

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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February 3, 2017

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

RE: Pennsylvania Public Utility Commission  
v.  
Metropolitan Edison Company;  
Pennsylvania Electric Company;  
Pennsylvania Power Company;  
West Penn Power Company  
Docket Nos. R-2016-2537349  
R-2016-2537352  
R-2016-2537355  
R-2016-2537359

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Petition for Reconsideration or Clarification in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script that reads "Candis A. Tunilo".

Candis A. Tunilo  
Assistant Consumer Advocate  
PA Attorney I.D. # 89891

Enclosures

cc: Certificate of Service  
Honorable Mary D. Long, ALJ

229351

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
v.	:	
Metropolitan Edison Company;	:	Docket Nos. R-2016-2537349
Pennsylvania Electric Company;	:	R-2016-2537352
Pennsylvania Power Company;	:	R-2016-2537355
West Penn Power Company	:	R-2016-2537359

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PETITION OF THE OFFICE OF  
CONSUMER ADVOCATE FOR  
RECONSIDERATION OR CLARIFICATION

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The Office of Consumer Advocate (OCA) hereby submits this Petition pursuant to Sections 5.41 and 5.572 of the Public Utility Commission's (Commission) regulations. 52 Pa. Code §§ 5.41, 5.572. The OCA requests that the Commission reconsider and/or clarify its Order entered January 19, 2017, in the above-captioned case regarding the parts of the record of this proceeding that are to be transferred to records in the FirstEnergy Companies' Distribution System Improvement Charge (DSIC) proceedings. The OCA respectfully requests that the Commission include the relevant portions of the Surrebuttal Testimony of OCA witness Ralph C. Smith, specifically OCA St. 1-SR pages 33 through 36, in the parts of the record of this proceeding that are to be transferred to records in the FirstEnergy Companies' DSIC proceedings.

**I. INTRODUCTION**

On January 19, 2017, the Commission entered an Opinion and Order (Order) in the above-captioned proceeding. The Order addressed the consolidated general base rate cases filed by the FirstEnergy Companies (FirstEnergy or Companies). The OCA seeks reconsideration or clarification of the Commission's Order as it relates to the parts of the record of this proceeding

that should be transferred to the FirstEnergy Companies' DSIC proceedings. Clarification or reconsideration is necessary because the Commission's Order indicates that the relevant parts of this record in this proceeding concerning the calculation of Accumulated Deferred Income Tax (ADIT) in the Companies' DSIC riders are to be transferred to the records in the Companies' DSIC proceedings. The list of the parts of the record that are to be transferred to the DSIC proceedings, however, does not include a relevant portion of OCA witness Smith's Surrebuttal Testimony. Accordingly, the OCA requests the Commission to review its Order and clarify that the relevant portions of the Surrebuttal Testimony of OCA Smith, specifically OCA St. 1-SR pages 33 through 36, shall also be transferred to records in the FirstEnergy Companies' DSIC proceedings.

## **II. STANDARD OF REVIEW**

As set forth in Duick v. Pennsylvania Gas and Water Co., 56 Pa. P.U.C. 553 (1985), the standards for granting a petition for reconsideration are as follows:

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. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was stated that “[p]arties ..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them ...” 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.

56 Pa. P.U.C. at 559, quoting Pennsylvania R.R. Co. v. Pa. PUC, 118 Pa. Super. 380, 179 A. 850 (1935). (Emphasis added).

In this Petition, the OCA raises one issue which the Commission may have overlooked in its Order of January 19, 2017. The OCA seeks reconsideration or clarification of the Order as it

relates to the relevant parts of the record in this proceeding that should be transferred to the Companies' DSIC proceedings. Order at 39, 42.

### **III. RECONSIDERATION OR CLARIFICATION**

Specifically, the Commission's Order of January 19, 2017, states:

[W]e will refer the OCA's claim regarding the calculation of ADIT in the Companies' DSIC Riders to the DSIC proceeding at Docket Nos. P-2015-2508942, P-2015-2508936, P-2015-2508931, and P-2015-2508948 for such proceedings as may be necessary and the issuance of a Recommended Decision. We will also transfer the relevant parts of the record in this case, including the OCA's Exceptions and the Companies' Replies to Exceptions that pertain to the contested issue; OCA's Main and Reply Briefs and the Companies' Initial and Reply Briefs; OCA St. 1; and the Companies' St. 2-R.

Order at 39. In this portion of the Order, the Commission adopts the Administrative Law Judge's (ALJ) recommendation that the application of newly enacted Section 1301.1, 66 Pa. C.S. § 1301.1 (Act 40), regarding the inclusion of ADIT in the Companies' DSIC calculations should be addressed in the Companies' DSIC proceedings. Order at 38-40. In adopting the ALJ's recommendation, the Commission granted the OCA's Exception that the relevant portions of the record in the proceeding should be transferred to the records in the DSIC proceedings. See OCA Exc. at 3.

The OCA submits that the Commission's Order, however, does not itemize the full record that was developed on the ADIT issue in this proceeding. Specifically, OCA St. 1-SR pages 33 through 36 is not on the itemized list. Accordingly, the OCA respectfully requests that the Commission clarify that the relevant portions of OCA witness Smith's Surrebuttal Testimony, OCA St. 1-SR, also be transferred to the records in the Companies' DSIC proceedings along with the other portions of the record itemized in the Commission's Order.

#### IV. CONCLUSION

For these reasons, the OCA respectfully requests that the Commission clarify or reconsider its decision as set forth above.

Respectfully submitted,



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February 3, 2017  
229305

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, <i>et. al.</i>	:	R-2016-2537349, <i>et al.</i>
	:	
v.	:	
	:	
Metropolitan Edison Company	:	
	:	
Pennsylvania Public Utility Commission, <i>et. al.</i>	:	R-2016-2537352, <i>et al.</i>
	:	
v.	:	
	:	
Pennsylvania Electric Company	:	
	:	
Pennsylvania Public Utility Commission, <i>et. at.</i>	:	R-2016-2537355, <i>et. al.</i>
	:	
v.	:	
	:	
Pennsylvania Power Company	:	
	:	
Pennsylvania Public Utility Commission, <i>et. al.</i>	:	R-2016-2537359, <i>et al.</i>
	:	
v.	:	
	:	
West Penn Power Company	:	

VERIFICATION

I, Darryl A. Lawrence, hereby state that the facts set forth herein above 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 held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

Signature: 

Darryl A. Lawrence  
Senior Assistant Consumer Advocate  
Office of Consumer Advocate  
5<sup>th</sup> Floor, Forum Place  
555 Walnut Street  
Harrisburg, Pa. 17101-1923

DATED: February 3, 2017

## CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission	:	
v.	:	
Metropolitan Edison Company;	:	Docket Nos. R-2016-2537349
Pennsylvania Electric Company;	:	R-2016-2537352
Pennsylvania Power Company;	:	R-2016-2537355
West Penn Power Company	:	R-2016-2537359

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Petition for Reconsideration or Clarification, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 3<sup>rd</sup> day of February 2017.

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