



COMMONWEALTH OF PENNSYLVANIA

May 6, 2022

**E-FILED**

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

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

Dear Secretary Chiavetta:

Enclosed please find the Statement in Support of the Joint Petition for Partial Settlement, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceedings.

Copies will be served on all known parties in these proceedings, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Erin K. Fure

Erin K. Fure  
Assistant Small Business Advocate  
Attorney ID No. 312245

*Enclosures*

cc: Robert D. Knecht  
Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>JOINT PETITION OF METROPOLITAN</b>	:	
<b>EDISON COMPANY, PENNSYLVANIA</b>	:	
<b>ELECTRIC COMPANY, PENNSYLVANIA</b>	:	<b>Docket Nos. P-2021-3030012</b>
<b>POWER COMPANY AND WEST PENN</b>	:	<b>P-2021-3030013</b>
<b>POWER COMPANY FOR APPROVAL OF</b>	:	<b>P-2021-3030014</b>
<b>THEIR DEFAULT SERVICE PROGRAMS</b>	:	<b>P-2021-3030021</b>
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**STATEMENT OF THE OFFICE OF SMALL BUSINESS ADVOCATE  
IN SUPPORT OF THE JOINT PETITION FOR PARTIAL SETTLEMENT**

**I. INTRODUCTION**

The Small Business Advocate is authorized and directed to represent the interests of small business consumers in proceedings before the Pennsylvania Public Utility Commission (“Commission”) under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. In order to discharge this statutory duty, the Office of Small Business Advocate (“OSBA”) is participating as a party to this proceeding to ensure that the interests of the commercial customers of Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power (“West Penn”) (the “Companies”) are adequately represented and protected.

**II. SUMMARY OF SETTLEMENT**

The Joint Petition for Partial Settlement (“*Joint Petition*”) resolves all but two issues that arose during the litigation of the Companies’ Joint Petition for Approval of Their Default Service

Programs (“*DSP Petition*”). The two issues reserved for briefing are (1) the relevance of the Companies’ treatment of excess energy from customer-generators to this proceeding, and (2) the assertions of John Bevec and Sunrise Energy LLC (“Sunrise”) regarding the Companies’ calculation of the Price-to-Compare with respect to costs for compliance with Pennsylvania’s Alternative Energy Portfolio Standards (“AEPS”) Act and the use of loss factors. (*Joint Petition*, at pp. 1-2).

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST AND FULLY SATISFIES THE REQUIREMENTS OF THE COMPETITION ACT AND THE COMMISSION’S DEFAULT SERVICE REGULATIONS

A. Procurement and Implementation Plans (*Joint Petition*, Paragraphs 15-42)

Of particular concern to the OSBA in this matter was the replacement of short-term procurement contracts for the Commercial class, and the elimination of the “hard stop” for procurement contracts. The OSBA’s witness, Mr. Robert D. Knecht, testified that he agreed with the Companies’ proposal to eliminate the three-month procurement contracts, which he determined (1) did not provide lower prices, (2) did not provide lower risk premiums, and (3) increased rate instability. (*OSBA St. No. 1*, at p. 14). Mr. Knecht further testified that it was his recommendation that the six-month procurement contracts proposed by the Companies to replace the three-month contracts for Commercial customers be rejected, and that “Commercial procurement move much closer to the Residential model, namely a mix of 12- and 24-month products.” (*OSBA St. No. 1*, at p. 14). The *Joint Petition* reflects that Mr. Knecht’s recommendations were adopted by the parties, and the Commercial class full requirements product mix will be comprised of 12- and 24-month contracts. (*Joint Petition*, at pp. 7-8, ¶ 25).

Mr. Knecht further made recommendations for changing the full requirements load following (“FRLF”) Commercial approach. (*OSBA St. No. 1*, at p. 15). In proposing these alternatives, Mr. Knecht attempted to (1) meet the 35 tranches of Commercial load used by the

Companies in their model, (2) retain the Companies' goal to hold procurements bi-annually, (3) rely on 12- and 24- month products, (4) "ladder" the contracts, thereby reducing rate volatility, and (5) eliminate the "hard stop" feature of the Companies' plans, where all contracts would end at May 31, 2027. (*OSBA St. No. 1*, at p. 15). The FRLF Commercial approach set forth in the *Joint Petition* adopts Mr. Knecht's recommendations that the "hard stop" at May 31, 2027 be eliminated and replaced with overhanging FRLF contracts that cover the period of June 1, 2027 through May 31, 2028. (*Joint Petition*, at p. 8, ¶ 27). As noted in Mr. Knecht's testimony, the adopted approach should reduce rate volatility and reduce the amount of load that "turns over" at a particular time. (*OSBA St. No. 1*, at p. 15).

The OSBA's concerns regarding the procurement plan for Commercial customers relates to the analysis submitted by the Companies which demonstrates that the historical risk premiums in competitive bids for Commercial contracts have been far higher than those for residential customers. Mr. Knecht proposed, and the *Joint Petition* adopts, changes to Commercial procurement that attempt to make Commercial products more attractive to bidders as being of a larger overall size and being a closer substitute to Residential products. (*OSBA Statement No. 1*, at p. 14, *OSBA Statement No. 1-S*, at p. 4).

**B. Rate Design and Cost Recovery (*Joint Petition*, Paragraphs 43-68)**

The OSBA did not take issue with the Companies' proposals for the Price to Compare Default Service Rate Rider, the Hourly Pricing Default Service Rate Rider, the Default Service Support Rider, the Solar Photovoltaic Requirements Charge Rider and certain additional tariff changes. The *Joint Petition* essentially adopts the Companies' proposals, at paragraphs 43 to 51 and 67 to 68.

The OSBA did not take issue with the Companies' proposed Time-of-Use ("TOU") Rates in this proceeding. (*OSBA St. No. 1*, at p. 22). As Mr. Knecht explained, the Companies'

proposals for TOU rates meet the requirements for TOU rates in Pennsylvania, they are reasonably consistent with the practices of other Pennsylvania EDCs, they address the Commission’s concerns about developing rates for EV charging, and they avoid the debilitating errors of earlier TOU rates in Pennsylvania. (*OSBA Statement No. 1*, at pages 20-22.) At paragraphs 52 to 66, the *Joint Petition* adopts the Companies’ proposal, with certain modest changes. These changes include a biennial review of the rate multipliers with an adjustment if the underlying data result in a more than 15 percent change to any parameter, an opportunity for interested parties to comment on educational materials, and addition of some clarifying language to the educational materials regarding potential impacts for certain types of residential customers. The OSBA considers these modifications to be reasonable, recognizing that they have only a small impact on TOU rates for small business customers.

**C. Customer Referral Program (*Joint Petition*, Paragraphs 69-79)**

The OSBA did not take a position on these issues.

**D. POR Clawback Charge (*Joint Petition*, Paragraphs 80-81)**

The *Joint Petition* provides that as of June 1, 2023, the clawback charge will no longer be a pilot provision of the Companies’ purchase of receivables (“POR”) programs and the Companies will continue to use a two-prong test to determine the clawback charge. (*Joint Petition*, at p. 20, ¶¶ 80-81). The OSBA supports these provisions and the continued use of the clawback charge, as “[b]ased on the Companies’ data, over 13 percent of the [electric generation supplies (“EGSs”)] representing a similar percentage of shopping revenues for YE August 2021 were subject to the clawback charge, meaning they have extremely high prices and a poor collections rate.” (*OSBA St. No. 1*, at p. 5). The OSBA concludes that the clawback charge continues to be necessary, based on these findings, and supports its continued use.

**E. CAP Customer Shopping (*Joint Petition*, Paragraphs 82-88)**

The OSBA did not take a position on these issues.

**F. Third-Party Data Access Tariff (*Joint Petition*, Paragraphs 89-93)**

The OSBA supported the positions of the Office of Consumer Advocate (“OCA”) and the Met-Ed Industrial Users Group (the “Industrials”) on the issue of access to customer data by entities other than EGSs. (*OSBA St. No. 1-R*, at p. 7). Both OCA and the Industrials recommended in testimony that third-party data access policies should be developed in the context of the Commission’s generic proceeding at Docket No. M-2021-3029018. (*OCA St. No. 2*, at p. 19; *Industrials St. No. 1*, at p. 6). The Industrials recommended, in the alternative, that any third-party seeking access to individual customer usage data should be required to provide a signed customer authorization form, that the Companies be required to include a penalty to be applied for any third-party that provides a fraudulently obtained customer authorization, and that Large Commercial and Industrial customers be given the opportunity to “opt-in” to any process by which a third-party would access their customer usage data. (*Industrials St. No. 1*, at p. 6). The Companies acknowledged that these issues would be addressed in the generic proceeding, but they indicated that certain issues need to be resolved more quickly. (*Companies Statement No. 6R*, at pages 3 to 4.)

The *Joint Petition* recognizes that the Commission’s generic proceeding will determine the ultimate outcome for these issues, while reasonably addressing the near-term needs cited by the Companies. The OSBA determined that, in addressing the near-term needs, the *Joint Petition* creates adequate safeguards for customers in order to protect their customer usage data. The *Joint Petition* provides that the Companies will implement a standard form of authorization beginning June 1, 2022; this standard form requires the customer to provide authorization for third-party data access. (*Joint Petition*, at p. 22, ¶ 89, Exhibit G-1 to G-4). The *Joint Petition*

also limits to whom third-party data access is given. Pursuant to Paragraph 90 of the *Joint Petition*, “third-party data access shall be limited to Conservation Service Providers registered with the Public Utility Commission or curtailment Service Providers that are PJM members and identified on PJM’s list of demand response providers available at [www.pjm.com](http://www.pjm.com).” The Companies commit to conducting periodic, randomized internal audits of the new Third-Party Data Access Tariffs to ensure that letters of authorization are being properly obtained by third parties. (*Joint Petition*, at p. 23, ¶ 91).

As to the longer-term resolution of these issues, the *Joint Petition* affirms that these provisions do not create a precedent for third-party data sharing, that all parties to the *Joint Petition* may take different positions in the context of the proceeding at Docket No. M-2021-3029018, and that at the conclusion of the proceeding at Docket No. M-2021-3029018, the Companies will evaluate their third-party data access system and conform the system to any final Commission orders issued in the generic proceeding. (*Joint Petition*, at p. 23, ¶¶ 92-93).

**G. Additional Settlement Terms (*Joint Petition*, Paragraphs (94-95))**

Paragraph 94 of the *Joint Petition* memorializes the agreement that the enumerated issues will not be addressed in the current DSP proceeding. (*Joint Petition*, at p. 23, ¶ 94). The OSBA supports the narrowing of the issues to be litigated in this proceeding as it minimizes the costs (both monetary and time) of further proceedings.

Paragraph 95 of the *Joint Petition* provides that “if RESA and/or NRG file a petition with the Commission proposing to reexamine default service on a statewide basis...the testimony and exhibits admitted into the record in this proceeding may be referenced therein.” (*Joint Petition*, at p. 24, ¶ 95). The OSBA agrees with Paragraph 95 as it reserves the parties’ rights to object to the admission of the record in this proceeding or any future proceeding based on appropriate grounds. (*Joint Petition*, at p. 24, ¶ 95).

#### IV. CONCLUSION

Settlement of this proceeding avoids the litigation of complex, competing proposals and saves the possibly significant costs of further administrative proceedings. Such costs are borne not only by the parties, but ultimately by the Companies' customers as well. Avoiding further litigation of this matter will serve judicial efficiency, and will allow the OSBA to more efficiently employ its resources in other areas.

For the reasons set forth in the *Joint Petition*, as well as the additional factors enumerated in this statement, the OSBA supports the proposed *Joint Petition* and respectfully requests that ALJ Watson and the Commission approve the *Joint Petition* in its entirety without modification.

Respectfully submitted,

/s/ Erin K. Fure

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Dated: May 6, 2022



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<b>EDISON COMPANY, PENNSYLVANIA</b>	:	
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<b>POWER COMPANY FOR APPROVAL OF</b>	:	<b>P-2021-3030014</b>
<b>THEIR DEFAULT SERVICE PROGRAMS</b>	:	<b>P-2021-3030021</b>
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**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing have been served via email (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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