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January 13, 2022

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

Re: Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company for Approval of Default Service Programs for the Period June 1, 2023 through May 31, 2027
Docket Nos. P-2021-3030012
P-2021-3030013
P-2021-3030014
P-2021-3030021

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Answer in the above-referenced proceedings.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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Enclosures:
cc: The Honorable Jeffrey A. Watson (**email only**: jeffwatson@pa.gov)
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Certificate of Service
*322312

CERTIFICATE OF SERVICE

Re:	Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company for Approval of Default Service Programs for the Period June 1, 2023 through May 31, 2027	:	Docket Nos. P-2021-3030012 P-2021-3030013 P-2021-3030014 P-2021-3030021

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Answer, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 13th day of January 2022.

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Dated: January 13, 2022
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Default Service Programs	:	Docket Nos. P-2021-3030012 P-2021-3030013 P-2021-3030014 P-2021-3030021

ANSWER OF THE
OFFICE OF CONSUMER ADVOCATE

I. INTRODUCTION

On December 14, 2021, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (Met-Ed, Penelec, Penn Power, West Penn or, jointly, the Companies) filed a Joint Petition (Petition) with the Pennsylvania Public Utility Commission (Commission) seeking approval of default service programs (DSPs) and procurement plans for the period June 1, 2023 through May 31, 2027. This filing has been made pursuant to the requirements of Act 129 of 2008 (Act 129), the Commission's Default Service Regulations, the Commission's Policy Statement on Default Service, and related Commission Orders. The Office of Consumer Advocate (OCA) files this Answer to the Companies' Petition to help ensure that a reasonable default service plan is approved that fully complies with Act 129 and the Commission's Regulations.

In their Petition, the Companies propose to acquire supply for residential customers through a combination of a series of load-following, full requirements supply contracts in approximately 50 megawatt (MW) tranches, Petition at ¶ 11, and a long term solar procurement, Petition at ¶ 15. As to the long term solar contract, the Companies state only that they will obtain a "fixed quantity" of the default service load. Petition at ¶ 15. For the full requirements contracts, the winning bidders will also be responsible for meeting all obligations imposed on a Load Serving Entity (LSE) by PJM and for supplying other services or products that are required of LSEs. Petition at ¶ 12. Those Companies will procure all necessary solar photovoltaic requirements on behalf of all load in their service territories, other than that procured by the long term solar contract. Petition at ¶¶ 12; 26..

The new contracts for residential products are proposed to have staggered 12, and 24-month terms. Petition at ¶ 14. The Companies propose that each residential class tranche for load that is not served by the Companies' proposed long-term solar procurement includes a 95% fixed-price product, the price for which will be established through the Companies descending-price clock auction process, and a 5% variable price spot portion. Petition at ¶ 14. The Companies further propose that the 5% spot portion will be priced at the hourly PJM real-time zonal locational marginal price ("LMP") for each of the Companies plus a $20 per megawatt hour ("MWh") adder to cover costs for other supply components associated with serving the contracted load, including capacity, ancillary services, AEPS compliance, and other costs. Petition at ¶ 14. From 2023 to 2026, auctions will be conducted two times per year in March and September. Petition at ¶ 19. The Companies are proposing to reduce the auction load cap, which restricts the percentage any one bidder can win at an auction, from the current cap of 75% to 40%. Petition at ¶ 23.

The Companies are proposing the following changes to their supplier master agreement (SMA): (1) modifications to reflect the changes in default service supplier responsibility for AEPS compliance; (2) the addition of several protections against supplier default, including adoption of a more conservative credit exposure methodology, an Independent Credit Requirement per Tranche for winning bidders, and a standard supplier assignment agreement; and (3) revisions to introduce a capacity proxy price in the Companies' auctions in the event PJM does not conduct a base residual auction. Petition at ¶ ¶ 24-25.

The Companies propose to satisfy most of their AEPS Act requirements as part of the solicitation of default service supply. Petition at ¶ 26. Specifically, winning suppliers of full-requirements default service products in the Companies' service territories will be responsible for meeting all Tier I and Tier II requirements, including solar photovoltaic requirements, with two exceptions. Petition at ¶ 26. First, in the first year of DSP VI, Met-Ed, Penelec, and Penn Power will continue to allocate SPAECs obtained through existing long-term contracts that expire on May 31, 2024 to default service suppliers and EGSs on a load ratio basis. Petition at ¶ 26. Second, the SPAECs that the Companies purchase through their proposed solar PPAs will be allocated to default service suppliers in proportion to the amount of residential load served over the course of the energy year. Petition at ¶ 26.

In the event that one or more tranches are not fully subscribed through the procurement process, or the Commission rejects the bid results from a solicitation, or a winning bidder defaults prior to the start of or at any time during the delivery period, the Companies propose to utilize their current Commission-approved contingency plan. Petition at ¶ 31. The Companies will not enter into hedging transactions to attempt to mitigate the associated price or volume risks to serve such unfilled tranches. Petition at ¶ 32. The Companies propose to secure any AEPS Act compliance requirements for unfilled tranches at market prices. Petition at ¶ 32. Under this plan, in the event that a tranche is not fully subscribed or the Commission rejects the bid results from a solicitation, the Companies propose to rebid the unfilled tranches in the next procurement if time permits. Petition at ¶ 33. In the event of a bidder default, and as time permits, the Companies propose to conduct a supplemental competitive solicitation, or to offer the unfilled tranches to other qualified bidders. Petition at ¶ 33. If insufficient time exists to conduct an additional competitive solicitation, the Companies will purchase the necessary supply through the PJM spot markets. Petition at ¶ 33.

The Companies are proposing to maintain the same rate design for their Price to Compare (PTC) Default Service Rate Rider used to recover the cost of default service for residential and commercial customers, with two modifications. Petition at ¶ 36. First, the Companies are proposing to modify the PTC Riders to adjust rates semi-annually, instead of on a quarterly basis, with rate change filings to be made latter of forty-five days prior to the effective date or seven days after the last supply auction. Petition at ¶ 37. Additionally, the Companies are proposing tariff revisions to align their PTC Riders and Hourly Pricing Default Service Riders (HP Riders) with the procurement plans. Petition at ¶ 38. Moreover, the Companies are not proposing any change to their non-bypassable Default Service Support (DSS) Rider. Petition at ¶ 41. The Companies propose to continue to utilize a flat per-kWh rate design for the residential and commercial customer classes. Petition at ¶ 42. The Companies are requesting to recover non-market based (NMB) charges through the non-bypassable DSS Riders rather than under the PTC Rider. Petition at ¶ 43.

The Companies are not proposing any changes to their current Solar Photovoltaic Requirements Charge Rider (SPVRC Rider). Petition at ¶ 44. Met-Ed and Penelec propose to eliminate their Non-Utility Generation Charge Rider (NUG Rider) because all NUG contracts have expired and the NUG Charge Riders are no longer active. Petition at ¶ 45. The Companies are not proposing any changes to their current "E" factor reconciliation mechanisms. Petition at ¶ 46.

In compliance with their DSP V settlement commitment, the Companies are proposing to implement new Time of Use (TOU) rates. Petition at ¶ 50. Customers who select the TOU Rider can leave at any time without incurring related penalties or fees, but may not re-enroll for twelve months after switching off the TOU rate. Petition at ¶ 51. The Companies' proposed TOU rates will differentiate prices across three periods: on-peak, off-peak, and super off-peak.[1] Petition at ¶ ¶ 52-53. To determine the TOU default supply rates for each period, the Companies will adjust the standard TOU Rider rates for each class using pricing multipliers that reflect the ratios calculated from the Companies' PJM zone spot market prices and the cost of capacity during on-peak hours. Petition at ¶ 54. The Companies propose to source both the standard and TOU default service for residential and commercial customers from the same supply portfolio for each class. Petition at ¶ 55. TOU rates will be adjusted on a semi-annual basis, synchronized with the PTC Rider adjustment periods for the residential and commercial classes, using the Companies' proposed pricing multipliers. Petition at ¶ 55. Any mismatches between revenues from TOU rates and supply costs paid to default service suppliers will be recovered or refunded within the existing TOU Rider customer class reconciliation. Petition at ¶ 55.

The Companies propose to continue their Customer Referral Program (CRP). Petition at ¶ 58. The Companies intend to recover CRP cost consistent with the current CRP and the Companies' existing tariffs, through an EGS participant fee not to exceed $30 per enrolled customer. Petition at ¶ 58. Any costs not recovered through the EGS participant fee will be

[1] On-Peak Hours are proposed as 2 P.M. to 9 P.M. Monday through Friday; Super Off-Peak Hours are proposed as 11 P.M. to 6 A.M. every day, and; Off-Peak Hours are proposed as all other hours.

recovered, on a non-bypassable basis, through the Companies' applicable DSS Riders. Petition at ¶ 58.

In order to recover the costs associated with the Companies' Purchase of Receivables (POR) programs, in compliance with the Commission's Policy Statement at 52 Pa. Code Section 69.1814, the Companies propose to make permanent their POR clawback charge approved in their prior two DSPs. ¶¶ 60-61. The POR Clawback is assessed only on those EGSs whose uncollectible expenses are significantly out of line with their peers. Specifically, the charge is assessed to EGSs whose write offs as a percentage of revenue are 200% higher than their peers and whose average price per kWh is greater than 150% of the average PTC of the default service provider. Petition at ¶ 60.

The clawback charge, is designed to collect a portion of uncollectible accounts expense from EGSs – specifically, those EGSs whose pricing practices are driving significantly higher write-offs as compared to other EGSs due to the types of offers they make to customers. Petition at ¶ 61. Any charges assessed under the clawback provision are imposed based on the principle of cost causation. EGSs that have much higher-than-average writeoffs and charge prices that are significantly higher than the PTC impose costs that, absent the clawback charge, would be borne entirely by the Companies and their customers. Petition at ¶ 61. Accordingly, the Companies propose to continue the clawback charge as a permanent part of their POR programs. Petition at ¶ 61.

The Companies propose to continue the CAP shopping programs approved in the DSP V Orders. Petition at ¶ 64. EGSs must charge CAP customers a rate for generation service that is always at or below the applicable Company's residential PTC. Petition at ¶ 64. To ensure EGS compliance with this limitation on rates, the Companies' billing system only accepts rate-ready, percentage-off rates on CAP customer accounts. Petition at ¶ 64. Also, in accordance with the Commission's February 2019 Policy Statement on Electric Customer Assistant Program Participant Shopping (Proposed Policy Statement Order), in which the Commission outlined uniform CAP shopping policies and requirements for Pennsylvania Electric Distribution Companies[2], EGSs serving CAP customers may not enter contracts that impose early cancellation and termination fees or other fees unrelated to generation service. Petition at ¶ 64. The Companies propose to continue the CAP shopping programs approved in the DSP V Orders that are consistent with the guidelines provided in the Proposed Policy Statement Order. Petition at ¶ 64. The Companies note that EGSs must charge CAP customers a rate for generation service that is always at or below the applicable Company's residential PTC. Petition at ¶ 64. As such, to ensure EGS compliance with this limitation on rates, the Companies' billing system only accepts rate-ready, percentage-off rates on CAP customer accounts. Petition at ¶ 64. Also, in accordance with the Proposed Policy Statement Order, the Companies note that EGSs serving CAP customers may not enter contracts that impose early cancellation and termination fees or other fees unrelated to generation service. Petition at ¶ 64.

The Companies are proposing Third-Party Data Access Tariffs which would establish a registration process for a non-EGS entity seeking electronic access to customer data. Petition at ¶ 66. As part of that registration process, the entity would be required to accept all terms and conditions outlined in the proposed tariff, including a warrant that by sending an electronic request for individual customer data to a Company, the entity has obtained valid customer authorization to access or retrieve, or both, data specific to such customer. Petition at ¶ 66. Under the Companies' proposal, the Companies will provide automated solutions for the third

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[2] *See Elec. Distribution Co. Default Serv. Plans – Customer Assistance Program Shopping, Proposed Policy Statement and Order*, Docket No. M-2018-3006578 (entered Feb. 28, 2019) ("Proposed Policy Statement Order").

party to register and request customer-specific data and for the Companies to deliver the data securely in electronic form. These automated solutions will adopt the self-service tools that exist on the supplier portal today for EGSs, as well as electronic data interchange protocols, to minimize customer costs. Petition at ¶ 67. The Companies are also proposing several continuing obligations for registered third parties to ensure the confidentiality of customer data. Petition at ¶ 68.

II. ANSWER

The OCA has preliminarily reviewed the Companies' Petition and identified a number of significant issues presented by the filing. The OCA anticipates that additional issues will arise as a more comprehensive review of the Companies' filing is undertaken and after discovery is conducted. The preliminary issues identified by the OCA include the following:

A. Procurement Methodology.

The Companies propose a not yet quantified portion of residential load to be served by a long terms solar contract pursuant to a power purchase agreement, Petition ¶¶ 15-16, with the remaining proportion acquired through a combination of load-following, full requirements supply contracts in approximately 50 MW tranches consisting of 95% fixed price product and a 5% spot portion Petition at ¶¶ 11, 14. The OCA submits that further examination and consideration must be given to whether the proposed purchasing plan will result in a prudent mix of contracts designed to provide the least cost procurement over time for residential customers in accordance with the requirements of Act 129. 66 Pa.C.S. Section 2807(e). The OCA intends to examine the type and mix of resources being procured to ensure that the products and plan are designed to meet the requirements of Act 129.

The Petition further provides that all new residential products procured for default service will have staggered 12 and 24-month terms. Petition at ¶ 14. From years 2023 to 2026, auctions will be conducted in March and September. Petition at ¶ 19. The OCA submits that the Companies' proposed choice of residential products and the Companies' proposed procurement methods must be thoroughly reviewed to ensure that two such procurements each year are sufficient to meet the obligations of the Companies. The Commission must ensure that the procurement methodology adopted in this proceeding is consistent with the Public Utility Code and is designed to provide the least cost reliable supply, taking into account price stability for customers over time.

The Petition additionally proposes a reduction in the auction load cap, which restricts the percentage any one bidder can win at an auction, from the current cap of 75% to 40%. Petition at ¶ 23. The OCA submits that the Companies' proposal to reduce the auction load cap should be examined for continued compliance with existing law and the Commission's regulations while meeting the needs of ratepayers.

The Companies propose to secure any AEPS Act compliance requirements for unfilled tranches at market prices and to not hedge any unfulfilled tranches. Petition at ¶ ¶ 32, 33. The OCA submits that the Companies' proposals must be examined for continued compliance with existing law and the Commission's regulations while meeting the needs of ratepayers.

B. Rate Design.

The Companies are proposing to maintain the same rate design for their Price to Compare (PTC) Default Service Rate Rider used to recover the cost of default service for residential and commercial customers, with two modifications. Petition at ¶ 36. The Companies are proposing to modify the PTC Riders to adjust rates semi-annually, instead of on a quarterly basis, with rate change filings to be made latter of forty-five days prior to the effective date or seven days after the last supply auction. Petition at ¶ 37. The OCA submits that this change should be examined based on the facts as developed through testimony and discovery. The OCA is supportive of changes to the PTC that eliminate significant price fluctuation. PTC price stability benefits consumers because it creates more predictable default price signals and serves as an appropriate benchmark for customers to weigh competitive offers. While the change proposed by the Companies should help to alleviate price fluctuation, the OCA submits that additional information must be developed to ensure that this change will have its intended effect.

The Companies are not proposing any change to their non-bypassable Default Service Support (DSS) Rider. Petition at ¶ 41. The Companies are requesting to recover NMB charges through the non-bypassable DSS Riders rather than under the PTC Rider. Petition at ¶ 43. The Companies are not proposing any changes to their current "E" factor reconciliation mechanisms. Petition at ¶ 46. The OCA submits that each of these proposals must be examined for continued compliance with existing law and the Commission's regulations while meeting the needs of ratepayers.

C. <u>AEPS Procurement.</u>

As discussed above, the Companies have proposed to meet their AEPs requirements through a mix of procurement methodologies. Petition at ¶ 26. The Companies' procurement plan for Tier 1, Tier 2, and solar photovoltaic AECs should be reviewed to ensure that ratepayers continue to receive these services at just and reasonable rates, this includes the Companies' proposal to enter into a long term solar power purchase agreement

D. <u>Time of Use Rates.</u>

The Companies are proposing significant changes to their TOU Default Service Riders designed to incentivize customers who can manage their load through time of use rates to do so Petition at ¶ 50. The Companies have specifically excluded CAP customers and virtual net metering customers from their TOU rates, but the rates will be available to all other residential and commercial default service customers. Petition at ¶ 51. The Companies propose significant changes that include both on-peak and off-peak rates, as well as a super-off peak rates. Petition at ¶ 52. The Companies proposal for pricing involves a pricing multiplier. Petition at ¶ 53. The OCA supports the development of TOU rates consistent with the Companies' obligations under Act 129, but submits that the specifics of the Companies' proposal must be more thoroughly examined to ensure that the offerings are consistent with the Companies' obligations and that they will be understandable, accessible, and useful for the Companies' customers. Specifically, the OCA will examine what education and marketing materials the Companies will use to ensure that consumers understand the potential benefits and risks of selecting a TOU rate. The OCA submits that the Companies' changes to its TOU program must be examined in order to ensure that the TOU program meet the needs of ratepayers while maintaining compliance with existing law and the Commission's regulations.

E. <u>Supplier Master Agreement.</u>

The Companies are proposing the following changes to their supplier master agreement (SMA): (1) modifications to reflect the changes in default service supplier responsibility for AEPS compliance; (2) the addition of several protections against supplier default, including adoption of a more conservative credit exposure methodology, an Independent Credit Requirement per Tranche for winning bidders, and a standard supplier assignment agreement; and (3) revisions to introduce a capacity proxy price in the Companies' auctions in the event

PJM does not conduct a base residual auction. Petition at ¶ 25. The OCA submits that the proposed SMA must be thoroughly analyzed to ensure its compliance with the Public Utility Code, and to ensure that such a plan does no harm to default service, consumers, or the retail competitive market.

F. Customer Referral Program.

The Companies propose to continue to offer their current CRP to residential and small commercial customers. Petition at ¶ 58. The Companies intend to recover CRP cost consistent with the current CRP and the Companies' existing tariffs, through an EGS participant fee not to exceed $30 per enrolled customer. Petition at ¶ 58. Any costs not recovered through the EGS participant fee will be recovered, on a non-bypassable basis, through the Companies' applicable DSS Riders. Petition at ¶ 58. The OCA submits that the Commission should review the proposed CRP and determine whether this program should continue at all. In the OCA's experience, the CRP may not be well understood by consumers and either needs significant revisions or should be eliminated completely. Furthermore, if the program continues, the Commission should ensure, consistent with principles of cost causation, that the costs arising from the continuation of a referral program are imposed on suppliers who benefit from the program rather than on default service customers.

G. Purchase of Receivables.

As discussed above, the Companies propose to continue the clawback charge as a permanent part of their POR programs. Petition at ¶ ¶ 60-61. The OCA submits that the underlying cost drivers requiring a POR clawback should be examined in this proceeding, including residential customer shopping at prices higher than the price to compare. As to the specifics of the clawback charge, the OCA supports imposing these charges on suppliers who meet both prongs of the clawback mechanism. However, the OCA submits that additional inquiry may be needed to ensure that the proceeds from these charges benefit default service customers.

H. CAP Customer Shopping.

The Companies propose to continue the CAP shopping programs approved in the DSP V Orders. Petition at ¶ 64. EGSs must charge CAP customers a rate for generation service that is always at or below the applicable Company's residential PTC. Petition at ¶ 64. To ensure EGS compliance with this limitation on rates, the Companies' billing system only accepts rate-ready, percentage-off rates on CAP customer accounts. Petition at ¶ 64. Also, in accordance with the Proposed Policy Statement Order[3], EGSs serving CAP customers may not enter contracts that impose early cancellation and termination fees or other fees unrelated to generation service. Petition at ¶ 64. The OCA supports the underlying premise that CAP customers should not pay prices higher than the default service price for energy supply regardless of whether that supply is from default service or EGSs. The Companies' current CAP shopping program must be examined in order to ensure that it continues to meet this objective, the needs of CAP customers, as well as ratepayers paying for CAP while maintaining compliance with existing law and the Commission's regulations.

I. Third-Party Data Access Tariff.

The Companies are proposing Third-Party Data Access Tariffs which would establish a registration process for a non-EGS entity seeking electronic access to customer data. Petition at ¶ 66. The OCA has significant concerns about this proposal and the risk to consumers if confidentiality of their data is not maintained. The OCA submits that the proposed Third-Party

[3] *See Elec. Distribution Co. Default Serv. Plans – Customer Assistance Program Shopping, Proposed Policy Statement and Order*, Docket No. M-2018-3006578 (entered Feb. 28, 2019) ("Proposed Policy Statement Order").

Data Access Tariffs must be thoroughly analyzed to ensure its compliance with the Public Utility Code, and to ensure that such a plan does no harm to default service, consumers, or the retail competitive market.

WHEREFORE, the Office of Consumer Advocate respectfully submits that the Companies' default service filing must be thoroughly reviewed to ensure that the default service rates that will be charged starting June 1, 2023 are just and reasonable and otherwise consistent with Pennsylvania law.

Respectfully Submitted,

/s/ Harrison W. Breitman

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Dated: January 13, 2022
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