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June 7, 2010

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PA PUD
SECRETARY'S BUREAU

VIA HAND DELIVERY

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

Re: Petition of Metropolitan Edison Company and Pennsylvania Electric Company
for Approval of their Default Service Program
Docket Nos. P-2009-2093053 and P-2009-2093054

Retail Energy Supply Association v. Metropolitan Edison Company and
Pennsylvania Electric Company
Docket Nos. C-2010-2178716 and C-2010-_____

Dear Secretary Chiavetta:

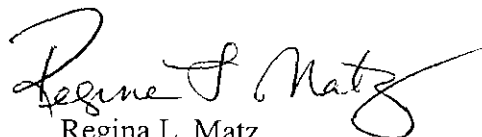
Enclosed for filing on behalf of ARIPPA are an original and three (3) copies of its Petition to Intervene in the above-referenced proceeding. Copies of the Petition have been served in accordance with the attached certificate of service.

If you have any questions, please contact the undersigned.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By


Regina L. Matz

Enclosure

cc: Certificate of Service
Jeffrey A. McNelly (w/encl.)

100607 Sec Chiavetta (Petition to Intervene)

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Petition of Metropolitan Edison :
Company and Pennsylvania Electric : Docket Nos. P-2009-2093053
Company for Approval of their Default : P-2009-2093054
Service Program :
:
:
Retail Energy Supply Association :
:
v. :
Metropolitan Edison Company and : Docket No. C-2010-_____
Pennsylvania Electric Company : Docket No. C-2010-_____

**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 March 31, 2010, Metropolitan Edison Company (“Met-Ed”) and Pennsylvania Electric Company (“Penelec”) (collectively “Companies”) filed revised electric generation supplier coordination tariffs (“Tariffs”) with the Pennsylvania Public Utility Commission (“Commission”), with proposed effective dates of January 2, 2011.

2. According to the cover letter accompanying the filings, the Tariffs were filed “pursuant to the Joint Petition for Settlement (the “Settlement”) of the Companies’ default service programs approved by the Commission” at the above P-dockets. The

default service programs (“DSPs”) filed by the Companies sought approval of a program and plan for procurement of energy, capacity, transmission (other than Network Integration Transmission Service), ancillary services, transmission and distribution system losses, congestion management costs, alternative energy credits, and such other services or products necessary for the provision of default service for the period January 1, 2011, through May 31, 2013. The Commission ultimately approved a settlement of the Companies’ DSP proceedings.

3. On or about May 21, 2010, the Retail Energy Supply Association (“RESA”) filed a Complaint against the Companies’ Tariff filings. Among other things, the Complaint alleged the Tariffs included provisions beyond those litigated as part of the DSP proceeding, and therefore exceeded the scope of a compliance filing.

4. ARIPPA¹ 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 the Companies, and have invested over \$2 billion in Pennsylvania over the last two decades in the development of non-utility generation power plants under authority and in furtherance of state and federal legislative goals.

5. ARIPPA has actively participated in and has been a party to all major Met-Ed and Penelec proceedings before the Commission, including but not limited to the Restructuring Settlements approved by the Commission at Docket Nos. R-00974008 and Docket No. R-00974009; the Proceeding for Approval of the Merger of GPU Inc. with and into First Energy Corp. (“FirstEnergy”) at Docket No. A-110300 and A-110400; the

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

Petition seeking Expedited Commission Authorization to Implement an Interim Deferral Tracking Mechanism for their Provider of Last Resort (“POLR”) Generation Service at Docket Nos. P-00001860; P-00001861; the Implementation of the Alternative Energy Portfolio Standards Act of 2004 at Docket No. L-00060180; the Met-Ed and Penelec 2006 Base Rate Proceedings consolidated with the Merger Savings Remand Proceeding, at Docket Nos. R-00061366, R-00061367, P-00062213, P-00062214, and A-110300F0095 and A-110400F0040; and the Petition for a Declaratory Order Regarding the Ownership Of Alternative Energy Credits and any Environmental Attributes Associated with Non-Utility Generation Facilities under Contract to Pennsylvania Electric Company and Metropolitan Edison Company at Docket No. P-00052149. Although ARIPPA’s Petition to Intervene in the DSP proceeding was denied purely on procedural grounds, having been untimely filed, ARIPPA continued to monitor the proceeding informally and remains interested in the final outcome of that proceeding, including the filing of any compliance or other tariffs derivative of that proceeding, such as the instant complaint proceeding.

6. The name of ARIPPA’s Executive Director, and his address, are as follows:

Jeff A. McNelly, ARIPPA Executive Director
2015 Chestnut Street
Camp Hill, PA 17011
Phone: 717 763 7635
Fax: 717 763 7455
Email: jamcnelly1@arippa.org

7. The names and address of ARIPPA's attorneys are:

Thomas T. Niesen
Regina L. Matz
THOMAS, LONG, NIESEN & KENNARD
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The above-listed attorneys are authorized to receive service on behalf of ARIPPA. ARIPPA requests that a copy of all correspondence, discovery, Commission notices and Orders and any other documents hereinafter filed in this proceeding be served at each address provided above, and that the email addresses of all three persons, the Executive Director and counsel, be included on any email communications.

II. ARIPPA'S INTERESTS IN THIS PROCEEDING

8. 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).

9. ARIPPA's interests in this proceeding is its members' status as substantial energy and capacity providers to the Companies pursuant to long-term, Commission-approved contracts that further state and federal statutory goals and objectives intended to foster independent power production, as well as active parties to each Met-Ed and Penelec major proceeding before this Commission in which the interests of its non-utility generator members were affected, even if not immediately impacted facially by the Companies' initial filings.

10. The Pennsylvania General Assembly explicitly recognized ARIPPA's member companies' interests under the Electricity Generation Customer Choice and Competition Act ("Competition Act"), 66 Pa.C.S. §§2801-2812.⁴ ARIPPA's members' NUG operating contracts also have statutory recognition under the federal Public Utilities Regulatory Policies Act of 1978 ("PURPA"). In any proceeding in which the restructuring of the electric industry or utility generation in general is affected, ARIPPA's members have sought to participate in order to protect their ongoing interests.

III. GROUNDS FOR INTERVENTION

11. ARIPPA has participated in matters involving the Companies where the interests of its members may be impacted. In the present proceeding, the matter of the Companies' compliance with the DSP settlement approved by the Commission, as well as the accuracy of the tariffs filed pursuant to that settlement remains at issue.

12. ARIPPA's intervention is necessary to ensure that any tariffs implemented pursuant to the DSP, or any other parties' proposals relative thereto, do not negatively impact the interests of ARIPPA's members in their continued sales of energy and capacity to the Companies and receipt of payment for the same in compliance with federal and state law regarding NUG contracts, and compliance with NUG stranded cost recovery. As an energy and capacity supplier to Met Ed and Penelec, ARIPPA has an interest in the proper resolution to those companies' DSP program, which interest remains in effect so long as any part of that proceeding remains unresolved. ARIPPA has

⁴The 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.

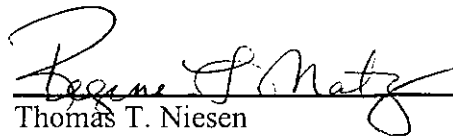
a unique perspective which is not otherwise represented by any other party to the proceeding and which should be considered by the Commission, and will be bound by any action of the Commission.

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

Respectfully submitted,



Thomas T. Niesen

Attorney ID No. 31379

Regina L. Matz

Attorney ID No. 42498

THOMAS, LONG, NIESEN & KENNARD

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Attorneys for ARIPPA

DATED: June 7, 2010

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Retail Energy Supply Association	:	
	:	
v.	:	
Metropolitan Edison Company and	:	Docket No. C-2010-_____
Pennsylvania Electric Company	:	Docket No. C-2010-_____

CERTIFICATE OF SERVICE

I hereby certify that I have this 7th day of June, 2010, served a true and correct copy of the foregoing Petition to Intervene of ARIPPA, upon the persons listed below by email and first class mail, postage prepaid:

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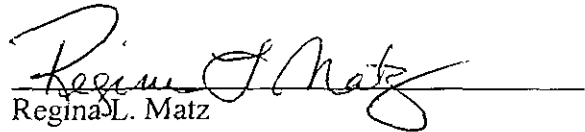
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