, 2020, the Companies filed with the Commission a Petition for Approval of their Sixth Joint Default Service Plan (DSP VI) with the Commission to take effect June 1, 2021 and run through May 31, 2025.

The Office of Consumer Advocate filed an Answer and Notice of Intervention in the proceeding on April 29, 2020. As reflected in its Answer, the OCA's objective was to ensure that the various aspects of the Companies' proposed DSP VI, including methods of procurement of energy and Alternative Energy Credits (AECs), the design of residential Default Service rates, the contingency plans in the event wholesale suppliers fail to deliver or fail to respond to the

Companies' Request for Proposal, and the Retail Market Enhancement programs were compliant with all applicable statutes, regulations and Commission Orders and designed to produce default service rates for the Companies' residential customers that represent the least cost over time, as required by 66 Pa.C.S. Section 2807(e)(3,4). To assist with its analysis of proposed DSP VI, the OCA retained the services of Dr. Serhan Ogur.<sup>1</sup> The OCA submitted Dr. Ogur's Direct Testimony in this proceeding on June 18, 2020 in accordance with the procedural schedule established for this case.

## II. BACKGROUND

The OCA adopts the background set forth in Paragraphs 1-8 of the Joint Petition for Settlement.

By way of further background, in his Direct Testimony, OCA witness Ogur addressed four aspects of the Companies' proposed DSP VI Plan: (1) the wholesale supply products to be procured to meet residential and small commercial load; (2) the duration of the proposed plan; (3) the need for independent oversight of the procurement process; and (4) the structure of the Companies' proposed reconciliation adjustment.

With regard to the products to be procured, it was Dr. Ogur's recommendation that rather than the four-year Load-Following Full Requirements (LFFR) contracts proposed by the Companies, they acquire LFFR contracts with a duration of three years. Dr. Ogur's rationale for this recommendation was based on his concern that wholesale suppliers bidding into the Companies' RFP would have to include significant risk premiums in their bids to compensate for

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<sup>1</sup> Dr. Serhan Ogur is a Principal with Exeter Associates, Inc.. Dr. Ogur received a B.A. degree in Economics from Bogazici University (Istanbul, Turkey) in 1996 and a Ph.D. in Economics from Northwestern University in 2007. Dr. Ogur has 19 years of experience in the energy industry specializing in organized wholesale and retail electricity markets. He was previously employed as an Economic Analyst at the Illinois Commerce Commission; a Senior Economist at PJM Interconnection LLC; and a Senior System Operator at Fellon-McCord & Associates. OCA St. 1 at 1, Appendix A.

the uncertainty involved in estimating certain elements of the Supplier Adder<sup>2</sup> four years into the future. One of the elements of particular concern to Dr. Ogur was the cost of AEPS Act compliance. Asked about that concern, Dr. Ogur testified that there were two reasons for it. First, he noted that prices of Pennsylvania renewable energy credits (RECs), particularly solar RECs (SRECs), have been volatile since the end of 2018 and second, over a four-year period, there is the possibility that the AEPS Act could be amended to increase REC requirements, in keeping with regional and national trends in recent years. OCA St. 1 at 9. Dr. Ogur explained his position more fully:

In my opinion and experience, suppliers will be able to properly handicap the possibility of an amendment to the AEPS Act and hedge REC (both solar and Tier I) prices for the next two, perhaps three, years. Beyond two or three years, uncertainty associated with amendments to the AEPS Act and REC requirements as a percentage of load grows significantly, while the REC market becomes less liquid and hedging future REC price exposure becomes either costlier or more difficult, or both. Therefore, potential suppliers will need to factor in this risk and uncertainty, both in the REC requirements and in REC prices, in the third and fourth years, into their Supplier Adder bids. This risk premium is likely to be material particularly for the fourth year, and possibly for the third year as well to some extent, compared to the first two years. It is safer and more prudent for residential and small commercial default service customers that the Companies stay with their DSP V approach and limit the suppliers' risk of AEPS Act compliance to three years.

OCA St. 1 at 9-10.

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<sup>2</sup> As explained by the Companies in Citizens'/Wellsboro St. 3 at 6:

The Supplier Adder is a per-kWh rate fixed by the wholesale supplier for the duration of the four-year (4-year) contract. Aside from energy costs, Network Integrated Transmission Service (NITS) Regional Transmission Expansion Plan/Transmission Enhancement Costs (RTEP/TEC), Capacity, and Company Administrative Costs, *the Supplier Adder covers all other costs to deliver default service power to the Citizens' or Wellsboro Aggregate Bus*, including congestion, marginal losses, Alternative Energy Portfolio Standards (AEPS) Act compliance, and transmission losses, as well as all risks associated with default service customer usage variability, customer migration (switching to an EGS for supply service or returning to default service as permitted under the Companies' tariffs and Pennsylvania law) and deviations between the forward pricing and actual experienced costs. (Emphasis added)

It is the amount of the Supplier Adder upon which wholesale suppliers compete to win the Companies' RFP. As noted, the Adder is bid as a fixed amount for the proposed four year period of the DSP.



Dr. Ogur also examined the congestion component of the Supplier Adder and the opportunity for suppliers to hedge their congestion cost exposure through PJM's long-term Financial Transmission Rights (FTRs) auctions. He observed that due to certain structural aspects of the FTR auctions, they provide at best a partial and imperfect hedge against the congestion cost exposure faced by suppliers. As with the AEPS costs, Dr. Ogur concluded that including congestion in a four-year Supplier Adder will expose suppliers to a degree of unhedgeable risk that is likely to be reflected in supplier bids in the form of a significant risk premium. Again, Dr. Ogur recommended that the Companies limit suppliers' risk of congestion cost exposure to three, not four, years. OCA St. 1 at 10-12.

Dr. Ogur similarly examined the ancillary services, customer usage variability and customer migration risk components of the Supplier Adder. While these components tend to be more stable and therefore may not result in significant risk premiums, Dr. Ogur nevertheless recommended that the Companies limit suppliers' exposure to ancillary services risk and volumetric risk to three years. OCA St. 1 at 12-13.

Consistent with his recommendation that the Companies utilize three- rather than four-year LFFR products to serve the default service needs of residential and small commercial customers, Dr. Ogur further recommended that the length of the Sixth DSP period be shortened from the proposed four years to three. OCA St. 1 at 14-15.

On the topic of independent oversight of the procurement process, Dr. Ogur testified that the Federal Energy Regulatory Commission (FERC) recently issued an order designed to eliminate the effects of state subsidies paid or imputed to certain resources that participate in PJM's capacity

auctions.<sup>3</sup> In its order, FERC included payments made to suppliers in connection with state-ordered default service auctions within the definition of a “state subsidy.” In a compliance filing submitted to FERC on June 1, 2020, PJM proposed tariff language that would exempt state default service auctions from the definition of “state subsidy” and from application of the MOPR to resources associated with the winning bidders of those auctions if the auctions met certain criteria. OCA St. 1 at 16.

Dr. Ogur explained that in its June 1 filing, PJM proposed to deem a default service auction (such as the Companies’ RFP process for procuring default service supply) to be “competitive and resource-neutral” and therefore exempt from the definition of state subsidy if four conditions were met. First, the default service auction would have to be subject to oversight by a consultant or manager, independent of the market participants, who would certify that the auction was conducted through a non-discriminatory and competitive bidding process. Second, the default service auction could not place any conditions based on the ownership, location, affiliation, fuel type, technology, or emissions, of any resources or supply. Third, the default service auction could not result in any contracts between the entity providing supply services to the Default Retail Service Provider and the electric distribution company that impose any conditions that would require any upstream bilateral transactions to be sourced from any specific capacity resource or resource type in order to satisfy the retail supply obligations. Fourth, retail customers must have the option to elect a competitive retail supplier and effectively bypass any supply charges that are a result of the default service auction awards. OCA St. 1 at 17. Dr. Ogur offered his view that proposed DSP VI meets the second, third and fourth of these criteria, but not the first related to an independent evaluator

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<sup>3</sup> In general, resources deemed to be receiving state subsidies are subject to PJM’s Minimum Offer Pricing Rule (MOPR) which establishes a minimum price at which such a resource must bid into PJM’s Capacity Auction.

for the Companies' RFP process. In order to avoid any potentially negative consequences of the MOPR rule being applied to bidders in the Companies' RFP for default supply, Dr. Ogur recommended that they retain an independent evaluator. OCA St. 1 at 18-19. Dr. Ogur also acknowledged that FERC had yet to rule on PJM's June 1 compliance filing. *Id.* at 19.

With respect to the Companies' mechanism for reconciling actual default service costs and default service revenues, the Companies propose a six-month reconciliation period with recovery of any over or undercollections to occur over the following six months, with a lag of two months. Citing considerations of rate stability and market reflective pricing, Dr. Ogur recommended that the recovery period for any over or undercollections be extended from six to twelve months. *Id.*

### III. TERMS AND CONDITIONS OF SETTLEMENT.

#### A. Changes in AEPS Act Requirements (Settlement ¶ 9)

Paragraph 9 of the Settlement responds to OCA witness Ogur's concern over the possibility of an amendment to the AEPS Act during the course of DSP VI that would increase the amount of RECs and SRECs required to be supplied by the winning wholesale suppliers in the Companies' RFPs. Paragraph 9 provides that the Companies will add a "Change in Law" provision to their Supplier Master Agreement (SMA) that will allow for renegotiation of the Supplier Adder in the event that the mandates for RECs and SRECs are changed. The specific SMA provision states that if there is an increase in the AEPS Act requirements, the Companies' wholesale Default Service Supplier will be responsible for procuring the additional RECs and will be permitted to pass through the cost of those RECs, without markup. However, the pass through is not unbounded. The Settlement provides that the cost of the additional RECs are not to exceed "105% of the reported "mid-price" on AMEREX for the product or products on the 60<sup>th</sup> day preceding

commencement of the PJM Compliance Year(s) (May 31 – June 1).” This cap was negotiated between the Companies and the OCA.

Insofar as concern over the wholesale suppliers’ ability to forecast changes in REC requirements four years in advance was OCA witness Ogur’s chief reason for recommending a three-year default service product along with a three year default service term, this Settlement provision goes a long way in ameliorating that concern. The Companies’ procurement strategy is unique among Pennsylvania default service providers in that it relies on a single long-term contract for supply of all residential and small commercial customers. By assuring that the Companies’ wholesale suppliers will be able to reasonably recover the cost associated with any change in the AEPS Act during DSP VI, it obviates the need for what Dr. Ogur feared would be a substantial risk premium built into the bids of the wholesale supply entities to account for the uncertainty in predicting AEPS obligations four years into the future. In addition, it addresses Dr. Ogur’s concern that such uncertainty could reduce the number of wholesale supply entities that would participate in the auction, thus potentially increasing prices. OCA St. 1 at 8. Indeed, Dr. Ogur answered in the affirmative when asked whether he would support a four-year duration for DSP VI if his concerns with the default supply product were addressed by the Companies. OCA St. 1 at 15. The OCA submits that this Settlement provision is in the interests of the Companies’ residential customers as well as in the overall public interest.

B. Independent RFP Evaluator (Settlement ¶¶ 10-12)

These Settlement paragraphs also respond to an issue raised by OCA witness Ogur, *i.e.*, the need to retain an independent evaluator to oversee the Companies default service procurement process. As explained above, hiring an independent evaluator will avoid the amounts paid to the winning RFP bidder a “state subsidy,” which, in turn, avoid the energy resources those winning

bidders rely upon being subject to the MOPR rule. This, of course, will only be the case if PJM's proposal related to state subsidies (discussed earlier) is accepted by FERC.

Paragraph 10 provides that the Companies will monitor the relevant FERC proceeding involving the MOPR rule to determine whether PJM's state subsidy proposal is accepted. Paragraph 11 states that if accepted, once FERC issues a final order on the PJM compliance filing, the Companies will contact PJM and/or the Independent Market Monitor for PJM to discuss whether an independent evaluator is needed and the minimum requirements for an entity serving in that role.

Paragraph 11 provides that after consultation with PJM and/or the Independent Market Monitor, the Companies will meet with the parties to this proceeding to discuss whether an independent evaluator will be needed and the proposed method for including such an entity in the RFP process.

Given that FERC has yet to rule on PJM's proposal, the step-wise approach taken in these paragraphs to the retention of an independent evaluator is justified. Should FERC accept PJM's proposal, Dr. Ogur has testified on the importance of meeting the criteria PJM proposed so that a default service auction is deemed to be competitive and resource-neutral. Without that designation, capacity resources owners and their affiliates could choose not to participate in default service procurement auctions. In addition, wholesale counterparties associated with capacity resource ownership could also shy away from transacting with the entities awarded state default service contracts, making it costly or perhaps impossible for bidders in such state default service solicitations to hedge their price risks. In short, auctions not deemed competitive and resource-neutral may not attract any bidders. The provisions of Settlement paragraphs 10-12 will avoid

such an outcome should FERC approve PJM's proposal and as such are in the interests of the Companies' residential customers and in the public interest generally.

C. Two-Bidder Minimum (Settlement ¶ 13)

This Settlement term provides that the Companies will revise their DSP VI RFP protocol to require that at least two bidders submit bids in the RFPs and sets forth a process for moving forward if Citizens' or Wellsboro (or both) receives only a single bid. This process would include Commission approval and the submission of material information to support acceptance of the single bid. The OCA did not offer testimony on this issue, but is supportive of this Settlement term.

#### IV. CONCLUSION

The OCA submits that this Settlement represents a balanced and reasonable resolution to the Company's DSP VI filing, and in consideration of the various elements of the Settlement that have been described above, the OCA finds the Settlement as a whole to be in the public interest and in the best interest of Citizens' and Wellsboro's ratepayers, and for that reason, submits that the terms and conditions of the Settlement should be approved by the Commission.

Respectfully Submitted,

/s/ David T. Evrard

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Dated: September 11, 2020  
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**ATTACHMENT C**  
**OSBA Statement in Support**



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Default Service Plan for Citizens' :  
Electric Company of Lewisburg, PA and : Docket Nos.: P-2020-3019383  
Wellsboro Electric Company for the Period : P-2020-3019384  
of June 1, 2021 Through May 31, 2025 :

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

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**I. Procedural History**

The Office of Small Business Advocate (“OSBA”) is an agency of the Commonwealth of Pennsylvania authorized by the Small Business Advocate Act (Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50) to represent the interest of small business consumers as a party in proceedings before the Pennsylvania Public Utility Commission (“Commission”).

On March 31, 2020, Citizens’ Electric Company of Lewisburg, PA and Wellsboro Electric Company (“Citizens’ and Wellsboro” or “the Companies”) filed with the Commission a Joint Petition for Approval of their DSP VI (“DSP Petition”) with the Commission. Through that filing, Citizens’ and Wellsboro requested that the Commission approve the Companies’ proposal to generally adopt the terms and conditions of the current Default Service Program (“DSP V”) for the period June 1, 2021, through May 31, 2025.

The OSBA filed an Answer, Notice of Intervention and Public Statement to the DSP Petition on April 20, 2020.

On April 29, 2020, the OCA filed an Answer, Notice of Intervention and Public Statement.

A Prehearing Conference was held on May 18, 2020, at which time the Parties developed a litigation schedule.

On April 9, 2020, the Companies submitted the Direct Testimony and Exhibits of Byron Farnsworth, John Kelchner, and Melissa Sullivan.

On June 18, 2020, the OCA submitted the Direct Testimony of Serhan Ogur, and the OSBA submitted the Direct Testimony of Brian Kalcic.

On July 10, the Companies circulated a settlement term sheet to the parties. The OSBA and other parties subsequently participated in productive settlement discussions.

As a result of the settlement discussions, a settlement-in-principle was reached among the Parties. Upon receiving notice of the proposed settlement-in-principle on July 21, 2020, ALJ Myers canceled the hearings scheduled for August 6-7, 2020. The agreement of the Parties is embodied in the Settlement. In addition, all prepared Statements and Exhibits will be entered into the record by stipulation.

## **II. Citizens' and Wellsboro's Original Proposal**

In its Answer and in the Direct Testimony of OSBA witness Brian Kalcic, the OSBA was generally supportive of the Company's proposal to acquire default service electricity for Small and Medium Commercial and Industrial ("C&I") customers.

However, the OSBA took issue with the Companies' proposal to eliminate the existing minimum bidder requirement in DSP VI, relying, instead, on the Companies' collective

experience and judgment. The OSBA argued, instead, for the continuation of a two-bidder minimum.

### **III. Settlement**

As noted above, the OSBA agreed with the basic proposal for DSP VI put forth by the Companies. Further, the OSBA did not have any issues with the other terms agreed to by the parties in the settlement. The issues raised by Mr. Kalcic in his Direct Testimony regarding the two-bidder minimum were negotiated by the parties and are addressed in paragraph 13 of the settlement, which states:

The Companies will revise their DSP VI to include a two-bidder minimum; however, if either Company receives a single bid in the RFP, it will have the option to request Commission approval of that bid as the Contingency Plan to address its default service supply for the period from June 1, 2021, through May 31, 2025. The Parties will develop procedures as part of this Settlement to address the process for reviewing the bid, including providing the following additional information as part of the Confidential Summary of Bid Results to support the reasonableness of a single bid for Citizens' and/or Wellsboro's default service supply:

- a. Current PPL Electric Utilities Corporation ("PPL")/Pennsylvania Electric Company ("Penelec") Prices to Compare ("PTCs");
- b. Results of the most recent PPL/Penelec default service solicitations;
- c. Citizens'/Wellsboro's historical three-years' PTCs;
- d. Historical three-years' comparison of PPL/Penelec residual aggregate Locational Marginal Prices ("LMPs") to the PJM West Hub LMPs; and
- e. Results of Citizens'/Wellsboro's DSP IV and V solicitations.

This language satisfies the OSBA's concern over the need for a two-bidder minimum.

**IV. Conclusion**

By resolving the issues of principal concern to the OSBA, the Settlement will enable the OSBA to conserve its resources and avoid the uncertainties inherent in fully litigating the issues addressed by the Settlement.

Therefore, for the reasons set forth above and in the Settlement itself, the OSBA respectfully requests that the Administrative Law Judge and the Commission approve the Joint Petition for Settlement without modification.

Respectfully submitted,

S/Daniel G. Asmus

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Daniel G. Asmus  
Assistant Small Business Advocate  
Attorney I.D. No. 83789

For: John R. Evans  
Small Business Advocate

Date: September 11, 2020

**ATTACHMENT D**  
**Clean and Redlined**  
**Amended Appendix E**  
**to Supplier Master Agreement**

## **APPENDIX E – DS SUPPLIER'S OBLIGATIONS FOR AEPS COMPLIANCE**

To satisfy AEPS with respect to the DS Supplier's Responsibility Share, DS Supplier shall fulfill the following obligations:

- (1) Providing sufficient AECs for each tranche awarded via the DS Solicitation less the Allocated AECs;
- (2) Paying any AEPS penalties, costs, charges, etc. assessed against the DS Supplier and/or the Company associated with the DS Supplier's non-performance with AEPS requirements;
- (3) Submitting to the Company proof of AEPS compliance under this Agreement in such form and manner as may be required by the Company.
- (4) Provide to the Company all information the Company may require to comply with the AEPS Act and its implementing regulations and other Requirements of Law, including, but not limited to the price paid per AEC required by 73 Pa.C.S. §1648.3(e)(8).

This Appendix E shall confirm the Alternative Energy Portfolio Standards Obligation of the Transaction agreed to on \_\_\_\_\_ ("Bid Proposal Due Date").

Alternative Energy Portfolio Standards Obligations for the period beginning June 1, 2021 based on the total MWh supplied by DS Supplier:

<u>Compliance Period</u>	<u>Tier 1</u>	<u>PV</u>	<u>Tier 2</u>
6/1/2021 to 5/31/2022	8.0%	0.5000%	10%
6/1/2022 to 5/31/2023	8.0%	0.5000%	10%
6/1/2023 to 5/31/2024	8.0%	0.5000%	10%
6/1/2024 to 5/31/2025	8.0%	0.5000%	10%

The Tier 1 percentages are inclusive of the PV percentages. For example, of the 8.0% of retail sales required to come from Tier 1 sources during the 2021/2022 Compliance Period, at least 0.5000% of all retail sales must come from PV sources.

In the event of a change to the AEPS Act ~~f Alternative Energy Portfolio Requirements change by law or any other reason ("Change in Law")~~, DS Supplier ~~shall be responsible for providing the credits at its expense in order to comply with its obligations under Full Requirements Service.~~ shall be responsible for procuring additional AECs required due to the Change in Law for Citizens'/Wellsboro default service load. DS Supplier shall be able to pass through without markup the additional costs incurred due to the Change in Law; however, such additional costs shall not exceed 105% of the reported mid-price on AMEREX for the product or products on the 60th day preceding commencement of the PJM Compliance Year(s) (May 31 – June 1) for which the Change in Law applies. If the 60th day preceding commencement of the Compliance Year is not a trading day, then the reported price(s) shall be as of the first trading day after that date.

If the Alternative Energy Portfolio Requirements change for any reason other than a change to the AEPS Act, such as an update to Section 2814(c) of the Public Utility Code, 66 Pa. C.S. § 2814(c), the DS Supplier shall be responsible for providing the credits at its expense in order to comply with its obligations under Full Requirements Service.

Allocated AECs: Supplier shall take on assignment of any AECs purchased by Company prior to the Effective Date, which shall be specified below:

NONE

## **APPENDIX E – DS SUPPLIER'S OBLIGATIONS FOR AEPS COMPLIANCE**

To satisfy AEPS with respect to the DS Supplier's Responsibility Share, DS Supplier shall fulfill the following obligations:

- (1) Providing sufficient AECs for each tranche awarded via the DS Solicitation less the Allocated AECs;
- (2) Paying any AEPS penalties, costs, charges, etc. assessed against the DS Supplier and/or the Company associated with the DS Supplier's non-performance with AEPS requirements;
- (3) Submitting to the Company proof of AEPS compliance under this Agreement in such form and manner as may be required by the Company.
- (4) Provide to the Company all information the Company may require to comply with the AEPS Act and its implementing regulations and other Requirements of Law, including, but not limited to the price paid per AEC required by 73 Pa.C.S. §1648.3(e)(8).

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6/1/2022 to 5/31/2023	8.0%	0.5000%	10%
6/1/2023 to 5/31/2024	8.0%	0.5000%	10%
6/1/2024 to 5/31/2025	8.0%	0.5000%	10%



The Tier 1 percentages are inclusive of the PV percentages. For example, of the 8.0% of retail sales required to come from Tier 1 sources during the 2021/2022 Compliance Period, at least 0.5000% of all retail sales must come from PV sources.

In the event of a change to the AEPS Act ("Change in Law"), DS Supplier shall be responsible for procuring additional AECs required due to the Change in Law for Citizens'/Wellsboro default service load. DS Supplier shall be able to pass through without markup the additional costs incurred due to the Change in Law; however, such additional costs shall not exceed 105% of the reported mid-price on AMEREX for the product or products on the 60th day preceding commencement of the PJM Compliance Year(s) (May 31 – June 1) for which the Change in Law applies. If the 60th day preceding commencement of the Compliance Year is not a trading day, then the reported price(s) shall be as of the first trading day after that date.

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Allocated AECs: Supplier shall take on assignment of any AECs purchased by Company prior to the Effective Date, which shall be specified below:

NONE