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April 22, 2022

Via Electronic Filing

Rosemary Chiavetta, Secretary
Secretary's Bureau
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

Re: 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; **THE PENNSYLVANIA STATE UNIVERSITY'S PRE-SERVED TESTIMONY**

Dear Secretary Chiavetta:

Please accept the following pre-served testimony filed on behalf of The Pennsylvania State University in the above-captioned matter:

1. PSU Rebuttal Testimony of James L. Crist (PSU St. No. 1-R); and
2. Testimony Verification of James L. Crist, P.E.

Should you have any questions or comments, please feel free to contact me directly.

Very truly yours,

/s/ Thomas J. Sniscak

Thomas J. Sniscak
Whitney E. Snyder
Phillip D. Demanchick Jr.

Counsel for The Pennsylvania State University

TJS/das
Enclosures

cc: Administrative Law Judge Jeffrey A. Watson (via email, jeffwatson@pa.gov)
Nick Miskanic, Legal Assistant (via email, nmiskanic@pa.gov)
Per the Certificate of Service (letter and certificate of service only)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition of Metropolitan Edison	:	
Company, Pennsylvania Electric	:	Docket No. P-2021-3030012
Company, Pennsylvania Power	:	Docket No. P-2021-3030013
Company and West Penn Power	:	Docket No. P-2021-3030014
Company for Approval of Their	:	Docket No. P-2021-3030021
Default Service Program	:	

REBUTTAL TESTIMONY OF JAMES L. CRIST

ON BEHALF OF

THE PENNSYLVANIA STATE UNIVERSITY

Dated: March 24, 2022

1 **I. WITNESS BACKGROUND**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS, AND ON**
3 **WHOSE BEHALF YOU ARE TESTIFYING?**

4 A. I am James L. Crist, President of Lumen Group, Inc., a consulting firm focused on
5 regulatory and market issues. My business address is 4226 Yarmouth Drive, Suite
6 101, Allison Park, Pennsylvania, 15101. I am presenting testimony on behalf of
7 The Pennsylvania State University (“Penn State”, “PSU”, or “University”).

8

9 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?**

10 A. I have a B.S. in Chemical Engineering from Carnegie Mellon University and an
11 M.B.A. from the University of Pittsburgh. Additionally, I am a Registered
12 Professional Engineer in the Commonwealth of Pennsylvania.

13

14 **Q. DO YOU HAVE ANY QUALIFICATIONS OR OTHER SPECIALIZED**
15 **KNOWLEDGE THAT WOULD ASSIST THE COMMISSION IN ITS**
16 **DELIBERATIONS IN THIS CASE?**

17 A. I have run a consulting practice for the past twenty-six years focused on regulated
18 and deregulated energy company strategy, market strategy, and regulatory issues.
19 During 2004 and 2005, I undertook a consulting assignment as the Vice President
20 of Consumer Markets for ACN Energy. ACN is a gas and electric marketer that is
21 active in eight states. Prior to my consulting practice, I worked at three major
22 energy companies for a total of 19 years. Most recently I was Vice President of

1 Marketing for Equitable Resources. In that function I was responsible for the
2 development of the company's deregulated business strategy.

3 Prior to that I was Vice President of Marketing for Citizens Utilities,
4 responsible for gas, electric, water and wastewater marketing activities in several
5 service territories within the United States. The gas and electric utility operations
6 were in Vermont, Louisiana, Arizona, Colorado, and Hawaii. Under my direction,
7 Citizens initiated commercial and industrial transportation and supply services at
8 its gas operation in Arizona. As a consultant for Citizens, I designed a demand
9 response program for its electric operations in Arizona.

10 Before that, during 1988 through 1994, I was the Marketing Director at the
11 Peoples Natural Gas Company where I was actively involved in many gas
12 transportation programs as the company relaxed transportation requirements so that
13 customers would have supply choices. In summary, I have considerable experience
14 in several states involving residential, commercial, and industrial customer energy
15 procurement and industry restructuring programs.

16

17 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS PUBLIC UTILITY**
18 **COMMISSION?**

19 A. Yes, I have appeared before the Pennsylvania Public Utility Commission
20 ("Commission") in several gas and electric regulatory proceedings. Additionally,
21 I have provided testimony on a variety of issues relating to energy procurement,
22 industry restructuring, and demand response before regulatory Commissions in

1 Arizona, Illinois, New Mexico, Maryland, Ohio, Wyoming and the U.S. Virgin
2 Islands.

3

4 **II. PENN STATE'S SERVICE**

5 **Q. WOULD YOU BRIEFLY DESCRIBE PENN STATE'S SERVICE FROM**
6 **FIRSTENERGY?**

7 A. Yes. Penn State is a distribution service customer of FirstEnergy's Pennsylvania
8 Electric Company ("Penelec") subsidiary at Penn State Erie, The Behrend College
9 and the Altoona and Dubois campuses, along with some accounts near University
10 Park. The University receives service from FirstEnergy's Metropolitan Edison
11 Company ("Met Ed") subsidiary for campuses at York and at the Fruit Research
12 and Extension Center in Biglerville. The Shenango campus receives service from
13 FirstEnergy's Pennsylvania Power ("Penn Power") subsidiary. Service from West
14 Penn Power Company ("West Penn") is described below (Penelec, Met Ed, Penn
15 Power, and West Penn are collectively, the "Companies"). Between July 2020 and
16 June 2021, the University received 271 million kWh through West Penn, Met Ed,
17 Penn Power and Penelec, and paid over \$2.2 million for distribution services and
18 over \$1 million for bundled services. The major electric consumer on the
19 FirstEnergy system is the University Park campus which is served by West Penn.

20

21 **Q. WOULD YOU BRIEFLY DESCRIBE PENN STATE'S SERVICE FROM**
22 **WEST PENN?**

23 A. Yes. Penn State is a major generation, transmission and distribution service

1 customer of West Penn at its University Park campus receiving service through
2 West Penn Retail Tariff Electric – Pa. P.U.C. No. 38 (“Tariff 38”). Between July
3 2020 and June 2021, the University received 237 million kWh of electric energy
4 from West Penn under Tariff 38 at the University Park campus and paid West Penn
5 \$1.9 million for distribution service.

6 The University receives generation, transmission and distribution service
7 from West Penn under rate schedules other than Tariff 38 for approximately 100
8 additional accounts at the University Park campus including the airport and
9 campuses at New Kensington, Fayette and Mont Alto.

10

11 **Q. WHAT ELECTRIC SERVICE IS RECEIVED BY THE UNIVERSITY**
12 **UNDER WEST PENN’S TARIFF 38?**

13 A. The largest Penn State load on any of the Companies’ systems is Penn State’s
14 University Park campus which covers 8,500 acres and contains over 900 buildings.
15 There the University receives service through Tariff 38. The University takes
16 service from four West Penn substations around the campus at 12,500 volts.

17

18 **Q. HOW DOES PENN STATE CURRENTLY OBTAIN ITS ELECTRIC**
19 **SUPPLY?**

20 A. At University Park campus since 2009, and all other commercial accounts at
21 Commonwealth Campus locations since 2011, the supply is obtained through
22 contracts with an electric generation supplier (“EGS”). PSU currently has a single
23 broker serving as its EGS with multiple electric contracts with wholesale

1 suppliers. Small commercial and residential accounts of PSU are served by either
2 retail suppliers or the utilities' default service procured through the sales tariffs of
3 the electric distribution companies.

4

5 **III. PURPOSE OF TESTIMONY**

6 **Q. WHAT IS THE ISSUE YOU WILL DISCUSS IN THIS REBUTTAL**
7 **TESTIMONY?**

8 A. Having described Penn State's service from the Companies, I will address the
9 concerns I have with the direct testimony of Constellation Energy Generation, LLC,
10 and Constellation NewEnergy, Inc. ("Constellation") witness, Mr. Lael Campbell.
11 As background, Mr. Campbell proposed that the Companies alter the Default
12 Service Support Rider ("DSS Rider" or "DSSR") mechanism that the Commission
13 reviewed and approved in the Companies' previous Default Service Proceedings
14 ("DSP"). Campbell Direct Testimony at 13:9 – 19:10.

15

16 **Q. WHAT ARE NON-MARKET BASED CHARGES?**

17 A. "Non-market based charges," or "NMB charges" are cost-based charges that are
18 not tied to supply and demand fundamentals and transparent market outcomes.

19

20 **Q. WHAT IS NETWORK INTEGRATION TRANSMISSION SERVICE**
21 **("NITS")?**

22 A. NITS is a service that allows an electric transmission customer to integrate, plan,
23 economically dispatch and regulate its network reserves in a manner comparable to

1 that in which the Transmission Owner serves its end-use customers (also called
2 “Native Load”) that the Load-Serving Entity is obligated to serve. NITS charges
3 are NMB Charges assessed by PJM for transmission related services and are cost-
4 of-service rates that are imposed on all load serving entities (“LSEs”) based on each
5 LSE’s share of load served. Accordingly, all customer load on an electric
6 distribution company’s (“EDC”) system is allocated a share of transmission service
7 costs based on the customer’s Network Service Peak Load Contribution. NITS cost-
8 of-service based charges are ultimately paid for by all customers based on the
9 customer’s contribution to the system peak.

10

11 **Q. WHAT WAS THE DECISION OF THE COMMISSION WHEN A CHANGE**
12 **TO THE TREATMENT OF NITS WAS PROPOSED IN 2011, 2013 AND**
13 **2015?**

14 A. In FirstEnergy’s 2011 DSP case, Docket No. P-2011-2273650 et al., the
15 Commission stated,

16 “In the *August 2012 Order*, we rejected both the recovery of NMB
17 transmission charges and generation deactivation charges in the
18 Companies’ DSS Riders. Specifically, for the recovery of generation
19 deactivation charges, we were concerned that the collection of these charges
20 through non-bypassable riders would interrupt long-term shopping
21 contracts between large Commercial and Industrial (C&I) customers and
22 their suppliers, and may force contracts to be renegotiated. In addition, we
23 found that this proposal would increase the likelihood of double cost
24 collection whereby customers would incur generation deactivation costs
25 through the DSS Rider while these costs would still be imbedded in the
26 contract rates with their suppliers. *August 2012 Order*
27 at 77, 81.

28 Final Order at 5.

1 In FirstEnergy’s 2013 DSP case, Docket No. P-2013-2391368 et al., the Final Order
2 confirmed the previous ruling. The Commission first cited its ruling in the previous
3 DSP:

4 “We concur with the Industrials. NITS costs are directly related to the
5 transmission service offered to customers and should continue to be
6 collected by the EGSs instead of being collected for all customers through
7 the DSS Rider, as proposed by the Companies.” Final Order at 25
8

9 It then continued to reinforce its desire to continue to support the migration to a
10 more competitive retail market. It rejected the argument on volatility by
11 FirstEnergy Solutions Corporation (“FES”) by stating,

12 “the evidence presented by FES *et al.* is insufficient to meet their burden of
13 proof that the Commission should alter our decision within FirstEnergy’s
14 DSP II proceeding that NITS costs should not be collected through the
15 Companies’ DSSR rider mechanism. We find that neither our *Fixed Price*
16 *Order*, entered in November of 2013, nor the single, alleged incident of
17 volatile NITS costs in a neighboring jurisdiction amount to “changed
18 circumstances” which would warrant the requested non-bypassable
19 collection of NITS costs as proposed by FES *et al.* We further conclude
20 that the FES *et al.* arguments as to the volatility issue are simply
21 unconvincing as only one, single instance was offered as evidence. We do
22 not agree that this one instance of volatility would lead to the inference that
23 all NITS costs are now unpredictable and should be collected via the EDCs’
24 non-bypassable DSSR. Accordingly, we shall adopt the Exceptions of the
25 Industrial Users Groups and reject the recommendation of the ALJ on this
26 issue.” Final Order at 31
27

28 It then rejected additional arguments for inclusion of NITS charges in the DSS
29 Rider. Specifically, on the issue of the double collection of NITS charges from
30 customers (an issue the Industrials witnesses Plank and Fried have experienced) the
31 Commission expressed concern,

32 “Since we have previously determined that FES *et al.* failed to meet their
33 burden of proof that the NITS cost collection methodology should be
34 revised, we conclude that this issue is moot, as the perceived possibility of
35 the double-collection of NITS costs is not a concern. We further find that
36 if the Commission would have implemented this revised collection of NITS

1 costs within FirstEnergy’s DSSR, there is merit in the concerns expressed
2 by IUG with regard to a possible double-collection.” Final Order at 42
3

4 The Industrial Users Group (“IUG”) wished that in the event the Commission were
5 to order the NITS to be collected in the DSS Rider that there would be a carve-out
6 for Large C&I customers, as such customers:

7 “might prefer a shopping contract with more pass-through elements based
8 on the customer’s ability to manage risk and willingness to negotiate with
9 EGSs on a number of different pricing components. IUG claimed that by
10 contrast, Large C&I customers who are expected to provide accurate
11 projections of their monthly energy expenses for budgeting and forecasting
12 purposes may prefer the predictability of more fixed price components.
13 IUG opined that as a result of the unique manner in which Large C&I
14 customers participate in the competitive market, the Commission should not
15 prohibit Large C&I customers from continuing to pursue competitive
16 products including transmission costs.” Final Order at 42
17

18 The Commission ruling on this issue acknowledged the IUG concerns as valid and
19 stated:

20 “Since we have previously determined that FES *et al.* have failed to meet
21 their burden of proof that the NITS cost collection methodology should be
22 revised, we conclude that this issue is also moot as the necessity of a Large
23 C&I carve-out is no longer a concern. We further find that if the
24 Commission would have implemented this revised collection of NITS costs
25 within FirstEnergy’s DSSR, there is merit in the concerns expressed by
26 IUG. However, since we are not adopting the NITS Proposal, the
27 Exceptions of IUG are moot.” Final Order at 45, 46.
28

29 In its Overall Recommendation Concerning NITS the Commission stated:

30 “We have previously concluded that FES *et al.* have not met their burden of
31 proof in this proceeding to establish the need for a revision in the
32 Commission approved NITS cost recovery methodology for FirstEnergy.
33 Therefore, we shall reject the recommendation of the ALJ that there was
34 sufficient evidence provided to support a finding that inclusion of NITS
35 costs in the DSSR was now justified.
36

37 However, we shall adopt the ALJ’s recommendation that under existing
38 Commission precedent, the proposal to include NITS in the non-bypassable
39 DSSR should be denied. We acknowledge that, while we are not bound by
40 the rule of *stare decisis*, we must render consistent opinions and should

1 either follow, distinguish, or overrule our precedent. *See, Bell Atlantic –*
2 *Pennsylvania, Inc. v. Pa. PUC*, 672 A.2d 352, 354 (Pa. Cmwlth. 1995). In
3 this case, we determined that it was appropriate to follow our precedent.
4 Accordingly, based upon the evidence of record, we shall deny the
5 Exceptions filed by FES, [Retail Energy Supply Association] and
6 FirstEnergy on this issue.

7
8 Additionally, although we are rejecting the ALJ’s recommendation that
9 there was sufficient evidence to justify inclusion of NITS costs in the DSSR,
10 we note parenthetically that the doctrine of issue preclusion does not apply
11 to prevent us from considering the proposal to include the NITS in the non-
12 bypassable DSSR. Based on our review of the record, we conclude that the
13 issues in this proceeding are not identical to the issues in the prior DSP
14 proceeding.” Final Order at 53

15
16 I wrap up the review of the 2013 Order by presenting paragraph 11 from the Final
17 Order:

18 “That the proposal to include Network Integration Transmission Services in
19 the Companies’ Default Service Supply Rider as a non-bypassable charge
20 is denied.” Final Order at 56
21

22 In the 2015 FirstEnergy DSP, at Docket No. P-2015-2511333 et.al., Mr. Campbell
23 chose to again propose that the mechanism for collection of NITS be changed and
24 such charges be collected in a non-bypassable rider which all customers, both
25 shopping and non-shopping, would be required to pay. The concerns that existed
26 prior to that filing still existed and several parties submitted testimony on that issue
27 which was then settled by the parties. ALJ Salapa’s Recommended Decision
28 (“RD”) stated, “NITS will remain the obligation of default service providers and
29 electric generation service providers during the default service delivery period
30 beginning June 1, 2017.” RD at 15. The Commission adopted the RD of ALJ
31 Salapa by Final Order entered May 19, 2016.

1 In the 2017 FirstEnergy DSP, at Docket No. P-2017-2637855 et.al., Mr. Campbell
2 continued his pattern and proposed to change the current structure and include
3 NITS in a non-bypassable rider applicable to all shopping and non-shopping
4 customers. As in the previous proceeding, PSU opposed such a change as it is
5 unnecessary and unwise, and the Commission Final Order ruled that “NITS will
6 remain the responsibility of both default service and electric generation suppliers.”
7 (Order at 9)

8 Now, once again, Mr. Campbell attempts to make the case to change the mechanism
9 that has been in place, which the Commission has ordered not be changed since it
10 was first raised in the 2011 DSP case. He wishes to reverse long established
11 Commission treatment that has been affirmed in the previous DSP proceedings, that
12 collection of NITS will be done by the EGS and default service provider.
13 Collectively, these are the “load serving entities” or LSEs.

14

15 **Q. WHAT ARE MR. CAMPBELL’S CONCERNS WITH NITS THAT HE**
16 **CITED IN HIS TESTIMONY?**

17 A. In his testimony Mr. Campbell claims that NITS are not “hedgeable” and therefore
18 he believes that “both retail customers and suppliers would be better off if the
19 Companies retained responsibility for all costs associated with procuring NMB
20 charges, including NITS costs, for both shopping and non-shopping customers.”
21 *Id.*, at 17:2-4.

22

1 **Q. DOES THE FACT THAT NITS ARE NOT HEDGEABLE MATTER?**

2 A. No. Suppliers are in the business of providing and pricing products to customers
3 such as Penn State. While there may be concern that in the future the NITS charges
4 may increase, managing such increases or the overall volatility of energy products
5 is what suppliers do. The main product that suppliers provide to customers is
6 electric supply, and while such supply prices can be very volatile, that has not
7 stopped LSEs from being in the business of offering electric supply. Indeed, the
8 principles of a competitive market are to create the opportunity for clever marketers
9 to develop products that meet customers' needs. Those marketers that succeed in
10 developing such products will obtain the patronage of customers and those
11 marketers that are unsuccessful in product development will not. Mr. Campbell
12 may wish that the opportunity to develop a solution to address the NITS charges,
13 and possible price volatility, be taken off the table so that no marketer can present
14 a solution to customers, but I do not. If such concerns were present when designing
15 competitive markets, something that Pennsylvania has a long history of leadership
16 in developing, then the fear that electricity prices might be volatile (they are) could
17 have been used as a reason not to allow for the existence of competitive LSEs at
18 all. I am not willing to agree that NITS charges have impaired competition or that
19 marketers are unable to produce offerings capable of acceptance by shopping
20 customers. Mr. Campbell represents Constellation, one marketer, and we have
21 learned over the many years of participating in the competitive energy markets of
22 Pennsylvania and elsewhere that solutions will be developed.

1 **Q. WHAT IS MR. CAMPBELL’S PROPOSAL IN THIS PROCEEDING**
2 **REGARDING COLLECTION OF NITS?**

3 A. Mr. Campbell has recognized that his wish to have NITS collected in a non-
4 bypassable DSS Rider has not been granted by the Commission in past DSP
5 proceedings. Recognizing that the uncertainty regarding the pricing of NITS has
6 caused his frustration with the collection responsibility being assigned to the LSEs,
7 Mr. Campbell recommends that the Companies’ make the pricing information of
8 non-market based charges, including NITS, available by October 5th each year,
9 which is ahead of the October DSP auctions. Such information would be provided
10 to any Interested Party, including the LSEs.

11
12 **Q. WHAT IS YOUR OPINION OF MR. CAMPBELL’S RECOMMENDATION**
13 **REGARDING PROVISION OF INFORMATION ABOUT NITS TO LSEs?**

14 A. I agree with Mr. Campbell that it is important that suppliers have information
15 relating to changes in NITS rates as he describes in his testimony. *Id.*, at 17:16-17.
16 The Companies should work to have applicable Projected Transmission Revenue
17 Requirement (“PTRR”) data submitted in a timely fashion to allow suppliers to
18 incorporate such information into their pricing proposals and bids. Mr. Campbell
19 has proposed October 5th and I agree that such a timetable would benefit LSEs and
20 their customers.

21 There is some difficulty in the actual execution of this. While the Companies’
22 affiliate, the transmission owner Mid Atlantic Interstate Transmission (“MAIT”),
23 has agreed to provide the PTRR by October 5th, FirstEnergy has undertaken a

1 restructuring of its transmission assets and the transmission assets of affiliates
2 Potomac Edison and West Penn are expected to be acquired by a new transmission
3 affiliate, the Keystone Appalachian Transmission Company, or KATCo. The asset
4 transfer has not yet been completed. Therefore, to address this issue, Mr. Campbell
5 is requesting that the Companies commit to providing the PTRR information prior
6 to any fall power auction. October 5th would satisfy this request. I agree with Mr.
7 Campbell's information sharing proposal. The Commission should mandate the
8 Companies to do so.

9

10 **IV. SUMMARY AND RECOMMENDATIONS**

11 **Q. WHAT ARE YOUR RECOMMENDED ACTIONS REGARDING THE**
12 **ISSUE OF THE COLLECTION OF NITS?**

13 A. Consistent with several previous Commission rulings on the same issue, the NITS
14 should continue to be collected through the EGSs and not included in a non-
15 bypassable rider (the DSS Rider or any other similar mechanism). Mr. Campbell's
16 recommendation of providing the PTRR by October 5th should be accepted.

17

18 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

19 A. Yes.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Metropolitan Edison Company for Approval of Its Default Service Plan for the Period From June 1, 2023 through May 31, 2027	: : : : : :	Docket No. P-2021-3030012
Petition of Pennsylvania Electric Company for Approval of Its Default Service Plan for the Period From June 1, 2023 through May 31, 2027	: : : : : :	Docket No. P-2021-3030013
Petition of Pennsylvania Power Company for Approval of Its Default Service Plan for the Period From June 1, 2023 through May 31, 2027	: : : : : :	Docket No. P-2021-3030014
Petition of West Penn Power Company for Approval of Its Default Service Plan for the Period From June 1, 2023 through May 31, 2027	: : : : : :	Docket No. P-2021-3030021

**THE PENNSYLVANIA STATE UNIVERSITY'S
TESTIMONY VERIFICATION OF
JAMES L. CRIST**


I, James L. Crist, hereby certify that I am the President of Lumen Group, Inc., and that, in such capacity, I have been retained by The Pennsylvania State University ("PSU") as an expert witness in the above-captioned matter for the purposes of providing testimony on PSU's behalf.

I hereby verify that I have provided the following written Testimony for admission into the record and that these documents were prepared by me and under my supervision:

- Rebuttal Testimony of James L. Crist (PSU Statement No. 1-R), with no exhibits

I certify that the facts set forth in the testimony are true and correct to the best of my knowledge, information and belief; that if I were asked the questions contained therein today that my answers would remain the same. I understand that the statements made in my testimony are subject to the penalties at 18 Pa C.S. § 4909 related to the unsworn falsification to authorities.

Date: 4/8/22



James L. Crist
Lumen Group, Inc.

CERTIFICATE OF SERVICE

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

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