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November 23, 2009

Secretary James McNulty
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Metropolitan Edison Company EE&C Plan- Docket No. M-2009-209222
Pennsylvania Electric Company EE&C Plan - Docket No. M-2009-2112952
Pennsylvania Power Company EE&C Plan - Docket No. M-2009-2112956

Dear Secretary McNulty:

Enclosed for filing please find the Answer of Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec") and Pennsylvania Power Company ("Penn Power") to the Petition for Reconsideration filed by the Office of Small Business Advocate in the above-referenced proceeding. This Answer was filed electronically today. Copies have been served in accordance with the attached Certificate of Service.

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

Sincerely,

STEVENS, & LEE



Michael A. Gruin

Enclosures

cc: Cheryl Walker-Davis, Office of Special Assistants
Certificate of Service

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A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition for Consolidation of	:	Docket Nos.	M-2009-2092222
Proceedings and Approval of Energy	:		M-2009-2112952
Efficiency and Conservation Plans of	:		M-2009-2112956
Metropolitan Edison Company, Pennsylvania	:		
Electric Company, and Pennsylvania Power	:		
Company	:		
	:		
	:		

**ANSWER OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC
COMPANY, AND PENNSYLVANIA POWER COMPANY
TO PETITION FOR RECONSIDERATION**

Pursuant to 52 Pa. Code §5.72, Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”) and Pennsylvania Power Company (“Penn Power”) (collectively referred to as the “FirstEnergy Companies” or “the Companies”) by and through their attorneys, Stevens & Lee, hereby file this Answer to the Petition for Reconsideration filed by the Office of Small Business Advocate (“OSBA”).

I. INTRODUCTION AND SUMMARY OF POSITION

The OSBA’s Petition for Reconsideration seeks two revisions to the Commission’s Order regarding the FirstEnergy Companies’ Energy Efficiency and Conservation (“EE&C”) Plans (“FirstEnergy EE&C Order”). First, OSBA requests that the FirstEnergy Companies be required to treat “Lighting” as a separate class for cost-recovery purposes under the EE&C Plan. Secondly, OSBA requests that the FirstEnergy Companies be directed to file red-lined versions of their revised EE&C plans.

The OSBA's Petition should be denied because it does not meet the Commission's well-established Duick test for granting Reconsideration. The OSBA's Petition admittedly fails to raise new or novel arguments or point to considerations that appear to have been overlooked by the Commission. Furthermore, even if the OSBA's Petition is deemed to have met the Duick test, the issues raised by OSBA do not warrant any revision to the FirstEnergy EE&C Order because the Modified EE&C plans the FirstEnergy Companies anticipate filing in compliance with the FirstEnergy EE&C order will establish two new Government/Non-Profit cost recovery groups. Finally, the FirstEnergy Companies have no objection to filing red-lined versions of their revised EE&C Plans, and intend to do so.

II. ARGUMENT

A. **The OSBA's Petition does not meet the Duick test for Reconsideration**

The well-established standards for granting reconsideration or clarification of a prior Commission order are set forth in Duick v. PG&W, 56 Pa. P.U.C. 553 (1982).(Duick):.

A petition for reconsideration, under the provisions of 66 Pa. C.S. §703(g), may properly raise any matters designed to convince the commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part.....What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

(Duick, at 59).

The OSBA's Petition does not meet the test for Reconsideration under Duick. The OSBA's Petition does not raise new or novel arguments or point to considerations that appear to have been overlooked by the Commission. In fact, the OSBA acknowledges that the relief they

seek in this Petition (treating lighting as a separate class for cost-recovery purposes) was already raised in this proceeding by OSBA witness Knecht.¹ Therefore, the OSBA has essentially acknowledged that the issue of treating lighting as a separate class for cost recovery purposes is not “new or novel”. The OSBA cannot point to any new evidence or arguments that warrant reconsideration of the FirstEnergy EE&C Order, nor can the OSBA point to any consideration that was not addressed by the Commission. The OSBA Petition essentially asks the Commission to reconsider the FirstEnergy EE&C Order because the OSBA disagrees with one facet of the Order. Clearly, this is not a valid factor to allow for Reconsideration, and therefore, the OSBA’s Petition should be denied.

B. Reconsideration is unnecessary because the FirstEnergy Companies’ Modified EE&C Plans will comply with the Commission’s order to establish separate cost-recovery groups for Government/Non-Profit customers and will resolve the OSBA’s concerns

In the FirstEnergy EE&C Order the Commission recognized that “the General Assembly did not intend to mandate that the utility re-write its tariff to create a rate class that only included units of government, school districts, institutions of higher education and non-profit entities”, but directed “FirstEnergy to establish a separate cost recovery group for Government/Non-Profit customers, as required by the Act.”² The OSBA asserts that “it is unclear whether this new cost-recovery group is to include only the aforementioned rate schedules which serve some of the Companies’ non-profit customers, or whether the new rate-recovery group is to include all Governmental/Non-Profit entities.”³ The Companies respectfully submit that the OSBA’s concerns are not warranted and do not require a Reconsideration of the FirstEnergy EE&C Order by the Commission. The Companies intend to fully comply with the Commission’s directive to

¹ See OSBA Petition for Reconsideration at ¶26, citing to OSBA Statement 1.0

² FirstEnergy EE&C Order, at p. 83

³ See OSBA Petition for Reconsideration at ¶22

“establish a separate cost recovery group for Government/Non-Profit customers” while not revising their tariffs to create such a class. Furthermore, the Modified EE&C Plans that the Companies anticipate filing, as set forth below, should put to rest any concerns that the OSBA may have.

The Companies’ Modified EE&C Plans will establish two additional separate cost recovery groups that will include costs associated with EE&C services for Government/Non-Profit customers on certain rate schedules. The remainder of the EE&C measures benefitting governments, school districts, institutions of higher education and non-profit entities will be assigned in a reasonable manner to the rate class(es) in which those customers are embedded.

The first separate group will be a “Non-Profit” cost recovery group, which will include the EE&C costs associated with customers receiving service under the three FirstEnergy Companies’ respective tariffs governing service to Non-Profit Organizations. The new “Non-Profit” cost recovery group will consist of the following:

- For Penn Power, EE&C costs associated with customers receiving service under the “Community and Customer Partnership Provision Public or Non-Profit Organization Rate” and “Rate GS Special Provision for Volunteer Fire Companies, Non-Profit Senior Citizens Centers, Non-Profit Rescue Squads and Non-Profit Ambulance Services” rate schedules will be included in the new “Non-Profit” cost recovery group.
- For Penelec, EE&C costs associated with customers receiving service under “Rate H-All Electric School, Church and Hospital Rate” (grandfathered since March 29, 1971) and “Rate GS – Volunteer Fire Company and Non-Profit Ambulance

Service, Rescue Squad and Senior Center Service Rate” rate schedules will be included in the new “Non-Profit” cost recovery group.

- For Met-Ed EE&C costs associated with customers receiving service under “Rate MS Municipal Service Rate” (grandfathered since October 19, 1983) and “Rate GS – Volunteer Fire Company and Non-Profit Ambulance Service, Rescue Squad and Senior Center Service Rate” rate schedules will be included in the new “Non-Profit” cost recovery group.

The second new separate group will be a “Street Lighting” cost recovery group, which will include the EE&C costs associated with customers receiving service under the three Companies’ “Street Lighting” rate schedules⁴.

The two new cost recovery groups will specifically satisfy Act 129’s requirement that EE&C measures be financed by the same customer class that receives the direct energy and conservation benefits of those measures. As set forth above, the FirstEnergy Companies have a limited number of rate schedules for Government/Non-Profit Customers, and under the Modified Plans the EE&C measures that benefit those Government/Non-Profit Customers will be financed by those same Customers. Similarly, each FirstEnergy Company has specific rate schedules for Street Lighting customers, and under the Modified Plans the EE&C measures that benefit those Street Lighting Customers will be financed by those same Customers.

The OSBA’s request to have the Companies treat “Lighting” as a separate class for cost recovery purposes is unnecessary and based on faulty assumptions. First, the OSBA’s Petition assumes that Street Lighting customers and Outdoor Area Lighting customers are both Government/Non-Profit customers, and therefore should be lumped together into the same cost-

recovery group. The OSBA is wrong. Street Lighting is provided to municipal government entities, whereas Outdoor Area Lighting is provided to customers that are not government entities. Grouping outdoor lighting customers into a separate “Lighting” cost recovery group would result in outdoor lighting customers financing EE&C Programs for government customers and therefore would violate Section 2806.1(a) of Act 129. Furthermore, the OSBA fails to recognize that the FirstEnergy Companies are in the process of phasing out Outdoor Area Lighting Services. As the Commission recently noted in its November 6, 2009 Opinion and Order in the matter of the Petition of Metropolitan Edison Company and Pennsylvania Electric Company for Approval of Their Default Service Programs, “the Outdoor Lighting Service rate was grandfathered as of January 11, 2007, and will be eliminated as of June 10, 2012.”⁵

C. The FirstEnergy Companies will serve all parties to this proceeding with red-lined versions of their Modified EE&C plans

The OSBA’s request to have all parties served with red-lined versions of the FirstEnergy Companies’ Modified EE&C plans is reasonable. The FirstEnergy Companies will be serving all parties with red-lined versions of their Modified Plans, and, in fact, had always intended to do so.

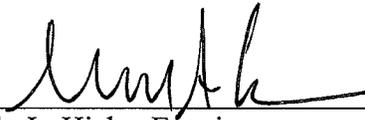
⁴ The new “Street Lighting” Cost Recovery group will consist of the following rate schedules: For Met-Ed: Street Lighting and Ornamental Street Lighting; For Penelec: High Pressure Sodium Vapor Street Lighting and Municipal Street Lighting; and for Penn Power: Tariff Schedules SV, SVD and SM.

⁵ *Petition of Metropolitan Edison Company and Pennsylvania Electric Company for Approval of Their Default Service Programs*, Opinion and Order entered November 6, 2009, at p. 22.

WHEREFORE, for all of the foregoing reasons, Met-Ed, Penelec and Penn Power respectfully request that OSBA's Petition for Reconsideration be denied.

Respectfully submitted,

Dated: November 23, 2009



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Metropolitan Edison Company, Pennsylvania	:		
Electric Company, and Pennsylvania Power	:		
Company	:		
	:		
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CERTIFICATE OF SERVICE

I hereby certify that I have served copies of the foregoing Answer to Petition for Reconsideration in the manner indicated below upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 and 1.55.

VIA First Class US Mail

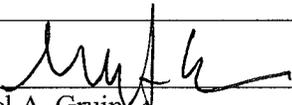
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Dated: November 23, 2009


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