

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In the Matter of Joint Petition of	:	
Metropolitan Edison Company,	:	Docket Nos.: P-2011-2273650
Pennsylvania Electric Company,	:	P-2011-2273668
Pennsylvania Power Company, and	:	P-2011-2273669
West Penn Power Company for Approval	:	P-2011-2273670
of Their Default Service Programs	:	

**PETITION TO INTERVENE
OF THE
YORK COUNTY SOLID WASTE AND REFUSE AUTHORITY**

Pursuant to Rules 5.71-5.75 of the Rules of Administrative Practice and Procedure of the Pennsylvania Public Utility Commission (“Commission” or “PUC”), 52 Pa. Code §§ 5.71-5.75,¹ the York County Solid Waste and Refuse Authority (“YCSWA”), by counsel, respectfully submits this Petition to Intervene in the matter of the *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company for Approval of Their Default Service Programs* (“Joint Petition”).²

Pursuant to PUC Rule 1.24(b)(1), the undersigned counsel of record, Robert M. Strickler, requests that this first responsive pleading be treated as an entry of appearance by the aforesaid Robert M. Strickler. An Application for Admission *Pro Hac Vice* for admission of Benjamin L. Willey as counsel for the YCSWA has been filed concurrently with this Petition to Intervene.

In support of its Petition to Intervene, the YCSWA states as follows.

¹ The Rules of Administrative Practice and Procedure of the Pennsylvania Public Utility Commission shall hereafter be cited in this Petition in the form of “PUC Rule ___.”

² In this Petition to Intervene, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company will hereafter be referred to individually as, respectively, “MetEd,” “PenElec,” “Penn Power,” and “West Penn,” and collectively as the “Companies.”

I. BACKGROUND INFORMATION

A. THE YCSWA

The YCSWA was organized in 1971 as a public corporation under the Pennsylvania Municipality Authorities Act of 1945³ as part of a comprehensive solid waste management plan by York County in response to the Pennsylvania Solid Waste Management Act.⁴ The YCSWA developed and owns the York County Resource Recovery Center (“YCRRC”), which uses municipal solid waste (“MSW”), a recognized renewable fuel, to generate electric energy. The YCRRC was qualified under the Public Utility Regulatory Policies Act of 1978⁵ on November 3, 1986,⁶ as a qualifying small power production facility (“QF”).

The electric energy output of the YCSWA’s QF, a non-utility generator (“NUG”), is sold to MetEd pursuant to a Power Purchase Agreement (“PPA”) between the YCSWA and MetEd dated November 25, 1986, as amended on April 2, 1993, and June 22, 1994. Unless otherwise extended, the PPA will terminate on December 31, 2016.

³ 53 P.S. § 301, *et. seq.*, as amended.

⁴ 35 P.S. § 6018.101, *et. seq.*, as amended

⁵ 16 U.S.C. §824a-3 (2000). See also REGULATIONS UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 WITH REGARD TO SMALL POWER PRODUCTION AND COGENERATION, 18 C.F.R. Part 292 (2004).

⁶ *York County Solid Waste and Refuse Authority*, 37 FERC ¶ 62,100 (1986). On October 11, 1991, the Federal Energy Regulatory Commission granted a request by the YCSWA for recertification to reflect an increase of the QF’s net electric power production capacity to 37 MW. *York County Solid Waste and Refuse Authority*, 57 FERC ¶ 62,023 (1991).

B. PROCEDURAL HISTORY

On November 17, 2011, the Companies filed their Joint Petition for approval of their

Default Service Programs:

. . . in accordance with their responsibilities as Default Service Providers . . . to establish the terms and conditions under which they will procure default service supplies , provide default service to non-shopping customers, satisfy requirements imposed by the Alternative Energy Portfolio Standards Act⁷ (“AEPS Act”) and recover all associated costs on a full and current basis for the period from June 1, 2013, through May 31, 2015.

JOINT PETITION, at 1-2.

The Companies requested that the Commission enter an order granting their Joint Petition in nine stated subparts.⁸

On December 3, 2011, Notice of the Companies’ Joint Petition was published in the Pennsylvania Bulletin and formal protests, petitions to intervene, and answers were directed to be filed on or before December 19, 2011.⁹

⁷ 73 P.S. §§ 1648.1-1648.8 and related provisions of 66 Pa.C.S. §§ 2813-2814.

⁸ *Id.*, at 2-3.

⁹ PENNSYLVANIA BULLETIN, 41 Pa.B. 6484, Document No. 11-2080 (December 3, 2011).

II. SERVICE ON THE YCSWA

The YCSWA requests that all communications and documents in these consolidated proceedings be served on the YCSWA through counsel, Benjamin L. Willey, as follows:

Benjamin L. Willey
Law Offices of Benjamin L. Willey, LLC
7272 Wisconsin Avenue
Suite 300
Bethesda, MD 20814
Telephone: 301-941-1972; Telefax: 240-235-7775
Email: blw@bwilleylaw.com

The YCSWA also requests that parties provide a courtesy copy (*electronic copies only*) of all communications and documents in these proceedings to the following persons at the electronic mail addresses stated:

David Vollero
Executive Director, York County Solid Waste and Refuse Authority
Email: d.vollero@ycswa.com

Robert M. Strickler
Griffith, Strickler, Lerman, Solymos & Calkins
Email: rstrickler@gslsc.com

III. THE YCSWA'S INTERESTS

In accordance with PUC Rules 5.72(a)(2) and 5.73, the YCSWA states its interests in these consolidated proceedings as follows.

A. The YCSWA is a NUG selling electric energy to MetEd under a PURPA-based PPA that will expire in 2016. At present it is impossible to predict with any precision the business or contractual models under which the YCSWA will operate after expiration of the YCSWA-MetEd PPA. However, it is certain that the YCSWA will either be selling energy and Alternative Energy Credits ("AECs"), whether within the framework of a default service plan, or otherwise, to MetEd or competing with MetEd by selling energy and AEC's to other parties, whether aggregated with third parties or standing alone, and whether within the framework of default

service as a newly registered EGS, or otherwise. Regardless of expiration date of the currently proposed default service plan of MetEd, the YCSWA has a direct and substantial interest in the future of energy and AEC sales and services in the MetEd Service territory.

B. MetEd and PenElec currently provide default service pursuant to default service plans that were approved by the Commission on November 6, 2009.¹⁰ The YCSWA was a party to those proceedings and was a signatory to the Joint Petition for Settlement, dated August 12, 2009, which was approved by the Commission order on November 6, 2009. Commitments entered into in those proceedings are now at issue in the present proceedings, and the YCSWA has a direct interest in the substance and outcome of any actions or agreements in the present proceedings that might impact the terms and conditions heretofore agreed to in the 2009 Joint Settlement of MetEd's initial Default Service Plan.

C. The Companies' Joint Petition includes provisions by which the Companies propose to comply with certain commitments made by the Companies in the settlement of their proceedings for a Certificate of Public Convenience in regard to the merger of FirstEnergy Corp. ("FE") and Allegheny Energy, Inc. ("Allegheny").¹² The YCSWA was a party to those proceedings and was a signatory to the Joint Petition for Partial Settlement, dated October 25, 2010, which was approved by the Commission in its order that was entered on March 8, 2011.¹³

¹⁰ JOINT PETITION OF METROPOLITAN EDISON COMPANY AND PENNSYLVANIA ELECTRIC COMPANY FOR APPROVAL OF THEIR DEFAULT SERVICE PLANS, Opinion and Order, Docket Nos. P-2009-2093053 and P-2009-2093054 (Order Adopted November 6, 2009; Order Entered November 6, 2009).

¹² *Id.*, ¶¶ 90-98, at 29-31.

¹³ JOINT APPLICATION OF WEST PENN POWER COMPANY *dba* ALLEGHENY POWER, TRANS-ALLEGHENY INTERSTATE LINE COMPANY AND FIRSTENERGY CORP FOR A CERTIFICATE OF PUBLIC CONVENIENCE UNDER SECTION 1102(a)(3) OF THE PUBLIC UTILITY CODE APPROVING A CHANGE IN CONTROL OF WEST PENN POWER COMPANY AND TRANS-ALLEGHENY INTERSTATE LINE,

Commitments entered into in those proceedings are now at issue in the present proceedings, and the YCSWA has a direct interest in the substance and outcome of any actions or agreements in the present proceedings that might impact the terms and conditions heretofore agreed to in the March 8 Joint Partial Settlement of the FE-Allegheny merger.

IV. THE YCSWA'S POSITION

The YCSWA's interests are unique to its operational and contractual situation, as well as its various approved settlements in relation to MetEd, in particular, and in relation to the Companies, in general. All of these matters will additionally be affected in relation to any one of several other parties whose positions, as these proceedings progress, could adversely impact the YCSWA's interests.

However, in the present status of these proceedings, there is insufficient detail to apprise a prudent intervener of the true impact of the Companies' proposals on myriad potential topics of concern. Not until the Companies' Direct Testimony is filed and analyzed will there be sufficient information for a prudent intervener to make an informed decision of the full impact of the Companies' proposed Default Service Plans.

The YCSWA respectfully files this Petition to Intervene based on its interests that are at stake in this proceeding that cannot be adequately represented by any other party. The YCSWA will fully determine its position once Direct Testimony and associated exhibits have been received and reviewed.

Opinion and Order, Docket Nos. A-2010-2176520 and A-2010-2176732 (Order Adopted February 24, 2011; Order Entered March 8, 2011).

V. CONCLUSION

For the reasons stated herein, the YCSWA respectfully prays that this Petition to Intervene be granted.

Date: December 19, 2011

Respectfully submitted,



Robert M. Strickler
Attorney Registration No. 07496
Griffith, Strickler, Lerman, Solymos & Calkins
110 S. Northern Way
York, PA 17402-3737
Telephone: 717-757-7602
Facsimile: 717-757-3783
Email: rstrickler@gslsc.com
Counsel of Record



Benjamin L. Willey
Law Offices Of Benjamin L. Willey
7272 Wisconsin Avenue
Suite 300
Bethesda, MD 20814
Telephone: 301-941-1972
Telefax: 240-235-7775
Email: blw@bwilleylaw.com
Counsel *Pro Hac Vice*

**COUNSEL FOR THE
YORK COUNTY SOLID WASTE AND REFUSE AUTHORITY
2700 BLACKBRIDGE ROAD
YORK, PA 17406
TELEPHONE: 717-845-1066**