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December 19, 2011

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P. O. Box 3265
Harrisburg, PA 17105-3265

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-2011-2273650, P-2011-2273668, P-2011-2273669, P-2011-2273670

Dear Secretary Chiavetta:

Enclosed for filing on behalf of ARIPPA is its Petition to Intervene in the above-referenced matter. A copy of the electronic filing receipt is enclosed. Copies of the Petition to Intervene are being served upon the persons and in the manner set forth on the attached certificate of service.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By Regina L. Matz
Regina L. Matz

Enclosure

c: Certificate of Service (w/encl.)

111219 Chiavetta (Petition to Intervene)

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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-2011-2273650 P-2011-2273668 P-2011-2273669 P-2011-2273670

PETITION TO INTERVENE OF ARIPPA

AND NOW, comes ARIPPA, by its attorneys and, pursuant to 52 Pa. Code §§5.71, *et seq.*, files this Petition to Intervene in the above-captioned proceeding. In support thereof, ARIPPA represents as follows:

I. BACKGROUND

1. On November 17, 2011, Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power"), and West Penn Power Company ("West Penn Power") (collectively referred to as "Companies") filed a Joint Petition ("Petition") seeking approval of default service programs (DSP) for service on and after June 1, 2013, following the May 31, 2013 expiration of the Companies' current DSPs. The Petition was published in the *Pennsylvania Bulletin* on December 3, 2011, and petitions to intervene are due no later than December 19, 2011.

2. In the Petition, the Companies aver that their DSP programs are designed to produce the least cost over time by procuring a prudent mix of long-term, short-term, and spot market generation supplies that are also designed to satisfy their obligation to

furnish adequate and reliable service to default service customers. As part of their programs, the Companies will establish the terms and conditions under which they will procure default service supplies, provide default service to non-shopping customers, satisfy requirements of the Alternative Energy Portfolio Standards Act (AEPSA), and recover all costs on a full and current basis for the period June 1, 2013 through May 31, 2015.

3. ARIPPA[1] is a trade association comprising operating non-utility generation (NUG) power plants across Pennsylvania, most of which use waste coal as a source of fuel. Most of ARIPPA's members have long-term, Commission-approved power contracts with some or all of the Companies, and have invested billions of dollars in Pennsylvania in the development of non-utility generation power plants under authority and in furtherance of state and federal legislative goals.

4. The name and address of ARIPPA's Executive Director are:

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The names and address of ARIPPA's attorneys are:

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[1] ARIPPA was previously known as the Anthracite Region Independent Power Producers Association.

ARIPPA requests that a copy of all correspondence, discovery, Commission notices and Orders, and any other documents hereinafter filed in this proceeding be served on both ARIPPA's Executive Director and counsel at each address provided above. Counsel for ARIPPA has also filed an entry of appearance.

II. ARIPPA'S INTERESTS IN THIS PROCEEDING

5. The Commission's regulations require, *inter alia*, that a petition to intervene demonstrate an "interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding." 52 Pa. Code §5.72(a)(2).

6. ARIPPA's interests in this proceeding are as follows: (1) Its members are providers of substantial amounts of energy to some or all of the Companies pursuant to long-term, Commission-approved contracts that further state and federal statutory goals and objectives intended to foster independent power production; (2) Its members have been deemed to provide alternative energy credits under AEPSA to some or all of the Companies pursuant to those long-term contracts; and (3) ARIPPA has been an active party to each major proceeding before this Commission involving some or all of the Companies in which the interests of its non-utility generator members were or could be affected, even if not immediately impacted facially by the Companies' initial filings.

7. As part of their 2009 DSP proceeding, Met-Ed and Penelec proposed to sell the output from ARIPPA's members' long-term NUG contracts into the PJM-Administered Market during the default service plan and use those sales to establish the value of NUG stranded costs. The Companies also proposed a NUG Rider, a successor NUG cost recovery mechanism, pursuant to which the Companies were to bill delivery

service customers the above or below market-calculated NUG costs. The Companies' NUG Rider P was approved in that proceeding and is currently in effect.

III. GROUNDS FOR INTERVENTION

8. The Pennsylvania General Assembly explicitly recognized the status of ARIPPA's members' contracts in the Electricity Generation Customer Choice and Competition Act ("Electric Competition Act"), 66 Pa.C.S. §§2801-2812.[4] The Companies' existing long-term NUG operating contracts retain statutory recognition under not only the Competition Act but also the Public Utilities Regulatory Policies Act of 1978 (PURPA). ARIPPA's members also serve as a source of alternative energy credits, furthering the goals of AEPSA.

9. ARIPPA has a long and consistent history of active participation in Commission proceedings involving the Companies particularly when matters concerning generation supply and cost recovery and AEPSA compliance may be at issue. ARIPPA's past participation includes but is not limited to restructuring proceedings and other actions under the Electric Competition Act; actions including the initial implementation and subsequent proceedings under AEPSA; merger and consolidation proceedings under Chapter 11 of the Public Utility Code; the Met-Ed and Penelec 2006 base rate and other rate-related proceedings; and annual proceedings involving Commission review of the Companies' NUG cost recovery initially through Competitive Transition Charges (CTCs) and subsequently through the NUG Rider P.

[4]The Competition Act specifically provided that a utility's cost obligations under Commission-approved NUG contracts were to be recovered as a transition or stranded cost (66 Pa.C.S. §2808(c)(1)) and that payments under Commission-approved NUG contracts qualified as exceptions to the Competition Act's rate cap (66 Pa.C.S. §2804(4)(iii)(B)). The Competition Act also recognized in its declaration of policy the special status of long-term power supply agreements entered into by GPU Energy as required by federal law, 66 Pa.C.S. §2802(15), charging the Commission with the obligation to ensure the recovery of the costs thereunder.

10. As part of this proceeding, the Companies have stated they will propose plans for rate design and tariffs for default generation service, including recovery of all costs associated with the provision of default service. The basis for ARIPPA's participation in this proceeding is to ensure that payments to ARIPPA's members pursuant to their long-term contracts are honored and that their long-term contracts are not impaired as a result of the evolving restructuring of the electric industry, including continued competitive market and default service changes.[3]

11. In the present proceeding, at the time of the preparation of this petition, ARIPPA had reviewed only the Companies' DSP Petition. ARIPPA did not have the Companies direct testimony, exhibits, and other supporting information, nor did such appear to be available on the Companies' website. Therefore ARIPPA cannot identify with greater specificity or certainty at this time each of the Companies' proposals that may impact ARIPPA's members or how ARIPPA would respond. However, even if the Companies present no proposal in their direct case impacting ARIPPA's members' interests, it is not inconceivable based upon past proceedings that other parties may submit proposals inconsistent with or contrary to ARIPPA's interests.

[3]Sections B and C of the Met-Ed and Penelec Restructuring Settlements provided for (1) CTCs which included a separate accounting mechanism to track the recovery of operating NUG-related stranded costs, to continue in effect until all NUG contracts have terminated, provided they expire no later than December 31, 2020; (2) quarterly and annual reporting requirements regarding recovery of actual NUG-related costs, NUG output, purchases, market values, NUG Trust Fund activity and CTC revenue recovery for above-market NUG costs; and (3) the establishment and maintenance of separate NUG Trusts, the primary purpose of which is to ensure an actual source of cash from which GPU Energy and its successors can pay on-going NUG obligations under existing contracts; and (4) the periodic filing of NUG Statements on March 31, 2004, 2009, 2014 and 2019, as well as final NUG Statements, providing further NUG -related data and information and allowing for Commission adjustment of the CTC, or successor recovery mechanism, relative to reconciliation of actual NUG costs. Pursuant to these terms, Met-Ed and Penelec remained obligated to pay the NUG contract costs and were assured full and complete recovery of such costs in a deregulated environment. These commitments remain an integral part of the Companies' responsibilities in this post-restructuring period, and were retained following the termination of the CTCs and the implementation of the NUG Rider P successor mechanism in the 2009 DSP proceeding. See Tentative Order entered August 25, 2011 at Docket Numbers Docket Nos. D-2011-2232754 and D-2011-2232755, made final by operation of law as noted in a Secretarial Letter issued October 11, 2011.

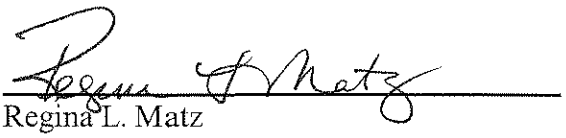
12. For this reason, ARIPPA's intervention is necessary to ensure the development of a record on the reasonableness of the Companies' Petition, and any other parties' proposals relative thereto, as those proposals may impact the interests ARIPPA's members, compliance with federal and state law regarding non-utility generation, NUG contracts, compliance with NUG stranded cost recovery, and compliance with AEPSA. As the association representing the interests of its NUG members, ARIPPA has a unique perspective which is not otherwise represented by any other party to the proceeding and which should be considered by the Commission.

IV. ARIPPA'S POSITION

13. ARIPPA will participate in this proceeding, including any hearings that may be held, through the review of discovery, presentation of evidence, cross-examination and briefing, in order to assure that the interests of NUG providers will not be detrimentally impacted by the Companies' or other parties' proposals. No other participant represents the interests of ARIPPA.

WHEREFORE the ARIPPA respectfully requests that the Commission entertain this Petition to Intervene and grant ARIPPA's intervention.

Respectfully submitted,



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DATED: December 19, 2011

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that I have this 19th day of December, 2011, served a true and correct copy of the Petition to Intervene of ARIPPA, upon the persons listed below via first class mail, postage prepaid and electronic mail, unless indicated otherwise as follows:

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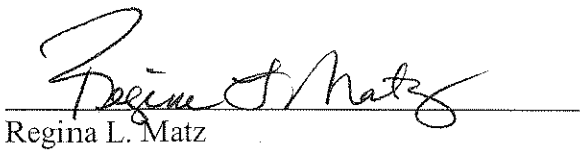

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