

April 15, 2016

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
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 for the Period Beginning June 1, 2017 through May 31, 2019; Docket Nos. P-2015-2511333, P-2015-2511351, P-2015-2511355, P-2015-2511356;
NOBLE AMERICAS ENERGY SOLUTIONS LLC LETTER OF NON-OPPOSITION TO JOINT PETITION FOR SETTLEMENT

Dear Secretary Chaivetta:

We represent Noble Americas Energy Solutions LLC (“Noble”), an intervenor in the above-referenced proceeding. On April 1, 2016, the FirstEnergy Service Companies – Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively referred to herein as the “FE Companies”) – filed with the Public Utility Commission (“Commission”) a Joint Petition for Settlement (“Joint Petition”), which addresses and settles all issues in the proceeding and which seeks approval of the FE Companies’ Revised DSP Programs subject to the terms and conditions of the settlement.

Please be advised that Noble does not oppose the terms and conditions of the proposed settlement subject to the following qualifications:

1. Load Caps (Joint Petition Section II.A.5). Noble has significant concerns over what has happened in the State of Ohio with the recent approval of the FirstEnergy Corporation’s (“FirstEnergy”) utility affiliate power purchase agreement (“PPA”). Specifically, on March 31, 2016, the Public Utilities Commission of Ohio (“PUCO”) approved a ratepayer subsidized PPA between FirstEnergy Solutions (the affiliate supplier of power) and FirstEnergy’s electric distribution utilities in Ohio.¹ With the approval of the affiliate PPA, Noble understands that specific assets of an affiliate are being subsidized with Ohio ratepayer money. These bottom line subsidies may not only represent a threat to the PJM market, but may also lead to potential affiliate abuse in the Pennsylvania market.

The Commission itself recognized the importance of further scrutiny of the FirstEnergy affiliate PPA and outlined similar concerns in comments submitted in support of a

¹ PUCO Case No. 14-1297-EL-SSO.

pending complaint filed by the Electric Power Supply Association and others with the Federal Energy Regulatory Commission (“FERC”), seeking review of the affiliate PPA. In particular, the Commission expressed concerns about the “potential threat to the continued efficient function of PJM’s wholesale capacity markets” and argued that the affiliate PPA creates risks of “potential subsidization of generation facilities” and “abuse of the affiliate relationship.”²

In light of these recent events, Noble takes no position on the issue of Load Caps addressed in Section II.A.5 of the Joint Petition and urges the Commission to consider the foregoing concerns and the potential ramifications in allowing the FE Companies’ load caps to be increased when an Ohio ratepayer subsidized affiliate could participate in a default service auction of its sister company up to 75%, as would be permissible under the settlement.

2. NMB Charges (Joint Petition Section II.F.3). Under the terms of the Joint Petition, FirstEnergy will continue to collect certain PJM Open Access Transmission Tariff Load Serving Entity wholesale market charges through a non-bypassable retail distribution rider for those not taking default service. Although this is a continuation of the mechanism approved by the Commission in the FE Companies’ last default service proceeding, Noble submits that artificially naming any FERC-jurisdictional wholesale market charges as “non-market based” and then applying such charges in a non-bypassable retail distribution rider for choice customers shifts a competitive retail electric generation supplier’s (“EGS”) wholesale market business risk to Pennsylvania customers, ignores existing wholesale market structures and tariffs, and undermines one of the fundamental underpinnings to a retail competitive market. Distinctly different from a standardized default service product with a single master agreement, the competitive retail electric market in Pennsylvania affords EGSs with great flexibility in determining their product and service offerings, timing those offerings, and customizing the individual contract terms (e.g., billing parameters, credit and collection terms, load management, and individualized operational risk tolerance profiles).

Noble reserves all rights with respect to the foregoing issues. Thank you for your consideration.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By



Charles E. Thomas, III

cc: Per Certificate of Service
Becky Merola

² Comments of the Pennsylvania Public Utility Commission, FERC Docket No. EL16-33-000 (filed Feb. 23, 2016), at 4.

CERTIFICATE OF SERVICE

I hereby certify that I have this 15th day of April, 2016, served a true and correct copy of the foregoing letter upon the parties, listed below, via email/e-service in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

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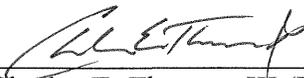
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