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May 6, 2022

VIA ELECTRONIC FILING
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd 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; and, P-2021-3030021

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is the Initial Brief of John Bevac and Sunrise Energy, LLC. As demonstrated by the attached Certificate of Service, all parties to these proceedings are being duly served via electronic mail with a copy of this filing.

Thank you for your attention to this matter.

Respectfully,

A. MICHAEL GIANANTONIO

/sjp
Attachment

cc: All counsel of record (w/attachment)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

INITIAL BRIEF OF JOHN BEVEC AND SUNRISE

TABLE OF CONTENTS

I. INTRODUCTION

A. Procedural History

The Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power"), and West Penn Power Company ("West Penn") (collectively, the "Company", or "Companies" and/or "Joint Petitioners") petitioned the Pennsylvania Public Utility Commission (PUC or Commission) for approval of a proposed plan for the terms and conditions under which the Joint Petitioners would supply default service from June 1, 2023, through May 31, 2027 (the "Default Service Plan") on December 14, 2021. *See*, Default Service Plan filed at Dockets 2021-3030012, 2021-3030013, 2021-3030014 and 2021-3030021.[1] The Petition was filed pursuant to Pennsylvania's Electricity Generation Customer Choice and Competition Act at 66 Pa. C.S. § 2801, Act 129 of 2008, the Commission's default service regulations at 52 Pa. Code §§ 54.181-54.190, and the Commission's default service policy statement at 52 Pa. Code §§ 69.1801-1817. *See*, *Id.* at p. 1. On January 3, 2022, this Honorable Commission issued a Pre-Conference Hearing Notice.

Important to the present issues set to be addressed, Joint Petitions to Intervene were filed by John Bevec ("Bevec") and Sunrise Energy LLC ("Sunrise") (collectively "Intervenors") on January 17, 2022. *See*, Intervenors' Petition to Intervene. The impetus behind Intervenors' intentions was due to the fact that the Joint Petitioners represented in their petition that they wanted to "satisfy requirements imposed" by the Pennsylvania Alternative Energy Portfolio Standards Act (the "AEPS Act") 73 P.S. 1648.1, *et seq.* *See*, *Id.* at ℙ 12. Likewise, the Joint Petitioners are seeking to ensure they "recover all associated costs on a full and current basis..." *Id.* at ℙ 13

[1] This matter was consolidated on July 27, 2022. Therefore, all references to the record will be that Docket for simplicity's sake.

However, in discussing the AEPS Act and the cost recovery associated with the same in their Petition, the Joint Petitioners refer only to costs associated with solar photovoltaic alternative energy credits ("SPAECS") and to energy purchased in relation to future Power Purchase Agreements ("PPAs"). *Id.* at ℙ 14. The Joint Petition was silent on the recovery of other costs associated with the implementation of the AEPS act. *Id.* at ℙ 15. Specifically, it does not address the recovery of the cost of excess energy purchased from renewable energy systems pursuant to the AEPS act. *Id.*

The Joint Petitioners challenged Intervenors' right to intervene by filing an Answer to the Petition on February 7, 2022. *See*, Joint Petitioner's Answer to Intervenors' Petition to Intervene. In their filing, the Joint Petitioners state that they will meet their obligations for AEPS Act requirements for residential and commercial customers through their respective Price to Compare Default Service Rate Riders and from industrial customers through their Hourly Pricing Default Service Rider. *See, Id.* at ℙ 14. Further, the Joint Petitioners claim that they did not utilize excess energy used by customer generators to serve the default service load. *Id.* at ℙ 15. Rather, the Joint Petitioners claimed that excess energy was sold into the wholesale electricity markets operated by PJM connections with any revenues from such sales credited to default service customers net of compensation paid to customer-generators. *Id.*

Additionally, the Joint Petitioners challenged Intervenors' right to participate due to litigation previously filed by Hommrich individually against the PUC and by Sunrise against West Penn and First Energy focusing specifically on the definition of customer-generator and the right of Sunrise to net meter. *Id.* at ℙ 20 and New Matter at ℙℙ 2-3. This Honorable Court concluded that Intervenors indeed presented a valuable reason for intervention and granted Intervenor status

to Sunrise and Bevec on February 28, 2022. *See*, Interim Order Granting Petition of John Bevec and Sunrise Energy to Participate as Intervenors.

Since that time, the parties have engaged in discovery and exchanged written testimony. A brief evidentiary hearing occurred on April 13, 2022 wherein the parties stipulated to the admission of their respective testimony and exhibits. On April 25, 2022, Sunrise filed its exhibits and written testimony. *See*, Sunrise Energy and John Bevec Stipulated Exhibits.

B. The Partial Settlement

Although most of the parties were able to resolve their disputes with Joint Petitioners, as evidenced by the April 21, 2022 Joint Petition for Partial Settlement, Intervenors did not sign on to that filing. Instead, Intervenors have posited their own proposition as to how Joint Petitioners should be required to handle cost recovery under the AEPS Act.

In that Partial Settlement Agreement, the respective parties proposed terms and conditions involving Procurement and Implementation Plans; the form of the Supplier Master Agreement; Responsibility of meeting all Tier I and Tier II requirements; certain Contingency Plans; Independent Evaluators; Rate Design and Cost Recovery; the Customer Referral Program; the POR Clawback Charge; CAP Customer Shopping; and; the Third-Party Data Access Tariff. *See*, Joint Petition for Partial Settlement.

C. Issues Reserved for Briefing

As noted above, Joint Petitioners and the Intervenors were unable to come to an agreement concerning the issues raised in Intervenors' Petition. Therefore, the parties have reserved for briefing issues concerning the Joint Petitioners' treatment of excess energy from customer generators and the calculation of the PTC with respect to the AEPS Act.

Intervenors will address that distributed generation results in less power being needed at the applicable substations (as well as the Joint Petitioners' denial that they consume distributed energy), therefore the PTC is inflated. Also, in this regard, the Joint Petitioners do not account for distributed generation in their supply side calculation even though excess energy from customer-generators is put onto the Joint Petitioners' distribution systems.

Additionally, Intervenors believe that the Joint Petitioners should not be applying the gross receipts tax to the AEPS calculations for their respective PTCs and HPs. First, Intervenors do not believe that the gross receipts tax should be applied to AEPS Act expenses. Second, and as a result, Joint Petitioners are inappropriately calculating AEPS Act expenses in their respective HP formulas.

II. THE RELEVANCE OF THE COMPANIES' TREATMENT OF EXCESS ENERGY FROM CUSTOMER-GENERATORS TO THIS PROCEEDING[2]

A. Applicable Law

When a utility seeks approval of its default service plan, the burden of proof is on the utility. *Petition of PECO Energy Company for Approval of its Default Service Program for the Period from June 1, 2017 through May 31*, 2021, 2016 WL 7242224, *3 (Pa.P.U.C. December 8, 2016). Therefore, the Joint Petitioners must persuade this Court by a preponderance of the evidence that their default service plans are acceptable. *Id.* (citing *Samuel J. Lansberry, Inc. v. Pa. PUC,* 578 A.2d 600 (Pa.Cmwlth. 1990), alloc. denied, 602 A.2d 863 (Pa. 1992). Moreover, the Joint Petitioners must present substantial evidence in the record. *Id.* (citing *Norfolk & Western Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

[2] On May 3, 2022, the undersigned informed Joint Petitioners that they would not be arguing claims topics of cost recovery except as it applies to distributed generation and line loss nor we will discuss the treatment of AECs.

Nevertheless, when a party, like Intervenors, offers a proposal in addition to what is found in the Petition, that party filing bears the burden of proof for such a proposal. *Id.* at *4 (citing *Pa. PUC, et al., v. Metropolitan Edison Co.*, Docket No. R-00061366C0001 (Order entered January 11, 2007)).

In 2004, the Pennsylvania legislature recognized the need for clean and green alternatives to fossil fuel energy production, and as a result, it passed the AEPS Act, 73 P. S. §§ 1648.1 - 1648.8. The AEPS Act permits alternative energy producers to generate their own energy utilizing one of the approved alternative energy production methods. Importantly, the Act requires Electric Distribution Companies ("EDCs") to purchase any net energy produced by these alternative energy providers at the full retail price. As part of the Act, the Legislature authorized the PUC only to "...convene a stakeholder process to develop Statewide ***technical and net metering interconnection rules for customer-generators***..." 73 P.S. § 1648.5 (emphasis added).

The inclusion of certain AEPS Act obligations into a utility's proposed default service plan was addressed by the Commonwealth Court in *Dauphin County Indus. Development Authority v. Pennsylvania Public Utility Comm'n,* 123 A.3d 1124 (Pa.Cmwlth. 2015), appeal denied, 123 A.3d 1124 (Pa. 2016). There, an EDC filed a petition for approval of its Default Service Plan in the PUC's administrative law docket. *Dauphin County*, 123 A.3d at 1128-1129. Even though the proposed settlement did not address a key component of what was at issue – net metering involving Electric Generation Suppliers ("EGS")), both the administrative law judge and the PUC approved the settlement. *Id.* at 1129.

The Development Authority took issue with the settlement for multiple reasons, the most notable of which was that the EDC's time-of-use solution required that the new rates be offered to all customers. *Id.* at 1130. Also, the Development Authority argued that the time-of-use program

was defective because it did not require EGSs to offer net metering with time-of-use rates to customer-generators, thus undermining the purpose of the Act. *Id.* This effectively allowed the EDC to bypass the statutory mandate for offering customer-generators net metering under the Act.

The *Dauphin County* Court reiterated the fact that the PUC was charged only with developing "technical and net metering interconnection rules for customer-generators intending to operate renewable onsite generators in parallel with the electric utility grid." *Id.* at 1131 (citing to 73 P.S. § 1648.5). Further, the Dauphin County Court stated that when statutory language is clear, there is no interpretive discretion of regulations and the administrative agency must abide by the statue. *Dauphin County*, 123 A.3d at 1134.

Taking these principles into consideration, the *Dauphin County* Court concluded there was no ambiguity in the Competition Act's mandate that all customers who have smart meter technology shall be entitled to time-of-use rates. *Id.* (citing to 66 Pa.C.S. § 2807(f)(5)). Thus, the Commonwealth Court concluded the PUC's refusal to provide time-of-use rates to EGS customers, despite a clear legislative mandate to do so, was improper. *Id.* at 1136.

Statutory obligations under the AEPS Act were more recently discussed in *Hommrich v. Pennsylvania Public Utility Commission*, 231 A.3d 1027 (Pa.Cmwlth. 2020), affirmed *per curiam*, 245 A.3d 637 (Pa. 2021). In *Hommrich*, the petitioner challenged several PUC regulations as running afoul of the Legislative intent of the AEPS Act. *Hommrich*, 231 A.3d at 1032-1033. In reaching its decision, the Commonwealth Court concluded that the PUC's ability to regulate stems from a legislative grant of power. *Id.* at 1034.

When interpreting a legislative regulation, the Court must look to whether the regulation is reasonable. *Id.* at 1037. It is black letter law that a regulation is unreasonable if it contradicts express, statutory language. *See, Marcellus Shale Coalition v. Department of Environmental*

Protection, 216 A.3d 448, 460 (Pa.Cmwlth 2019) ("When, therefore, a regulation presents 'an actual conflict with the statute,' we cannot reasonably understand the regulation to be within the agency's ambit of authority, and the statute must prevail.") (quoting *AMP Inc. v. Cmwlth.*, 814 A.2d 782, 786 (Pa.Cmwlth. 2002), aff'd, 852 A.2d 1161 (Pa. 2004)); *Slippery Rock Area School Dist. v. Unemployment Compensation Bd. Of Review*, 983 A.2d 1231, 1241 (Pa. 2009) (citing to 1 Pa.C.S. § 1922(1), the Commonwealth Court concluded that a regulation in contradiction of the enabling statute would be absurd, impossible to execute or unreasonable); and, *Popowsky v. Pennsylvania Public Utility Commission*, 910 A.2d 38, 52-53 (Pa. 2006) (regardless of whether a regulation is legislative or interpretive, it must consistent with its authorizing statute).

In *Hommrich*, the Commonwealth Court agreed that Section 75.1 of the PUC's Regulations addressing net metering impermissibly added the phrase "a retail electric customer that is" to the legislature's definition of "customer-generator." *Hommrich*, 231 A.3d at 1038-1039. Next, the Commonwealth Court took notice, that the addition of the definition of "Utility," which is not contained in the Act, was an attempt to fundamentally alters the legislature's definition of "customer-generator." *Id.* at 1039. In that regard, by adding the wording to the definition of "customer-generator" along with the newly created definition of "Utility," the PUC has created a new restriction on who is entitled to net meter as a customer-generator under the Act. By comparing the PUC's modifications to the Act, the Commonwealth Court determined:

> In short, the PUC's regulation alters the [] Act's requirement that a customer-generator simply be a "nonutility owner or operator" of a net metering facility by adding the requirement that the customer-generator must be "a retail electric customer that is a nonutility owner or operator" of a net metering facility.

Id. at 1039.

As such, the *Hommrich* Court ultimately concluded that the PUC's regulatory definitions of "customer-generator" and "utility" were unenforceable because they redefine statutory eligibility standards and curtail the development of alternative energy in conflict with the AEPS Act. Based upon this holding, and the other case law cited, Intervenors believe that certain portions of the proposed default service plan do not adhere to the statutory mandates of the AEPS Act, and that Intervenors' proposals should be accepted by this court.

B. Distributed generation results in a lower loss factor versus centralized generation

Distributed generation is the process of generating electricity where it is need, as opposed to centralized generation, which is generated and then transmitted over long distances. John Bevec and Sunrise Energy, LLC Statement No. 1 at p. 3:3-7. Centralized generation suffers from power loss associated with transformation of line voltage and from line losses. *Id.* at p. 3:9-13. Power losses occur when electricity is lost in the movement of energy, either through voltage transformation or through electrical conductors. *Id.* at pp. 3:15-4:15. On the other hand, distributed generation has substantially lower power losses because power is generated where it is needed. *Id.* at p. 5:7-9. Distribution losses can be as low at 2-3% based upon the configuration of the distributed generation system and its distance to nearby customers. *Id.* Whenever a distributed generation system, such a customer-generator who produces excess power, delivers power to the grid, that power does not dissipate over long distances. Instead, it is immediately consumed by the Joint Petitioners' customers. *Id.* at p. 5:16-20.

In his Supplemental Rebuttal Testimony, Edward Stein, testifying on behalf of Joint Petitioners, agrees that "excess energy" is kilowatt-hours ("kWh") received from a customer-generator that was in excess of the energy consumed by the customer-generator. *See*, Statement No. 8R-Supplemental at p. 6:12-16. However, Mr. Stein states that net-metered projects are not

considered as supply in the wholesale markets. *Id.* at p. 7:12-14. Mr. Stein states that excess energy is not used as supply to service default load but is instead recognized financially as aggregate load reduction. *Id.* at p. 8:3-8. Essentially, it is Joint Petitioners' position that net metering should be treated as a retail load reduction mechanism as opposed to recognizing it as a supply side mechanism. *Id.* at p. 8:15-18.

To that end, according to Mr. Stein, when a net metering customer produces energy the resulting load reduction is credited to that customer at full retail rate. *Id.* at p. 9:15-20. The Joint Petitioners than submit the load reduction under the account of the Load Servicing Entity ("LSE") that has the obligation to recognize the reduction, and credit is given to the LSE valued at the locational marginal price ("LMP").

There is no question that distributed generation reduces line loss; producing power where it is needed is inherently more efficient than providing it from a centralized power plant. *See*, John Bevec and Sunrise Energy, LLC Statement No. 2 at pp. 13:23-14:4. Moreover, the reduction in line losses also correlates directly with a reduction in fuel consumption, which in turn results in less pollution. *Id.* at p. 14:5-6.

The problem with Joint Petitioners' rationale is two-fold. First, in not accounting for distributed generation on the supply side of the equation, rate payers do not get the benefit of a decreased line loss factor. Second, despite what Joint Petitioners may say, the laws of physics dictate that the extra energy produced by customer-generators must flow to the closest load on the system. Therefore, excess energy that is delivered into the distribution system goes where it is needed; *i.e.* to other customers located on the Joint Petitioners' distribution systems. Thus, even though the Joint Petitioners did not pay to acquire the excess energy, their customers are still billed for it as though they had. These AEPS expenses are later calculated into the PTC, which means

that the Joint Petitioners are then paying for the same energy twice: once when the excess energy is billed by and paid to the Joint Petitioners, and then again when these AEPS expenses (namely the credit given to excess generators) is factored into the PTC.

Therefore, in order to fully comply with the AEPS Act, Joint Petitioners, under their Default Service Plan, should be required to calculate excess energy produced by customer-generators as part of their supply since the energy is consumed by Joint Petitioners' customers. Moreover, Joint Petitioners' customers should not be required to pay the respective Joint Petitioners for the energy produced by a customer-generator on a monthly basis while simultaneously having to pay cost recovery based upon monies paid by Joint Petitioners to customer-generators as part of the cost recovery in the PTC calculation.

C. Improper Application of Gross Receipts Tax

According to 66 Pa.C.S.A. § 2810(b), "a tax ... is imposed upon the gross receipts of electric distribution companies and electric generation suppliers." In her rebuttal testimony, Patricia M. Larkin, testifying on behalf of the Joint Petitioners, relies upon a PUC policy statement to justify the inclusion of AEPs costs as taxable pursuant to the Gross Receipts Tax. *See*, Statement No. 5R-Supplemental, at p. 7:12-16.

The policy statement to which Ms. Larkin refers is found at 52 Pa. Code § 69.1808 (the "Policy Statement") and is entitled Default Service Cost Elements. In that regard, Ms. Larkin testifies that Policy Statement offer guidance that "default service rates should be designed to recover applicable taxes." *See, Id.* at p. 7:16-19. However, the actual language from the Policy Statement is "[t]he PTC should be designed to recover all generation, transmission and other related costs of default service." 52 Pa. Code § 69.1808. There is no mention of the gross receipt tax.

What the Policy Statement does say is that the PTC should include all taxes "excluding Sales Tax". 52 Pa. Code § 69.1808(a)(5). In *Oklahoma Tax Com'n v. Jefferson Lines, Inc.*, 514 U.S. 175, 190 (1995), the United States Supreme Court stated a gross receipts tax is "simply a variety of tax on income, which [is] required to be apportioned to reflect the location of the various activities by which it [is] earned." Moreover, the Policy Statement lists taxes and AEPS Act costs separately. It makes no mention the applicability of the gross receipt tax to AEPS Act costs, or any other costs, for that matter.

Finally, it should be remembered that:

> a statement of policy does not have the force of law and is merely interpretive in nature and is not binding upon a reviewing court. The value of a policy statement is only persuasive, so long as it represents an accurate interpretation of the relevant statute or other authorities from which it is derived.

Shenango Tp. Bd. of Sup'rs v. Pennsylvania Public Utility Com'n, 686 A.2d 910, 915 (Pa.Cmwlth. 1996) (citing *Pennsylvania Human Relations Commission v. Norristown Area School District*, 342 A.2d 464 (Pa.Cmwlth. 1975), aff'd 374 A.2d 671 (Pa. 1977). As Mr. Hommrich notes, there is no authority within the AEPS Act that permits associated costs to be taxed. *See*, John Bevec and Sunrise Energy, LLC Statement No. 2 at p. 4:13-20.

In fact, the AEPS Act itself allows the PUC only to make "***technical and net metering interconnection rules for customer-generators***..." 73 P.S. § 1648.5 (emphasis added). However, nothing within the Act permits the collection of taxes for costs recovered. As such, the AEPS Act costs should be broken out in the PTC formula.

III. CONCLUSION

Pursuant to the instruction set forth in *Hommrich v. Pennsylvania Public Utility Commission*, 231 A.3d 1027 (Pa.Cmwlth. 2020), this Honorable Court should adopt Mr. Hommrich's PTC calculation that exempts AEPS Act costs from the PTC:

$$PTC_{Default} = [(PTC_{Current} + E)] \text{ X } [1 / (1 - T)] + PTC_{AEPS}$$

$$PTC_{Current} = (PTC_{Current\ Cost\ Component} \text{ X } PTC_{\ LossCurrent}) + PTC_{Adm} + PTC_{NITS}$$

$$E = [((DS_{Exp1} + DS_{Exp2}) - PTC_{Rev} + DS_{Int})/DS_{Sales}]$$

Where:

PTC_{AEPS} = Any direct or indirect costs to purchase resources pursuant to Section 3 of the AEPS Act.

NOTE: All other variables would be stripped of any reference to AEPS Act expenses.

See, John Bevec and Sunrise Energy, LLC Statement No. 2 at pp. 4:22-5:8. If this formula were to be followed, AEPS Act cost components would be broken out and would no longer be grossed up for line losses or the collection of gross receipts tax, thus reducing the PTC.

Taking this step to its logical conclusion, a similar modification should be made to the HP calculation:

$$\text{Hourly Pricing Service Charges} = (HP_{\text{Energy Charge}} + HP_{\text{Cap-Other Charge}} + HP_{\text{Administrative Charge}} + HP_{Unc} + HP_{\text{Reconciliation Charge}}) \text{ X } [1 / (1\text{-}T)] + HP_{AEPS}$$

Where:

HP_{AEPS} = All AEPS Act expenses under the hourly pricing plan

NOTE: All other variables would be stripped of any reference to AEPS Act expenses.

See, *Id.* at pp. 7:1-8:16.

IV. FINDINGS OF FACT

1. Distributed generation is the process of generating electricity where it is need, as opposed to centralized generation, which must be distributed sometimes over long distances. John Bevec and Sunrise Energy, LLC Statement No. 1 at p. 3:3-7.

2. Centralized generation suffers from power loss associated with transformation of line voltage and from line losses. *Id.* at p. 3 9-13. In this regard, power losses occur when electricity is lost in the movement of energy, either through voltage transformation or through line loss. *Id.* at pp. 3:15-4:15.

3. Compared to centralized generation, distributed generation has substantially lower power losses because power is generated where it is needed. *Id.* at p. 5:7-9. These losses can be as low at 2-3% based upon the configuration of the distributed generation system and its distance to nearby customers. *Id.*

4. There is no question that distributed generation reduces line loss; producing power where it is needed is inherently more efficient than providing it from a centralized power plant.

5. Moreover, the reduction in line losses also correlates directly with a reduction in fuel consumption, which in turn results in less pollution.

6. Whenever a distributed generation system, such as a customer-generator who produces excess power, delivers power to the grid, that power does not dissipate over long distances. Instead, it is immediately consumed by the Joint Petitioners' customers. *Id.* at p. 5:16-20.

7. "Excess energy" is kilowatt-hours ("kWh") received from a customer-generator that are in excess of the energy consumed by the customer-generator. *See*, Statement No. 8R-Supplemental at p. 6:12-16.

8. Excess energy produced by customer-generators will be consumed by the closest load on the system.

9. Joint Petitioners should consider net-metered projects as supply as opposed to recognizing them financially as aggregate load reduction.

10. Joint Petitioners' position that net metering should be treated as a retail load reduction mechanism as opposed to recognizing it as a supply side mechanism is not correct.

11. In her rebuttal testimony, Patricia M. Larkin, testifying on behalf of the Joint Petitioners, inappropriately relies upon a PUC policy statement to justify the inclusion of AEPs costs as taxable pursuant to the Gross Receipts Tax. *See*, Statement No. 5R-Supplemental, at p. 7:12-16.

12. The policy statement to which Ms. Larkin refers is found at 52 Pa. Code § 69.1808 (the "Policy Statement") and is entitled Default Service Cost Elements.

13. Although Ms. Larkin testifies that Policy Statement offer guidance that "default service rates should be designed to recover applicable taxes," the actual language from the Policy Statement is "[t]he PTC should be designed to recover all generation, transmission and other related costs of default service." *See*, Statement No. 5R-Supplemental, at p. 7:16-19 and 52 Pa. Code § 69.1808. There is no mention of the gross receipt tax.

14. It makes no mention of the applicability of the gross receipt tax to AEPS Act costs, or any other costs, for that matter.

V. CONCLUSIONS OF LAW

1. Because Joint Petitioners do not account for distributed generation on the supply side of the equation, rate payers do not get the benefit of a decreased line loss factor.

2. Because excess energy produced by customer-generators will flow into the same distribution system upon which the customer-generator is located, excess energy that is delivered into the distribution system goes where it is needed; *i.e.* to other customers located on the customer-generator's grid.

3. Thus, even though the Joint Petitioners did not pay to acquire this energy when the energy is delivered, their customers are still billed for it as though they had.

4. These AEPS expenses are later calculated into the PTC, which means that the Joint Petitioners are then paying for the same energy twice: once when the excess energy is billed by and paid to the Joint Petitioners, and then again when these AEPS expenses (namely the credit given to excess generators) is factored into the PTC.

5. Therefore, in order to fully comply with the AEPS Act, Joint Petitioners, under their Default Service Plan, should be required to calculate excess energy produced by customer-generators as part of their supply since the energy is consumed by Joint Petitioners' customers.

6. Moreover, Joint Petitioners' customers should not be required to pay the respective Joint Petitioners for the energy produced by a customer-generator on a monthly basis while simultaneously having to pay cost recovery based upon monies paid by Joint Petitioners to customer-generators as part of the cost recovery in the PTC calculation.

7. According to 66 Pa.C.S.A. § 2810(b), "a tax ... is imposed upon the gross receipts of electric distribution companies and electric generation suppliers."

8. In *Oklahoma Tax Com'n v. Jefferson Lines, Inc.*, 514 U.S. 175, 190 (1995), the United States Supreme Court stated a gross receipts tax is "simply a variety of tax on income, which [is] required to be apportioned to reflect the location of the various activities by which it [is] earned.

9. Further, AEPS Act expenses and taxes are listed separately under the Policy Statement.

10. As such, gross returns tax should not be applied to AEPS Act expenses.

11. Moreover, the Policy Statement makes no mention the applicability of the gross receipt tax to AEPS Act costs, or any other costs, for that matter.

12. Additionally, the Policy Statement does not have the force of law and is merely interpretative in nature. *Shenango Tp. Bd. of Sup'rs v. Pennsylvania Public Utility Com'n*, 686 A.2d 910, 915 (Pa.Cmwlth. 1996) (citing *Pennsylvania Human Relations Commission v. Norristown Area School District*, 342 A.2d 464 (Pa.Cmwlth. 1975), aff'd 374 A.2d 671 (Pa. 1977).

13. The Policy Statement is persuasive only to the extent that it represents an accurate interpretation of relevant statute from which it is derived. *Id.*

14. In fact, the AEPS Act itself allows the PUC only to make "***technical and net metering interconnection rules for customer-generators***..." 73 P.S. § 1648.5 (emphasis added).

15. However, nothing within the Act permits the collection of taxes based on costs recovered.

16. As such, the AEPS Act costs should be broken out in the PTC formula.

17. In that regard, and pursuant to the instruction set forth in *Hommrich v. Pennsylvania Public Utility Commission*, 231 A.3d 1027 (Pa.Cmwlth. 2020), this Honorable Court will adopt Mr. Hommrich's PTC calculation that exempts AEPS Act costs from the PTC:

$$PTC_{Default} = [(PTC_{Current} + E)] \text{ X } [1 / (1 - T)] + PTC_{AEPS}$$

$$PTC_{Current} = (PTC_{Current\ Cost\ Component} \text{ X } PTC_{\ LossCurrent}) + PTC_{Adm} + PTC_{NITS}$$

$$E = [((DS_{Exp1} + DS_{Exp2}) - PTC_{Rev} + DS_{Int})/DS_{Sales}]$$

Where:

PTC_{AEPS} = Any direct or indirect costs to purchase resources pursuant to Section 3 of the AEPS Act.

NOTE: All other variables would be stripped of any reference to AEPS Act expenses.

See, John Bevec and Sunrise Energy, LLC Statement No. 2 at pp. 4:22-5:8.

18. By applying this formula, AEPS Act cost components would be broken out to preclude the ability of the Joint Petitioners to use this opportunity to gross them up for line losses or the collection of gross receipts tax.

19. This will reduce the PTC.

20. Taking this step to its logical conclusion, a similar modification should be made to the HP calculation:

Hourly Pricing Service Charges = ($HP_{\text{Energy Charge}}$ + $HP_{\text{Cap-Other Charge}}$ + $HP_{\text{Administrative Charge}}$ + HP_{Unc} + $HP_{\text{Reconciliation Charge}}$) X [1 / (1-T)] + HP_{AEPS}

Where:

HP_{AEPS} = All AEPS Act expenses under the hourly pricing plan

NOTE: All other variables would be stripped of any reference to AEPS Act expenses.

See, *Id.* at pp. 7:1-8:16.

21. This, too, will reduce the PTC.

Respectfully submitted,

ROBERT PEIRCE & ASSOCIATES P.C.

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

APPENDIX[3]

Exhibit 1	John Bevec and Sunrise Energy, LLC Statement No. 1
Exhibit 2	John Bevec and Sunrise Energy, LLC Statement No. 2
Exhibit 3	Statement No. 8R-Supplemental
Exhibit 4	Statement No. 5R-Supplemental

[3] Only those cited portions of the statement have been attached to the Appendix.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition Of Metropolitan Edison Company,	:	
Pennsylvania Electric Company, Pennsylvania	:	P-2021-3030012
Power Company And West Penn Power	:	P-2021-3030013
Company For Approval Of Their Default	:	P-2021-3030014
Service Programs	:	P-2021-3030021

DIRECT TESTIMONY OF
DAVID N. HOMMRICH ON BEHALF OF
SUNRISE ENERGY, LLC AND JOHN P. BEVEC

List of Topics Addressed

Distributed Generation
AEPS Act Cost Recovery
Default Service Rate Calculations
AEPS Act Staffing Requirements
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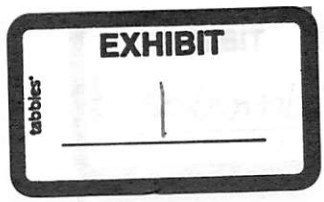

Distributed Generation

Q: What does the term "distributed generation" mean?

A: Distributed generation is the process of generating electricity where it is needed. It is essentially the opposite of centralized generation, where electricity is generated at a central location and then distributed over long distances; sometimes hundreds of miles. Most renewable energy in Pennsylvania is distributed generation.

Q: Are there inherent benefits to distributed generation?

A: The short answer is yes. Centralized generation suffers from power losses associated with transformation of line voltage and from line losses due to resistance (ohmic losses) and other types of losses. From the generating plant to the customer's electric meter, these losses can be 10-15%. Centralized plants, as a result, can burn 10-15% more fuel.

Q: Do you know what are power losses, and what causes them?

A: Power losses are when electricity is lost in the movement from the generating site to the retail meter. There are numerous factors that result in power losses in the movement of electricity. One is in the process of voltage transformation. When a centralized power plant produces power, it must step up the voltage to prepare for the "journey" over transmission lines. High voltage transmission is essential to efficiently transmitting power over long distances. The trade-off for efficient transmission is transformer losses. Transformer losses are typically 1-2%, but the strategy is to gain efficiency in transmission by achieving a higher voltage. Once the power plant voltage is boosted to

Q: Do you have any opinions as on distributed generation as it relates to the AEPS Act?

A. I do.

Q. Are those opinions held within a reasonable degree of professional certainty?

A. Yes.

Q. How does distributed generation compare from a power loss perspective?

A: Distributed generation has substantially lower power losses than centralized generation. Because the power is generated where it is needed, the losses can be as low as 2-3%, depending on the configuration and the distance to nearby customers. The Pennsylvania General Assembly included distributed generation in the AEPS Act because it can have a profound impact on power consumed (and therefore pollution reduction). A reduction of 15% in line losses (for example) results in a 15% reduction in pollution from a centralized power plant that runs on fossil fuels. Less losses equals less fuel burned.

Q: When distributed generation is produced, where does it go?

A: Distributed generation is first consumed onsite to meet the needs of a customer-generator. Excess energy then flows into the distribution system, where it is consumed by nearby JP customers. It is impossible to say which customer receives the power. By its nature, electricity flows where it is needed. It might be a microwave oven, or a toaster or a security light. In all cases, customers of the JPs use the power. There are no exceptions.

VERIFICATION

I, **David N. Hommrich**, individually and as a member of Sunrise Energy, LLC, hereby state that the facts contained in the foregoing testimony 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: February 25, 2022

By: 

David N. Hommrich

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition Of Metropolitan Edison Company,	:	
Pennsylvania Electric Company, Pennsylvania	:	P-2021-3030012
Power Company And West Penn Power	:	P-2021-3030013
Company For Approval Of Their Default	:	P-2021-3030014
Service Programs	:	P-2021-3030021

SECOND DIRECT TESTIMONY OF
DAVID N. HOMMRICH ON BEHALF OF
SUNRISE ENERGY, LLC AND JOHN P. BEVEC

List of Topics Addressed

Default Service Rate Calculations
Computation of Loss Factors
Distributed Generation Impact
AEPS Act Compliance

RESPONSE:

No. The Companies do not gross up AECs nor the compliance obligation for line losses.

It is worth noting that the DS_{Exp2} variable also contains, "AEPS expenses incurred by the Company related to amendments to the AEPS Act occurring subsequent to the effective date of the Supplier Master Agreement for the Default Service Supply Plan excluding such costs that are recovered through the Company's Solar Photovoltaic Requirements Charge Rider." But unlike the current cost component, DS_{Exp2} is not grossed up for line losses. It is not clear how the JPs allocate AEPS Act costs among these two variables.

Q: You also mentioned the gross receipts tax. What are your concerns there?

A: When the JPs apply the gross receipts tax in their PTC formula, they apply it to all of the terms in the formula; including AEPS Act expenses. I am not aware of any statutory authority that would allow this to occur. The authority for an EDC to recover the direct and indirect costs of AEPS Act resources is derived directly from Section 3 of the Act. Nowhere in that section is it stated or implied that a gross receipts tax can or should be collected on AEPS Act costs. Presumably, the JPs simply made this assumption many years ago in their current default service plan, and it has gone unnoticed until now.

Q: Can you propose a solution to fix these problems

A: Yes. A simple change to the formula can fix this problem, and it will have the added benefit of being much more transparent regarding AEPS Act expenses. I propose the following new formula be used:

$$PTC_{Default} = [(PTC_{Current} + E)] \; X \; [1 / (1 - T) + PTC_{AEPS}]$$

$$PTC_{Current} = (PTC_{Current\ Cost\ Component} \; X \; PTC_{\ LossCurrent}) + PTC_{Adm} + PTC_{NITS}$$

$$E = [((DS_{Exp1} + DS_{Exp2}) - PTC_{Rev} + DS_{Int})/DS_{Sales}]$$

Where:

PTC_{AEPS} = Any direct or indirect costs to purchase resources pursuant to Section 3 of the AEPS Act.

This new variable would be the sole repository for all AEPS Act costs. Breaking out the AEPS Act cost components in this manner will eliminate the opportunity to gross them up for line losses or the collection of gross receipts tax. Additionally, the auditing group in the PUC would benefit if these expenses were broken down in the 1307(e) reports submitted by the EDCs.

Q. How would this solution affect the PTC calculation?

A. All other variables would retain their same meanings, except that the JPs would be required to remove all references to AEPS Act expenses in them, since those costs would be captured within PTC_{AEPS}. Importantly, PTC_{AEPS} cannot be embedded in the cost of default service supply; at least not entirely. There are too many costs that simply cannot be covered via default service suppliers; indirect costs in particular.

Q: Are you aware of how other EDCs calculate their default service rates?

A: Yes. In preparing my testimony, I researched how some of the other Pennsylvania EDCs calculate their default service rates. There are differences; both in formula and in nomenclature. This creates needless confusion. There should be consistency across the

Q. Do you have any suggestions regarding the JPs' HP calculations?

A. Yes. The JPs all utilize the following HP formula, or one that is very similar.

$$\text{Hourly Pricing Service Charges} = (HP_{\text{Energy Charge}} + HP_{\text{Cap-AEPS-Other Charge}} + HP_{\text{Administrative Charge}} + HP_{Unc} + HP_{\text{Reconciliation Charge}}) \times [1 / (1-T)]$$

Where the following variable definitions are used:

HP Energy Charge per kWh:

$$HP_{\text{Energy Charge}} = \sum_{t=1}^{n} (kWh_t \times (LMP_t + HP_{Oth}) \times HP_{\text{Loss Multiplier}})$$

Where:

n	=	Total number of hours in the billing period
t	=	An hour in the billing period
LMP_t	=	the "Real Time" PJM load-weighted average Locational Marginal Price for the ME Transmission Zone.
HP_{Oth}	=	$X.XXXXX per kWh for estimate of capacity, ancillary services, NITS, AEPS compliance and other supply components.

As is the case with the JPs' PTC formula, AEPS Act expenses are captured in more than one variable; namely HP_{Oth}, $HP_{\text{Cap-AEPS-Other Charge}}$ and $DSHP_{Exp2}$. No detail is provided to explain how the expenses are allocated across the three variables. This makes keeping track of the AEPS Act costs very difficult. It is clear that those AEPS Act expenses that are captured within HP_{Oth} are being impermissibly grossed up for line losses, as is the case with the JPs' PTC calculations. Also, the gross receipts tax is being applied to all AEPS Act expenses, just like in the PTC calculation. Additionally, the JPs are proposing a fixed rate as a means of estimating AEPS Act expenses. This approach is not compliant with Section 3 of the AEPS Act.

Q: Can you suggest a solution here as well?

A: Yes. The formula below would solve the problem, in a similar manner to the suggestion for the PTC calculation.

$$\text{Hourly Pricing Service Charges} = (HP_{\text{Energy Charge}} + HP_{\text{Cap-Other Charge}} + HP_{\text{Administrative Charge}} + HP_{\text{Unc}} + HP_{\text{Reconciliation Charge}}) \times [1 / (1-T)] + HP_{AEPS}$$

Where:

HP_{AEPS} = All AEPS Act expenses under the hourly pricing plan

NOTE: All other variables would be stripped of any reference to AEPS Act expenses.

By moving all expenses for AEPS Act compliance outside of the gross receipts part of the formula, they can be accounted for separately. With sufficient details from the JPs, it would be much easier for the PUC to audit compliance on HP rates going forward.

Q: What about default service suppliers taking on AEPS Act obligations?

A: The JPs are proposing to push the cost of AEPS Act compliance out to their default service supply partners. Given the lack of visibility into AEPS Act costs currently, this is a bad idea. It seems clear to me that the JPs are falling short of their compliance obligations under the AEPS Act today. They should correct this shortcoming before discussing ways to outsource their AEPS Act compliance obligations.

For example, JPs are proposing to eliminate the AEPS Act expenses embedded in their PTC calculation entirely, opting instead to procure credits from their default service suppliers. The cost of the credits would presumably be embedded in what the default service suppliers charge the JPs. This proposed action is based on the JPs' flawed belief

The JPs receive significant subsidies from ratepayers to improve their infrastructure, as is illustrated by the following quote from the First Energy website in a press release about Long Term Infrastructure Improvement Plans ("LTIIP") funded by Distribution System Improvement Charges ("DSIC").

> "Both LTIIPs and DSICs were authorized by Pennsylvania Act 11, which was approved in 2012 and established a process to encourage electric, natural gas, water and sewer utilities in Pennsylvania to accelerate investments in aging infrastructure and help create economic benefits." [6]

These subsidies almost certainly have had, or will have, a measurable impact on line losses. I believe the time is ripe to take a hard look at the practice of applying one single factor for line losses across an entire EDC service territory with diverse grid topologies; the smallest of which, Penn Power, spans 1,100 square miles[1]. It is inherently unfair for the JPs to accept ratepayer subsidies designed to improve their aging infrastructure, and then collect a windfall from those same ratepayers if line losses are reduced. The JPs, in total, were granted nearly $1.0 billion in ratepayer subsidies to be paid out from 2016 through 2024.

The tools exist today to provide a much more accurate picture of energy losses, and the JPs should be required to use a 21st century approach to computing and applying them. Tracking substation level loss factors would have the added benefit of spotlighting areas within the JPs distribution system that need efficiency improvements and would guide the future LTIIP spending.

Q. Do the JPs' proposed default service plans account for distributed generation?

[6] *See*, https://firstenergycorp.com/newsroom/news_articles/firstenergy-s-pennsylvania-utilities-receive-approval-for-intras.html

A. No they do not, and that is disconcerting. The General Assembly included distributed generation in its list of approved alternative energy sources because of the inherent benefits to ratepayers in the form of lower line losses. Producing power where it is needed is inherently more efficient than providing it from a centralized power plant. The reduction in line losses also correlates directly with a reduction in fuel consumption, which in turn results in less pollution.

The JPs consistently refuse to acknowledge the impact that net-metered customer-generators have on their need to purchase default service energy supply. Their responses to interrogatories have been muddled and inconsistent. The JPs acknowledge that they receive excess generation from net-metered customer-generators into their distribution systems, but they will not acknowledge that any of their customers use it.

The best they will do is acknowledge that excess energy is consumed, but not by whom.

SUNRISE ENERGY, LLC AND JOHN BEVEC Set I, No. 7 [7]

"When excess energy generated by customer-generators enters the JPs' distribution systems, is the excess energy consumed by JP customers? If the answer is no, explain what happens to the excess energy."

RESPONSE:

The Companies do not track who actually "consumes" excess generation from customer-generators.

Q: Why is this important?

[7] *See*, Exhibit 6

VERIFICATION

I, **David N. Hommrich**, individually and as a member of Sunrise Energy, LLC, hereby state that the facts contained in the foregoing testimony 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: 3/23/2022

By: _____
David N. Hommrich

Met-Ed/Penelec/Penn Power/West Penn
Statement No. 8R-Supplemental

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

METROPOLITAN EDISON COMPANY
DOCKET NO. P-2021-3030012

PENNSYLVANIA ELECTRIC COMPANY
DOCKET NO. P-2021-3030013

PENNSYLVANIA POWER COMPANY
DOCKET NO. P-2021-3030014

WEST PENN POWER COMPANY
DOCKET NO. P-2021-3030021

DEFAULT SERVICE PROGRAMS
June 1, 2023 – May 31, 2026

SUPPLEMENTAL REBUTTAL TESTIMONY
OF
EDWARD B. STEIN

<u>List of Topics Addressed</u>

Default Service Rate Calculations
Compliance with the Alternative Energy Portfolio Standards Act
Excess Energy from Net-Metered Customer Generators
Losses
Interconnection Costs and Application Process

necessary Tier I – Non-Solar and Tier II AECs, and a portion of the necessary solar AECs as part of the overall default service supply that will be provided by winning default service bidders. The Companies are also proposing to make some direct solar AEC purchases as part of the long-term solar proposal.[3]

Regardless of the source of the AECs, the obligation to satisfy AEPS Act requirements associated with default service load remains with the Companies as default service providers. The Companies have consistently complied with such obligations, as demonstrated by the annual AEPS compliance reports prepared by the Commission in cooperation with the Pennsylvania Department of Environmental Protection and the absence of any AEPS Act penalties assessed against the Companies.[4]

IV. EXCESS ENERGY FROM NET-METERED CUSTOMER GENERATORS

Q. Mr. Hommrich makes several claims concerning excess energy from customer-generators and the impact of that energy on default service supply purchases. Could you please define excess energy?

A. Excess energy is kilowatt-hours ("kWh") received from the customer-generator in excess of the kWh delivered by the Company to the customer-generator. On an annual basis, the Companies will compensate customer-generators taking service under their respective net metering riders for excess energy during the preceding year at the "full retail value for all

[3] Met-Ed, Penelec and Penn Power also have long-term contracts to purchase Tier I – Solar AECs for both shopping and non-shopping load that expire May 31, 2024.

[4] *See, e.g.*, Alternative Energy Portfolio Standards Act of 2004 Compliance for Reporting Year 2021 (Pa. P.U.C. Mar. 2022); Alternative Energy Portfolio Standards Act of 2004 Compliance for Reporting Year 2020 (Pa. P.U.C. Feb. 2021); Alternative Energy Portfolio Standards Act of 2004 Compliance for Reporting Year 2019 (Pa. P.U.C. Sept. 2020). The annual AEPS Act reports for compliance years prior to 2019 are available on the Commission's website at https://www.puc.pa.gov/filing-resources/reports/alternative-energy-portfolio-standards-aeps-reports/.

energy produced" consistent with Section 5 of the AEPS Act[5] and the Commission's net metering regulations (52 Pa. Code § 75.13). Further, if a customer has produced more energy than load overall over that annual timeframe, that energy will be credited at the PTC.

Q. Does the AEPS Act prescribe that all excess energy from *all* customer-generators, both shopping and non-shopping, be the responsibility of only the Companies in all cases?

A. No, the Companies have a responsibility to compensate non-shopping customers taking service under the Companies' net metering riders for excess generation. Customer-generators are free to shop and those taking service from an EGS will receive compensation for excess energy from their EGS, not the Companies.

Q. Are customer-generator net-metered projects recognized as "supply" in the wholesale markets?[6]

A. No. Customer-generator net metered projects do not register with PJM nor go through the PJM queue process to be recognized as a supply resource. Further, these projects do not sign on to PJM's Reliability Assurance Agreement or other governing documents that request certain types of asset performance. Instead, customer-generator net metered assets are compensated via retail programs where the goal of the program is to utilize intermittent

[5] 73 P.S. § 1648.5.

[6] FERC Order No. 2222 will allow customer-generator net meter customers to aggregate, sign on the PJM agreements and operate on the supply side of the equation. *See Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators*, 172 FERC ¶ 61,247 (2020), pp. 90-185. However, FERC No. Order 2222 also requires RTOs to create tariffs that prohibit double counting, or compensation for the same service from both wholesale markets and retail programs. This means an asset cannot be operating/compensated on the supply side and the demand side of the energy accounting equation for the same product/service. *Id.*, pp. 272-330.

resources to deliver aggregate load reductions on the demand side of the energy accounting equation.

Q. Do the Companies incorporate excess energy from net-metered customer generators into their default service supply plans?

A. No. Non-shopping load is served by winning bidders in the Companies' default service supply auctions. Excess energy from intermittent net-metered customer generators is not used as supply to serve default service load and instead is properly recognized financially as aggregate load reduction.

Q. Do the Companies perform any part of the energy accounting equation by substation or customer, as Mr. Hommrich asserts?

A. No. The energy balancing equation is done at a macro level, not the micro level, as Mr. Hommrich desires. The accounting of supply and demand is accomplished at PJM. The Companies submit demand information to PJM, and generators providing supply to PJM typically submit their own information for PJM's accounting.

Q. Do you agree with Mr. Hommrich's assertions on page 6 of his Second Direct Testimony that default service supply is now being served locally?

A. No. Net metering is a retail load reduction mechanism and not a supply side mechanism. Net metering and all its mathematics are coordinated on the demand side of the equation.

Q. Do the Companies know the amount of projected energy from a customer-generator, as Mr. Hommrich states on page 7, line 10, of his Second Direct Testimony?

A. No. The Companies do not function as a local balancing authority, nor do they have systems put in place to do so. Net metering is merely reducing load, no different than

turning off the lights. There are no controls, dispatch signals, nor operational status being coordinated between metering customers and the Companies on those net metering projects below 1000 kilowatts ("kW"). Although projects above 1000 kW do introduce a bit more telemetry and basic system separation control, no net metered projects (regardless of size) are dispatched to meet load or perform any kind of balancing function to match usage and production on distribution circuits over any kind of time interval. Finally, not all net metering customers are non-shopping customers; therefore, the Companies would be in no position to forecast the output of net meter customers that have elected to shop with an EGS.

Q. So how is excess energy from net-metered customer generators recognized by the Companies?

A. Financially. Since the advent of advanced metering infrastructure ("AMI"), the entire net metering equation is part of a financial netting paradigm instead of a physical load netting paradigm.

Q. Please explain what you mean by financial recognition as mentioned on page 8.

A. Customers are measured on an hourly basis as either a load where the Companies have delivered power to the customer or as injection where the Companies receive energy onto the distribution system from the customer. When a customer has produced energy from a net meter project for a given hour the resulting load reduction is credited to the customer at full retail rate by their respective retail suppler. Further, that load reduction is submitted to PJM under the account of the LSE with the obligation to recognize the load reduction and credit is given to the LSE valued at the locational marginal price ("LMP"). Figure 3 shows what is occurring.

Met-Ed/Penelec/Penn Power/West Penn
Statement No. 5R-Supplemental

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

METROPOLITAN EDISON COMPANY
DOCKET NO. P-2021-3030012

PENNSYLVANIA ELECTRIC COMPANY
DOCKET NO. P-2021-3030013

PENNSYLVANIA POWER COMPANY
DOCKET NO. P-2021-3030014

WEST PENN POWER COMPANY
DOCKET NO. P-2021-3030021

DEFAULT SERVICE PROGRAMS
June 1, 2023 – May 31, 2026

SUPPLEMENTAL REBUTTAL TESTIMONY
OF
PATRICIA M. LARKIN

List of Topics Addressed

Alternative Energy Portfolio Act Cost Recovery
Default Service Rate Design

service customers. In Met-Ed/Penelec/Penn Power/West Penn Statement No. 8R-Supplemental, Mr. Stein explains the development of a hypothetical default service supplier's winning bid. I used the assumptions provided by Mr. Stein to develop the illustrative example presented in Met-Ed/Penelec/Penn Power/West Penn Exhibit PML-35, comparing retail default service rates with and without the use of loss factors to convert wholesale power contract costs based on megawatt hours with losses to retail rates. The calculation without the gross-up for loss factors results in an undercollection of current costs. This, in turn, results in customers paying for those costs and additional interest costs in a future PTC Rider rate period. Under the Commission's regulations at 52 Pa. Code § 54.190(c), when default service costs exceed revenues, the undercollections are recovered from customers with interest.

Q. Is it inappropriate to apply gross receipts tax ("GRT") to all components of default service rates as Mr. Hommrich suggests?

A. No. As I explained in my rebuttal testimony, the Commission identified the types of costs that should be recovered from default service customers in a Policy Statement regarding default service and retail electric markets (52 Pa. Code § 69.1808). The Companies include a gross-up for GRT on all costs recovered through PTC and HP Riders consistent with the Commission's guidance in the Policy Statement that default service rates should be designed to recover applicable taxes. The Companies must remit 5.9% GRT to the Pennsylvania Department of Revenue for every dollar of default service revenue collected from retail electric customers even though the Companies make no profit from default service. Contrary to Mr. Hommrich's contention, AEPS compliance costs recovered through the Companies' default service rates are not exempt from GRT. Under Mr.

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).

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