


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

 @pa_oca

 /pennoca

FAX (717) 783-7152
consumer@paoca.org

January 20, 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 Prehearing Memorandum in the above-referenced proceedings.

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

Respectfully submitted,

/s/ Harrison W. Breitman
Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
E-Mail: HBreitman@paoca.org

Enclosures:

cc: The Honorable Jeffrey A. Watson (**email only**)
Certificate of Service

*323079

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum 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 20th day of January 2022.

SERVICE BY E-MAIL ONLY

Richard A. Kanaskie, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120
rkanaskie@pa.gov

Erin K. Fure, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923
efure@pa.gov

Tori L. Giesler, Esquire
Darshana Singh, Esquire
First Energy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
tgiesler@firstenergycorp.com
singhd@firstenergycorp.com

Kenneth M. Kulak, Esquire
Catherine G. Vasudevan, Esquire
Brooke E. McGlenn, Esquire
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
ken.kulak@morganlewis.com
catherine.vasudevan@morganlewis.com
brooke.mcglenn@morganlewis.com

Elizabeth R. Marx, Esquire
Lauren N. Berman, Esquire
Ria M. Pereira, Esquire
John W. Sweet, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org

A. Michael Gianantonio, Esquire
Robert F. Daley, Esquire
Robert Peirce & Associates, P.C.
707 Grant Street
Gulf Tower, Ste. 125
Pittsburgh, PA 15219
mgianantonio@peircelaw.com
rdaley@peircelaw.com
Counsel for John Bevec & Sunrise Energy, LLC

SERVICE BY E-MAIL ONLY (continued)

Thomas J. Sniscak, Esquire
Whitney E. Snyder, Esquire
Phillip D. Demanchick Jr., Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com
wesnyder@hmslegal.com
pddemanchick@hmslegal.com
Counsel for The PA State University

Kenneth Schisler, VP, Regulatory Affairs
Chandra Colaresi, Spec., Regulatory Affairs
CPower Energy Management
1001 Fleet Street
Suite 400
Baltimore, MD 2120
Kenneth.Schisler@CPowerEnergyManagement.com
Chandra.Colaresi@CPowerEnergyManagement.com
Counsel for CPower

Colleen Kartychak, Esquire
Exelon Corporation
1310 Point Street
Baltimore, MD 21231
colleen.kartychak@exeloncorp.com
*Counsel for Exelon Generation Co., LLC
& Constellation NewEnergy, Inc.*

/s/ Harrison W. Breitman
Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
E-Mail: HBreitman@paoca.org

Darryl A. Lawrence
Senior Assistant Consumer Advocate
PA Attorney I.D. # 93682
E-Mail: DLawrence@paoca.org

Susan E. Bruce, Esquire
Charis Mincavage, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108
sbruce@mcneeslaw.com
cmincavage@mcneeslaw.com
Counsel for MEIUG, PICA, and WPPH

Todd S. Stewart, Esquire
Hawke McKeon & Sniscak, LLP
100 North Tenth Street
Harrisburg, PA 17101
tsstewart@hmslegal.com
*Counsel for Shipley Choice, LLC d/b/a
Shipley Energy*

Deanne M. O'Dell, Esquire
Karen O. Moury, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
P.O. Box 1248
Harrisburg, PA 17101
dodell@eckertseamans.com
kmoury@eckertseamans.com
Counsel for RESA and NRG

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAAppleby@paoca.org

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: January 20, 2022
*322536

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

PREHEARING MEMORANDUM OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. Section 333, and in response to the January 3, 2022 Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On December 14, 2021, Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), and West Penn Power Company (West Penn) (collectively, the Companies) filed with the Pennsylvania Public Utility Commission (Commission) a Joint Petition for Approval of Their Default Service Programs (Petition). The Companies seek approval of default service programs (DSPs) and procurement plans covering a four-year period, from June 1, 2023 to May 31, 2027. Petition at ¶ 11.

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 to obtain energy through long-term solar procurement through multi-year, fixed-price power purchase agreements. Petition at ¶ 15. From years 2023 to 2026, auctions will be conducted in March and September. Petition at ¶ 19.

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 Alternative Energy Portfolio Standards Act (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 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.

In compliance with their DSP V settlement commitment, the Companies are proposing to implement new Time of Use (TOU) rates. Petition at ¶ 50. The Companies propose to continue their existing Customer Referral Program (CRP) and the pilot Purchase of Receivables (POR) clawback charge. Petition at ¶¶ 58-60. Further, the Companies propose to continue the Customer Assistance Program (CAP) shopping programs approved in DSP V Orders. Petition at ¶ 64. Additionally, 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.

II. PROCEDURAL HISTORY

The Companies' Petition was assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judge (ALJ) Jeffrey Watson. On December 17, 2021, the Office of Administrative Law Judge issued a Notice scheduling a Call-In Telephonic Prehearing Conference for January 21, 2022, at 10:00 a.m. Additionally, on January 3, 2022, ALJ Watson issued a Prehearing Conference Order setting forth the parties' obligations with respect to the Prehearing Conference and directing the parties to prepare and distribute prehearing

memorandums by January 20, 2022, at 12:00 p.m. On January 4, 2022, the OCA filed its Notice of Intervention and Public Statement in response to the Companies' Petition. On January 13, 2022, the OCA files this Prehearing Memorandum in accordance with ALJ Watson's Order.

III. ISSUES

The OCA seeks to ensure that the DSPs and any rates approved as a result of this proceeding are reasonable and consistent with Pennsylvania law, the Commission's regulations, and related orders. Upon a preliminary analysis of the Companies' Petition, the OCA identified several significant issues that require further review. These issues include the following:

- A. Default Service Products and Procurement Methodology: The OCA will examine the type and variety of products that the Companies proposes to solicit to determine whether the proposal will provide the least cost over time for residential default service customers in accordance with the Commission's regulations and Act 129 of 2008 (Act 129). The OCA will also examine the Companies' procurement plan to determine whether the proposal is designed to provide the least cost reliable supply, taking into account price stability for customers over time.
- B. Alternative Energy Portfolio Standards (AEPS) Act Procurement: The OCA will review the Companies' procurement methodology proposal to ensure that ratepayers receive these services at the least cost over time. Moreover, the OCA will analyze the Companies' proposal in regard to long-term solar procurement.
- C. Rate Design: The OCA will review the Companies' rate design practices for compliance with the Commission's regulations.
- D. TOU Rates: The OCA will review the proposed TOU Rates to ensure that the needs of ratepayers are met and that the Companies comply with existing law and the Commission's regulations.
- E. Supplier Master Agreement: The OCA will analyze the proposed SMA 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 OCA will examine the CRP and any costs likely to arise as a result to determine whether the program remains reasonable and cost-justified, and whether costs are allocated appropriately among stakeholders.
- G. Purchase of Receivables Clawback Charge: The OCA will review the POR clawback charge to determine its effects and ensure that it remains reasonable.

- H. CAP Shopping: The OCA will examine the Companies' current CAP shopping program in order to ensure that it continues to meet 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 OCA submits that the proposed Third-Party 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.

The OCA anticipates that other issues may arise as its investigation in this matter continues. Therefore, the OCA specifically reserves the right to raise additional issues as this matter proceeds.

IV. SERVICE ON THE OCA

The OCA will be represented in this matter by Senior Assistant Consumer Advocate Darryl A. Lawrence and Assistant Consumer Advocates Christy M. Appleby and Harrison W. Breitman. Three copies of all documents should be served on the OCA as follows:

Darryl A. Lawrence
Senior Assistant Consumer Advocate
E-Mail: DLawrence@paoca.org

Christy M. Appleby
Assistant Consumer Advocate
E-Mail: CAppleby@paoca.org

Harrison W. Breitman
Assistant Consumer Advocate
E-Mail: HBreitman@paoca.org

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

The OCA also requests that Lauren Myers (LMyers@paoca.org) be included on the email distribution list. The OCA will extend the same courtesy to any other parties requesting that additional persons be included on the e-mail distribution list.

V. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of its witnesses. The OCA’s witnesses will present testimony in written form and will attach various exhibits, documents, and explanatory information to assist in the presentation of the OCA’s case. In order to expedite the resolution of this matter, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed directly to the OCA’s witnesses at the below addresses as well as counsel for the OCA.

Retail Electric Default Service Procurement Method,
Portfolio Construction, and Related Issues:

Serhan Ogur
Exeter Associates, Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, Maryland 21044
Phone: (410) 992-7500
E-Mail: sogur@exeterassociates.com

Customer Referral Program, Purchase of Receivables
Clawback Charge, Retail Market Rate Mechanism, and
Retail Market Enhancement Programs Proposed by Parties:

Barbara R. Alexander
Barbara Alexander Consulting, LLC
83 Wedgewood Drive
Winthrop, Maine 04364
Phone: (207) 395-4143
E-Mail: barbalexand@gmail.com

The OCA specifically reserves the right to call additional witnesses, as necessary. At the time at which the OCA determines that additional witnesses are necessary for any portion of its case, the OCA will promptly notify ALJ Watson and all parties of record.

VI. DISCOVERY

The OCA supports a shortened discovery response time in this proceeding. Accordingly, the OCA requests the following modifications to the discovery regulations:

- A. Answers to interrogatories be served in-hand within ten (10) days of service of the interrogatories.
- B. Objections to interrogatories be communicated orally within three (3) days of service; unresolved objections be served to the ALJ in writing within five (5) days of service of interrogatories.
- C. Motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) days of service of such motions.
- E. Responses to requests for document production, entry for inspection, or other purposes be served in-hand within ten (10) calendar days.
- F. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.
- G. Discovery requests served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

VII. PUBLIC INPUT HEARINGS

The OCA has received no requests for public input hearings at this time. Should such a request be received, the OCA will promptly advise Judge Watson and the parties of same.

VIII. LITIGATION SCHEDULE

The OCA proposes the following schedule:

Other Parties Direct Testimony	February 25, 2022
Rebuttal Testimony	March 24, 2022
Surrebuttal Testimony	April 7, 2022
Rejoinder Outline	April 12, 2022
Oral Rejoinder and Evidentiary Hearings	April 13-14, 2022
Main Briefs	May 6, 2022
Reply Briefs	May 16, 2022
Recommended Decision	July 1, 2022
Public Meeting	August 25, 2022

IX. SETTLEMENT

The OCA will fully participate in settlement discussions with the parties at the appropriate time during this proceeding.

Respectfully Submitted,

/s/ Harrison W. Breitman

Darryl A. Lawrence
Senior Assistant Consumer Advocate
PA Attorney I.D. #93682
E-Mail: DLawrence@paoca.org

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAAppleby@paoca.org

Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. #320580
E-Mail: HBreitman@paoca.org

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: January 20, 2022