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August 10, 2023

**VIA ELECTRONIC MAIL**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor (filing room)  
Harrisburg, PA 17105-3265

RE: Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company for Consolidation of Proceedings and Approval of the Phase IV Energy Efficiency and Conservation Plans; Docket Nos. M-2020-3020820, M-2020-3020821, M-2020-3020822, M-2020-3020823; **PSU VERIFIED COMMENTS IN SUPPORT OF PETITION FOR APPROVAL OF A MINOR CHANGE TO FIRST ENERGY'S ACT 129 PHASE IV ENERGY EFFICIENCY AND CONSERVATION PLAN**

Dear Secretary Chiavetta:

Enclosed you will find Verified Comments of The Pennsylvania State University in Support of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company's Petition for Approval of a Minor Change to Their Act 129 Phase IV Energy Efficiency and Conservation Plan.

If you have any questions concerning this filing, please contact me at (717) 236-1300.

Very truly yours,

*/s/ Whitney E. Snyder*

Whitney E. Snyder  
Thomas J. Sniscak

*Counsel for The Pennsylvania State University*

WES/das  
Enclosures

cc: Honorable Mark A. Hoyer (via email, [mhoyer@pa.gov](mailto:mhoyer@pa.gov))  
Honorable Emily I. DeVoe (via email, [edevoe@pa.gov](mailto:edevoe@pa.gov))  
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Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition for Consolidation and Approval	:	
of the Act 129 Phase IV Energy Efficiency	:	Docket Nos. M-2020-3020820
and Conservation Plan of Metropolitan	:	M-2020-3020821
Edison Company, Pennsylvania Electric	:	M-2020-3020822
Company, Pennsylvania Power Company,	:	M-2020-3020823
and West Penn Power Company	:	

**VERIFIED COMMENTS OF THE PENNSYLVANIA STATE UNIVERSITY  
IN SUPPORT OF THE  
JOINT PETITION OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA  
ELECTRIC COMPANY, PENNSYLVANIA POWER COMPANY AND WEST PENN  
POWER COMPANY FOR  
APPROVAL OF A MINOR CHANGE TO THEIR ACT 129 PHASE IV ENERGY  
EFFICIENCY AND CONSERVATION PLAN**

The Pennsylvania State University (“PSU”) submits these Verified Comments in Support of the July 7, 2023 Joint Petition Of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company And West Penn Power Company (“FE Companies”) For Approval Of A Minor Change To Their Act 129 Phase IV Energy Efficiency And Conservation (“EE&C”) Plan (“Joint Petition”).

**I. Introduction**

The modification proposed in the Joint Petition is just and reasonable, in the public interest, and significantly promotes the efficiency and conservation purpose of Act 129 EE&C plans by ensuring broad customer participation and encouraging energy efficiency and conservation-related savings. Thus, the Pennsylvania Public Utility Commission (“Commission”) should approve it. As the Joint Petition states, the proposed modification regarding assignment of capacity rights will not “increase the overall costs to any customer class” and “will have no effect on any budget.” Joint Petition at pp.1-2. Likewise, because credits for capacity rights and associated costs are all

assigned to the customer class that generates the savings and costs, the proposed modification for commercial and industrial customers will have no impact on residential or low-income customers.<sup>1</sup>

The Commission should approve the Joint Petition.

## **II. Comments**

The Joint Petition seeks one minor modification to the FE Companies' Act 129 Phase IV EE&C Plan that will allow for greater plan participation and opportunity for greater energy savings. Specifically, the Joint Petition will promote broader customer participation by commercial and industrial customers in the EE&C Plan by removing barriers to program participation for projects where capacity rights were contractually assigned to a third party prior to the implementation of the Phase IV EE&C Plan. The modification clarifies the assumption in the current EE&C Plan that the FE Companies "retain all Phase IV Plan program Capacity Rights to support their offered [Energy and Efficiency ("EE")] resources". EE&C Plan at 1.6.

The proposed modification will provide a clear path for a narrow subset of projects to retain capacity rights associated with a project where the customer has an existing contract with a third party demand response service provider that was executed *before* the start of the FE Companies' Phase IV EE&C Plan.<sup>2</sup> Essentially, the exception clarifies that projects can participate in the EE&C Plan where capacity rights were contracted to a third-party demand response service provider prior to the implementation of the Phase IV EE&C Plan without the FE Companies assuming all capacity rights associated with the project. The current Phase IV EE&C Plan is silent

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<sup>1</sup> *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Consolidation of Proceedings and Approval of Act 129 Phase IV Energy Efficiency and Conservation Plan*, Docket Nos. M-2020-3020820, et al. (Order entered Mar. 25, 2021) ("a credit for any PJM [Forward Capacity Market ("FCM")] revenues (net of costs associated with auction participation and including replacement capacity charges, capacity deficiency charges and any unavoidable PJM charges) will be assigned to the specific customer class associated with the kW values of the EE&C programs and measures that cleared in the PJM FCM for each delivery period") ("March 25, 2021 Order").

<sup>2</sup> Phase IV EE&C plans are for the period from June 1, 2021 through May 31, 2026. The proposed modification is effective for contracts executed prior to that date.

on how these projects can currently participate. Thus, the requested modification is an important clarification to the Plan.

Failure to approve this modification will impact commercial and industrial customers ability to participate in the FE Companies' Phase IV EE&C Plans where they contractually assigned the capacity rights to a third party prior to the implementation of the Phase IV EE&C Plan. PSU will be negatively impacted in particular if the Plan is not modified and so too will the EE&C Plan via deprivation of the many beneficial projects PSU would undertake. PSU has participated in the FE Companies' EE&C Plans for 13, making substantial investments in energy conservation technologies and PSU's projects have provided significant kWh energy reductions and kW demand reductions, earning incentive reimbursements of approximately \$1 million per EE&C phase. The FE Companies' position that the current EE&C Plan does not allow a customer to retain capacity rights associated with the customer's projects has resulted in PSU not being able to participate thus far in the Phase IV EE&C Plan. PSU has approximately ten projects on hold for submission to the Phase IV Plan, including a cogeneration project, because PSU had assigned the associated capacity rights to a third-party demand response provider prior to the Phase IV EE&C Plan implementation. The energy savings PSU's projects have provided and will provide with the proposed modification promote the key purpose of EE&C Plans and related statutory requirements – to reduce energy consumption and demand.

The modification is just and reasonable, in the public interest, and should be approved because it allows for greater plan participation and thus greater potential for energy savings and efficiency to be achieved via clarification on participation for customers with contracts executed prior to the Phase IV implementation that resulted in a utility refusing to allow a customer to participate in the EE&C Plan if the customer could not assign the capacity rights to the utility. In

addition, the Commission’s Phase IV Implementation Order provided that electric distribution companies (“EDCs”) are only required to nominate a portion of the peak demand reductions into the FCM and that the EDCs retain the flexibility to make a business decision regarding the appropriate amount based on the mix of program measures in its Phase IV EE&C Plan.<sup>3</sup> This narrow exemption for a subset of EE&C projects is consistent with that Order and also avoids the unintended consequence of retroactively interfering with pre-existing contracts or placing customers in the position of not going forward with energy savings projects and participating in the EE&C Plan.

The proposed modification presents no detriment to customers, the Plan or its goals, or the purpose of EE&C Plans generally, which is to promote energy efficiency and savings. As stated in the Joint Petition, this modification will not “increase the overall costs to any customer class” and “will have no effect on any budget.” Moreover, pursuant to the Commission’s Order approving the Phase IV EE&C Plan, any credits for forward capacity market rights are assigned to the specific customer class associated with the kW value of the EE&C programs and measures that cleared in the PJM forward capacity market, so the proposed modification for commercial and industrial customers will have no impact on residential or low income customers. *March 25, 2021 Order* at 42.

### **III. Conclusion**

As demonstrated above, granting the Joint Petition is key to allowing PSU and other commercial and industrial customers to participate in the Phase IV EE&C Plan where a customer assigned capacity rights associated with projects prior to implementation of the FE Companies’ Phase IV EE&C Plan. Broader participation and the potential for greater energy savings and

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<sup>3</sup> *Energy Efficiency and Conservation Program*, Docket No. M-2020-3015228, *slip. op.* at 69-70 (Implementation Order entered Jun. 18, 2020), at 69-70.

efficiencies is a major benefit of the proposed modification. The proposed modification presents no detriment to the public interest or the intent of EE&C Plans. For the reasons stated above and in FE Companies' Joint Petition, the Joint Petition should be approved as just and reasonable and in the public interest.

**WHEREFORE**, the Pennsylvania State University respectfully requests the Commission approve the July 7, 2023 Joint Petition Of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company And West Penn Power Company For Approval Of A Minor Change To Their Act 129 Phase IV Energy Efficiency And Conservation Plan.

Respectfully Submitted,

*/s/ Whitney E. Snyder* \_\_\_\_\_

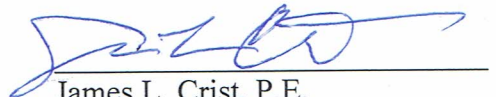
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*Counsel for  
The Pennsylvania State University*

Dated: August 10, 2023

## VERIFICATION

I, James L. Crist, on behalf of The Pennsylvania State University, hereby state that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing in this matter. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

  
James L. Crist, P.E.  
The Pennsylvania State University

**CERTIFICATE OF SERVICE**

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

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Dated: August 10, 2023