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January 6, 2022

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

VIA E-MAIL

RE: Petition of Metropolitan Edison Company for Approval to Establish and Implement a Distribution System Improvement Charge; Docket No. P-2015-2508942, et al.

Petition of Pennsylvania Electric Company for Approval to Establish and Implement a Distribution System Improvement Charge; Docket No. P-2015-2508936, et al.

Petition of Pennsylvania Power Company for Approval to Establish and Implement a Distribution System Improvement Charge; Docket No. P-2015-2508931, et al.

Petition of West Penn Power Company for Approval to Establish and Implement a Distribution System Improvement Charge; Docket No. P-2015-2508948, et al.

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is the Further Prehearing Memorandum on behalf of the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), the Penn Power Users Group ("PPUG"), and the West Penn Power Industrial Intervenors ("WPPII") (collectively, the "Industrials"), in the above-referenced proceedings.

As shown by the attached Certificate of Service, all parties to these proceedings are being duly served. Thank you.
Very truly yours,

A handwritten signature in black ink that reads 'Charis Mincavage'.

Charis Mincavage
MCNEES WALLACE & NURICK LLC

Counsel to the Met-Ed Industrial Users Group,
the Penelec Industrial Customer Alliance,
the Penn Power Users Group, and
the West Penn Power Industrial Intervenors

CM/leh
Enclosures

c: Deputy Chief Administrative Law Judge Joel H. Cheskis (via E-Mail)
Certificate of Service

CERTIFICATE OF SERVICE

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

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Charis Mincavage

Counsel to Met-Ed Industrial Users Group, Penelec
Industrial Customer Alliance, Penn Power Users
Group, and West Penn Power Industrial Intervenors

Dated this 6th day of January, 2022, at Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Metropolitan Edison Company for Approval of a Distribution System Improvement Charge	:	Docket No. P-2015-2508942
	:	
Office of Consumer Advocate	:	
v.	:	Docket No. C-2016-2531040
Metropolitan Edison Company	:	
Petition of Pennsylvania Electric Company for Approval of a Distribution System Improvement Charge	:	Docket No. P-2015-2508936
	:	
Office of Consumer Advocate	:	
v.	:	Docket No. C-2016-2531060
Pennsylvania Electric Company	:	
Petition of Pennsylvania Power Company for Approval of a Distribution System Improvement Charge	:	Docket No. P-2015-2508931
	:	
Office of Consumer Advocate	:	
v.	:	Docket No. C-2016-2531054
Pennsylvania Power Company	:	
Petition of West Penn Power Company for Approval of a Distribution System Improvement Charge	:	Docket No. P-2015-2508948
	:	
Office of Consumer Advocate	:	
v.	:	Docket No. C-2016-2531019
West Penn Power Company	:	

**FURTHER PREHEARING MEMORANDUM OF
THE MET-ED INDUSTRIAL USERS GROUP,
THE PENELEC INDUSTRIAL CUSTOMER ALLIANCE,
THE PENN POWER USERS GROUP, AND
THE WEST PENN POWER INDUSTRIAL INTERVENORS**

Pursuant to Deputy Chief Administrative Law Judge ("ALJ") Joel H. Cheskis' October 27, 2021, Second Further Prehearing Order, the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), the Penn Power Users Group ("PPUG"), and the

West Penn Power Industrial Intervenors ("WPPII") (collectively, the "Industrials"), hereby submit this Further Prehearing Memorandum in the above-captioned proceedings.

I. HISTORY OF THE PROCEEDINGS

On February 16, 2016, Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power"), and West Penn Power Company ("West Penn") (collectively, the "Companies") each filed with the Pennsylvania Public Utility Commission ("Commission" or "PUC") a Petition requesting approval to establish a Distribution System Improvement Charge ("DSIC") ("Petition").

Subsequently, in March of 2016, the Industrials filed Petitions to Intervene and Answers to the FirstEnergy Companies' filings. Descriptions of MEIUG, PICA, PPUG, and WPPII were set forth in Paragraph 1 of their respective Petitions to Intervene.

The Commission assigned the above-docketed proceedings to Deputy Chief ALJ Cheskis. During the initial Prehearing Conference, the Deputy Chief ALJ Cheskis consolidated the above-docketed proceedings.

On November 7, 2016, the Companies, the Industrials, the Office of Consumer Advocate ("OCA"), and the Office of Small Business Advocate ("OSBA") (collectively, "Joint Petitioners") informed the Deputy Chief ALJ that a settlement in principle had been reached in the above-referenced proceedings. Shortly thereafter, the Joint Petitioners filed with the Commission a Joint Petition for Settlement of Pending Issues ("Settlement"), resolving all but one issue. The issue reserved for litigation involved OCA's claim regarding the inclusion of Accumulated Deferred Income Tax ("ADIT") in DSIC calculations.

On August 31, 2017, Deputy Chief ALJ Cheskis issued a Recommended Decision ("R.D.") approving the Settlement and recommending that the FirstEnergy Companies include ADIT in

their DSIC calculations. The Commission issued an Order on April 19, 2018, declining to adopt the R.D. and concluding that the Companies were not required to include ADIT in their DSIC calculations.

On May 21, 2018, the OCA filed with the Commonwealth Court of Pennsylvania ("Commonwealth Court") an appeal of the Commission's April 19, 2018, Order, arguing that the Commission erred in concluding that the Companies need not include ADIT in their DSIC calculations. The Commonwealth Court issued an Opinion on July 11, 2019, reversing the PUC's determination and remanding the matter back to the PUC to require the Companies to revise their tariffs and DSIC calculations to include ADIT.

On October 4, 2019, the Commission appealed the Commonwealth Court's Order to the Pennsylvania Supreme Court ("PA Supreme Court"). On July 21, 2021, the PA Supreme Court affirmed the Commonwealth Court's Order and remanded the proceedings back to the Commission for the purpose of requiring the Companies to revise their tariffs and DSIC calculations to include ADIT.

On October 27, 2021, Deputy Chief ALJ Cheskis scheduled a Further Prehearing Conference and directed the parties file Further Prehearing Memoranda. Per the request by the parties for a continuance, the date for the Prehearing Conference has been set for January 13, 2022, with the Further Prehearing Memoranda now due on January 6, 2022. In compliance therewith, the Industrials submit this Further Prehearing Memorandum.

II. SERVICE LIST

For purposes of service in the above-captioned proceedings, please direct all communications to:

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III. ANTICIPATED ISSUES AND SUB-ISSUES

The Industrials' initial concerns with the FirstEnergy Companies' Petitions were resolved through the Settlement filed on February 2, 2017; however, the Industrials reserve the right to address the ADIT issue, including ensuring that the ADIT is correctly and reasonably accounted for in the FirstEnergy Companies' DSICs, as well as responding to ADIT issues raised by other parties in this proceeding.

IV. PROPOSED WITNESSES

The Industrials do not anticipate submitting testimony on the ADIT issue in this proceeding at this time. However, in the event that the Industrials decide to sponsor testimony, the Industrials will inform the Deputy Chief ALJ and the other parties as soon as practicable. The Industrials reserve the right to participate in this proceeding through the submission of discovery, testimony, cross-examination of other parties' witnesses, and the submission of briefs, exceptions and reply exceptions, if necessary.

V. PROPOSED SCHEDULE AND DISCOVERY RULES

The Industrials will cooperate with the Deputy Chief ALJ and the parties at the Second Further Prehearing Conference to develop an appropriate procedural schedule and discovery rules


in accordance with the Commission's regulations and any directives issued by the Deputy Chief ALJ.

VI. POSSIBILITY OF SETTLEMENT

The Industrials are willing to participate in discussions with the other parties to amicably resolve the issues in this proceeding, subject to Commission approval.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Dated: January 6, 2022