

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOINT PETITION OF	:	DOCKET NOS. P-2021-3030012,
METROPOLITAN EDISON COMPANY,	:	3030013, 3030014 and 3030021
PENNSYLVANIA ELECTRIC	:	
COMPANY, PENNSYLVANIA POWER	:	
COMPANY, AND WEST PENN POWER	:	
COMPANY, FOR APPROVAL OF	:	
THEIR DEFAULT SERVICE	:	
PROGRAMS	:	

**REPLY TO NEW MATTER OF JOHN
BEVEC AND SUNRISE ENERGY, LLC**

AND NOW, come intervenors, John Bevec and Sunrise Energy, LLC, by and through their undersigned counsel, A. Michael Gianantonio, Esquire Robert F. Daley, Esquire and the law firm of Robert Peirce & Associates, and file the within Reply to New Matter, the following of which is a statement:

I. PRELIMINARY STATEMENT

Contrary to bald assertions of the EDCs, Petitioners are making no attempt to “interject” any tangential issues concerning definitions of “customer-generator” and the ability of Sunrise to utilize net metering. Those questions have been in answered in *Hommrich v. Pennsylvania Public Utilities Commission, Inc.*, 231 A.3d 1027, 1039-1040 (Pa.CmwltH 20201), aff’d, 245 A.3d 637 (Pa. 2021).

Instead, Petitioners are concerned as to whether the EDCs are appropriately addressing cost recovery in accordance with the Pennsylvania Alternative Energy Portfolio Standards Act (the “AEPS act”) 73 P.S. 1648.1, *et seq.* For instance, the EDCs’ respective Petitions reference only costs associated with solar photovoltaic alternative energy credits (“SPAECs”) to energy purchased in relation to future Power Purchase Agreements (“PPAs”). However, the Joint Petition is silent on the recovery of other costs associated with the implementation of the AEPS Act.

Specifically, the EDCs do not address the recovery of the cost of excess energy purchased from renewable energy systems pursuant to the AEPS Act.

Moreover, the actual EDCs themselves are remarkably silent in their respective Petitions. Most if not all, evidence offered in support of the respective Petitions is provided by First Energy Service Company (“FESC”) and outside witnesses. Petitioners do not argue that the EDCs can have others speak on their behalf; however, without evidence demonstrating authority to make these statements, Petitioners do not believe they are admissible.

For the reasons set forth herein, Petitioners are entitled Intervenor Status. Title 52 Pa. Code § 5.72 outlines who may intervene:

[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.

52 Pa. Code § 5.72(a). Section 5.72 continues by stating intervenor status is appropriate for those “which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.”

52 Pa. Code. § 5.72(a)(2). At ratepayers and customer-generators, Petitioners have standing in this proceeding.

II. REPLY TO NEW MATTER

1. The averments of Paragraph 1 of the New Matter reference a written document that speaks for itself. These allegations are denied to the extent that the EDCs attempt to paraphrase or interpret the same. By way of further response, it is admitted that Petitioner David Hommrich filed a declaratory judgment action against the PUC in the Commonwealth Court’s original jurisdiction to challenge several PUC regulations. This action did not include any discussion of cost recovery under the AEPS Act.

Nowhere in their Petition did Petitioners state that they were seeking any interpretation of the definition of customer-generator and Sunrise's qualification as one—these issues have been decided. Petitioners are not attempting to relitigate issues upon which they have already been successful. Rather, Petitioners are seeking answers concerning the respective EDCs' methods and analysis of cost recovery to ensure that they comply with the representations in the respective EDSs' Petitions.

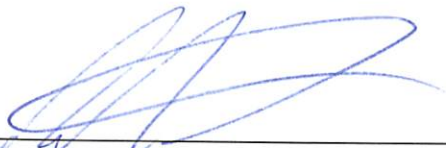
2. The averments of Paragraph 2 of the New Matter reference a written document that speaks for itself. These allegations are denied to the extent that the EDCs attempt to paraphrase or interpret the same. By way of further response, it is admitted that Sunrise has sued West Penn Power and First Energy Corp. in the Court of Common Pleas of Washington County. It is further admitted that Sunrise has raised the issues concerning the use of FESC employees by West Penn Power. However, Sunrise has made those inquiries because West Penn, an EDC that is regulated by the PUC, appears to operate through either FESC or First Energy. These latter two companies are not regulated by the PUC. It is admitted that fact discovery has closed, and that Sunrise filed a Motion for Partial Summary Judgment in that case.

3. The averments of Paragraph 3 of the New Matter are denied in part and denied as stated. In denying this Paragraph, Petitioners incorporate by reference their Reply to Paragraph 1 as if set forth in its entirety herein. The remainder of this Paragraph is denied as stated, and in support thereof, Petitioners incorporate by reference their Reply to Paragraph 2 as if set forth in its entirety herein.

WHEREFORE, Petitioners John Bevec and Sunrise Energy respectfully request that this Honorable Commission enter an order granting Petitioners full status as intervenors in this proceeding with active party status.

Respectfully submitted,

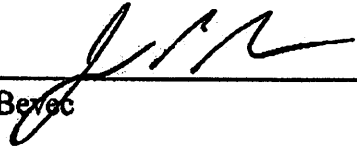
ROBERT PEIRCE & ASSOCIATES P.C.

By: 
A. MICHAEL GIANANTONIO, ESQUIRE
Counsel for Petitioners John Bevec and Sunrise
Energy, LLC

VERIFICATION

I, **John Bevec**, individually and as a member of Sunrise Energy, LLC, hereby state that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 10 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: 2/11/2022

By: 

John Bevec

CERTIFICATE OF SERVICE

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

Via First Class, United States Mail:

Administrative Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
301 Fifth Avenue, Suite 220
Piatt Place
Pittsburgh, PA 15222

Via Email Only:

Kenneth M. Kulak, Esquire
Catherine G. Vasudevan, Esquire Brooke E.
McGlinn, Esquire
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Ken.kulak@morganlewis.com
Catherine.vasudevan@morganlewis.com
Brooke.mcglinn@morganlewis.com

Allison C. Kaster, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120
akaster@pa.gov

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

Susan E. Bruce, Esquire
Charis Mincavage, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
PO Box 1166
Harrisburg, PA 17108
sbruce@mcneeslaw.com
cmincavage@mcneeslaw.com

Patrick M. Cicero, Esquire
Darryl A. Lawrence, Esquire
Christy M. Appleby, Esquire
Harrison W. Breitman, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
OCAFEDSP2021@paoca.org

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

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

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

John F. Lushis, Jr., Esquire
David Berger, Esquire
Norris McLaughlin, P.A.
515 W. Hamilton Street, Suite 502
Allentown, PA 18101
jlushis@norris-law.com
dberger@norris-law.com

Robert D. Knecht
Industrial Economics, Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140
rdk@indecon.com

Serhan Ogur
Exeter Associates, Inc.
10480 Little Patuxent Parkway, Suite 300
Columbia, MD 21044
sogur@exeterassociates.com

Dated: 2/11/22

Todd S. Stewart, Esquire
Hawke McKeon & Sniscak, LLP
100 North Tenth Street
Harrisburg, PA 17101
tsstewart@hmslegal.com

Colleen P. Kartychak, Esquire
John White, Esquire
Exelon Corporation
1310 Point Street
Baltimore, MD 21231
Colleen.kartychak@exeloncorp.com
John.White@exeloncorp.com

Michael A. Gruin, Esquire
Stevens & Lee
17 N. Second Street, 16th Floor
Harrisburg, PA 17101
michael.gruin@stevenslee.com

James Laskey, Esquire
Norris McLaughlin, P.A.
400 Crossing Blvd., 8th Floor
Bridgewater, PA 08807
jlasky@norris-law.com

Barbara R. Alexander
Barbara Alexander Consulting, LLC
83 Wedgewood Drive
Winthrop, ME 04364
barbalexand@gmail.com

By: 

A. MICHAEL GIANANTONIO, ESQUIRE
Counsel for Petitioners John Bevec and Sunrise
Energy, LLC