



August 2, 2013

**VIA HAND DELIVERY**

**David P. Zambito**

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Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Pennsylvania Public Utility Commission v. NRG Energy Center Harrisburg LLC;  
Docket No. R-2013-2350265 et al.; JOINT PETITION FOR APPROVAL OF  
UNANIMOUS SETTLEMENT OF ALL ISSUES**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is the original of the Joint Petition for Approval of Unanimous Settlement of All Issues ("Settlement") between NRG Energy Center Harrisburg LLC ("NRG"), the Bureau of Investigation & Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate (hereinafter collectively referred to as the "Joint Petitioners"). By the Settlement, the Joint Petitioners resolve in full NRG's base rate filing at Docket No. R-2013-2350265 and the Complaints of OCA at Docket No. C-2013-2366273 and OSBA at Docket No. C-2013-2367232 which have been consolidated with NRG's base rate filing.

A CD-Rom of the Settlement is also enclosed for your convenience. Copies of the Settlement are being served on the Presiding Officer, Administrative Law Judge Dennis J. Buckley, and on all parties, as indicated on the enclosed Certificate of Service.

Thank you for your attention to this matter. If you have any questions, please direct them to me. Please date-stamp the extra copy and return it with our messenger.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito

Counsel for NRG Energy Center Harrisburg LLC

DPZ/kmg  
Enclosures

cc: Honorable Dennis J. Buckley  
Per Certificate of Service

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Administrative Law Judge  
Dennis J. Buckley

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Pennsylvania Public Utility Commission, <i>et al.</i>	:	
	:	Docket Nos. R-2013-2350265
v.	:	C-2013-2366273
	:	C-2013-2367232
NRG Energy Center Harrisburg LLC	:	

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**JOINT PETITION FOR APPROVAL OF  
UNANIMOUS SETTLEMENT OF ALL ISSUES**

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**I. INTRODUCTION**

NRG Energy Center Harrisburg LLC (“NRG” or “Company”), the Bureau of Investigation & Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”), parties to the above-captioned proceeding (hereinafter collectively referred to as the “Joint Petitioners”), hereby join in this “Joint Petition for Approval of Unanimous Settlement of All Issues” (“Settlement”) and respectfully request that Administrative Law Judge Dennis J. Buckley (the “ALJ”) and the Commission approve this Settlement.

As fully set forth and explained below, the Joint Petitioners have agreed to a settlement of all issues in the above-captioned proceeding. The Settlement provides for increases in rates, as set forth in the form of the tariff supplement attached hereto as **Appendix A** and the proof of

revenues attached hereto as **Appendix B**, designed to produce an increase in annual operating revenues of \$875,000. The total bill for a residential customer using 8.1 Mlbs. per month will increase approximately \$24 from \$183 to \$207 (*i.e.*, approximately 12%). The total bill for a commercial customer using 43.2 Mlbs. per month will increase approximately \$130 from \$972 to \$1102 (*i.e.*, approximately 12%). The total bill for an industrial customer using 467.6 Mlbs. per month will increase approximately \$1,403 from \$10,521 to \$11,924 (*i.e.* approximately 12%). In support of this Settlement, the Joint Petitioners state the following:

## **II. BACKGROUND**

1. On April 12, 2013, NRG filed Supplement No. 48 to Tariff Steam - PA PUC No. 4 (“Supplement No. 48”), proposing to increase the Company’s base rates for its steam service by \$875,000, an increase of 11.46% on a total bill basis for NRG’s 142 Rate 1 customers. NRG’s one Rate 2 customer would see a proportionate increase in rates. Notice of the proposed rate increases was provided to all NRG customers as required by the Commission’s regulations.

2. On May 22, 2013, I&E entered its appearance in this proceeding.

3. On May 31, 2013, OCA filed a formal Complaint and Public Statement in this proceeding.<sup>1</sup>

4. On June 5, 2013, OSBA filed a formal Complaint and Public Statement in this proceeding.<sup>2</sup>

5. At its public meeting on June 13, 2013, the Commission suspended the proposed tariff supplement by operation of law until January 14, 2014, and assigned the case to the Office of Administrative Law Judge (“OALJ”).

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<sup>1</sup> Docket No. Pa. PUC No. C-2013-2366273.

<sup>2</sup> Docket No. Pa. PUC No. C-2013-2367232.

6. On June 18, 2013, a Prehearing Conference and Mediation Notice was issued by the OALJ, setting July 18, 2013 as the date for the Prehearing and Mediation Conferences in this matter.

7. On June 25, 2013, NRG voluntarily extended the effective date of the proposed base rates an additional sixty days to March 15, 2014 so that the parties could pursue settlement discussions.

8. On July 16, 2013, the ALJ issued a *pro forma* Prehearing Order.

9. On July 18, 2013, a Prehearing Conference, which continued immediately into a mediation session with Mediator Cynthia Lehman, took place at the Commission's office in Harrisburg, Pennsylvania. David P. Zambito, Esquire, of the law firm of Cozen O'Connor appeared on behalf of NRG. Richard A. Kanaskie, Esquire, appeared on behalf of I&E. Christy M. Appleby, Esquire, appeared on behalf of the OCA. Steven C. Gray, Esquire, appeared on behalf of the OSBA. As the Parties had elected to pursue mediation and were already far advanced in their negotiations, it was not necessary to establish a formal procedural schedule other than the extension to March 15, 2014, agreed to by NRG. Likewise, it was not necessary to address any proposed modifications to the Commission's procedural rules as is usually the case in fully litigated proceedings.

10. On July 22, 2013, the Joint Petitioners advised the ALJ that they had reached a unanimous settlement in principle of all issues in this case and that they were therefore requesting a suspension of the procedural schedule.

11. By "Order Consolidating Cases and Suspending Procedural Schedule," dated July 26, 2013, the ALJ consolidated the OCA and OSBA complaints with the base rate case and suspended the procedural schedule pending submission of this Settlement.

12. The Joint Petitioners have been able to agree to a rate increase and the individual provisions that resolve all issues in the proceeding, and the Joint Petitioners have agreed to a revenue allocation and rate design to recover said increase. The Joint Petitioners are in full agreement that the Settlement is in the best interests of NRG and its customers. The Settlement is set forth in the following Section.

### **III. SETTLEMENT**

13. The Joint Petitioners agree as follows:

(a) The Settlement rates are designed to produce \$875,000 in additional annual operating revenue based upon a fully projected future test year ending January 11, 2015.

(b) NRG will be permitted to file a tariff supplement in the form attached hereto as **Appendix A** to become effective on one day's notice.

(c) The Settlement shall be "black box" in nature and there shall be no specification of allowed or disallowed claims; provided however that the following expenses shall be deemed to have been included in and fully recovered through the allowed revenue increase: (i) Repair/Painting of South Stack; and, (ii) Repair of Plant Roof. Upon completion of the Repair/Painting of the South Stack and the Repair of the Plant Roof, NRG Harrisburg shall file at this docket, with copies to OCA, I&E and OSBA, a letter stating that the projects have been completed. NRG Harrisburg will inform the statutory advocates upon completion of the projects. The Company cannot claim these projects in any future base rate proceeding.

(d) The 2013 base rate case expense shall be normalized.

(e) On or before April 1, 2014, the Company will provide to the Commission's Bureau of Technical Utility Services ("TUS"), I&E, OCA, and OSBA an update

to the Schedules included in NRGH Exhibit No. KLL-1, Answers to 52 Pa. Code § 53.52(c)(1), Sheet 1b, “Statement of Operating Expenses For the Twelve Months Ended December 31, 2012 and December 31, 2013” and to 52 Pa. Code § 53.52(c)(3), “Original Cost of Utility Plant in Service at December 31, 2012 and December 31, 2013” filed in this proceeding -- which will include all going-level adjustments, actual capital expenditures, plant additions, and retirements for the twelve months ending December 31, 2013. On or before April 1, 2015, the Company will update the Schedules included in NRGH Exhibit No. KLL-1, Answers to 52 Pa. Code § 53.52(c)(1), Sheet 1b “Statement of Operating Expenses For the Twelve Months Ended December 31, 2012 and December 31, 2013” and to 52 Pa. Code § 53.52(c)(3), “Original Cost of Utility Plant in Service at December 31, 2012 and December 31, 2013” filed in this proceeding -- which will include all going-level adjustments, actual capital expenditures, plant additions, and retirements for the twelve months ending December 31, 2014. In the Company’s next base rate proceeding, the Company will prepare a comparison of its actual expenses and rate base additions to its projections in this case.

(f) The allowed increase in revenues is shown in the proof of revenues attached hereto as **Appendix B**.

(g) Other miscellaneous tariff changes proposed by NRG are approved, as set forth in the form of tariff supplement attached hereto as **Appendix A**.

#### **IV. CONDITIONS OF SETTLEMENT**

14. The Settlement is conditioned upon the Commission’s approval of the terms and conditions of the Settlement without modification. If the Commission modifies the Settlement, any Joint Petitioner may elect to withdraw from the Settlement and may proceed with litigation

and, in such event, the Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of Commission and served upon all Joint Petitioners within five (5) business days after the entry of an Order modifying the Settlement. The Joint Petitioners acknowledge and agree that this Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated the proceeding.

15. The Settlement is intended to resolve all issues in the instant proceeding. If the Commission does not approve the Settlement and the proceeding continues, the Joint Petitioners reserve their respective procedural rights, including the right to present additional testimony and to conduct full cross-examination, briefing, and argument.

16. The Settlement is made without any admission against, or prejudice to, any position which any Party may adopt in the event of any subsequent litigation of this proceeding or in any other proceeding.

17. The Settlement reflects a compromise of competing positions and does not necessarily reflect any Party's position with respect to any issues raised in this proceeding. The Joint Petitioners agree that the Settlement shall not constitute or be cited as precedent in any other proceeding, except to the extent required to implement the Settlement. A Joint Petitioner's support of the Settlement does not indicate the Joint Petitioner's agreement to the methodologies, calculations, and claims as used or submitted by NRG in its filing.

18. Attached as **Appendices C** through **F** are the respective Statements in Support of the Joint Petition for Approval of Unanimous Settlement of All Issues submitted by NRG, I&E, OCA, and OSBA setting forth the bases upon which each Joint Petitioner believes the Settlement to be fair, just and reasonable and, therefore, in the public interest.

19. If the ALJ adopts the Settlement without modification, the Parties waive their rights to file exceptions.

**V. CONCLUSION**

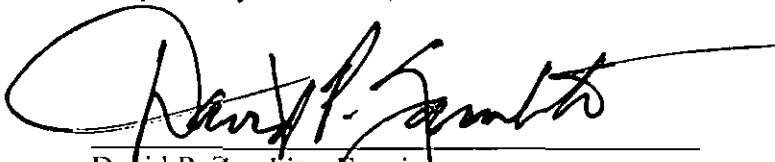
WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request as follows:

(a) That Administrative Law Judge Dennis J. Buckley and the Commission approve this Settlement as submitted including all terms and conditions thereof;

(b) That the Commission's Investigation at Docket No. R-2013-2350265 and the Complaints of OCA and OSBA at Docket Nos. C-2013-2366273 and C-2013-2367232 be marked closed; and,

(c) That the Commission enter a final order consistent with this Settlement, terminating the proceeding and authorizing NRG to file the tariff supplement attached as **Appendix A** effective on one day's notice.

Respectfully submitted,



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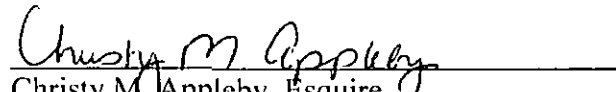
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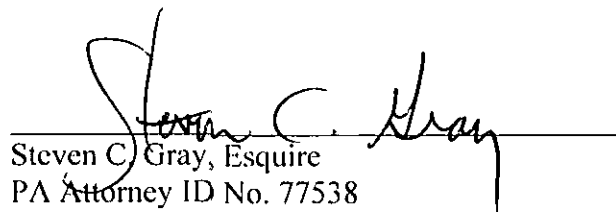
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Date: August 2, 2013



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Date: 8/2/2013

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Steam Tariff

SUPPLEMENT NO. \_\_\_ TO  
STEAM – PA PUC NO. 4

NRG ENERGY CENTER HARRISBURG LLC  
RULES AND REGULATIONS AND RATE SCHEDULES  
FOR STEAM SERVICE

In the City of Harrisburg, Dauphin County, Pennsylvania

Issued by:

Jan P. Sockel, General Manager and Vice President  
NRG Energy Center Harrisburg LLC  
Harrisburg Energy Center  
900 Walnut Street  
Harrisburg, PA 17101

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**NOTICE**

This tariff supplement makes changes to existing rates and is filed in compliance with the Pennsylvania Public Utility Commission's Order, entered \_\_\_\_\_, at Docket No. R-2013-2350265 *et al.*

ISSUED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

LIST OF CHANGES MADE BY THIS TARIFF SUPPLEMENT

Supplement No. \_\_ increases base rates for Rate 1 (General Service) and Rate 2 (High Pressure Commercial and Industrial Service) and is filed in compliance with the Pennsylvania Public Utility Commission's Order, entered \_\_\_\_\_, at Docket No. R-2013-2350265 *et al.*

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(C)

**RATE 1  
GENERAL SERVICE**

**APPLICATION OF SCHEDULE**

This schedule is applicable to seasonable steam heating service from low pressure mains and, at the option of Company, to seasonal steam heating service from high pressure mains. It is also applicable to continuous 12 months of steam service from high and low pressure mains when, in Company's opinion, it can be satisfactorily supplied.

**NET MONTHLY RATE**

Application  
\$15.55 per Mlb

(1)

**STEAM COST RATE**

The net bill as determined by the above schedule shall be adjusted by multiplying all Mlbs. of steam billed by the steam cost rate determined in Rider A. Minimum bills shall not be reduced by reason of the adjustment, nor shall charges under this adjustment be a part of the monthly minimums in the above schedule.

**NET MONTHLY MINIMUM**

When both seasonal steam heating service and continuous 12 month service are rendered, the minimum charge is the sum of the minimum charge for each type of service as specified in the following paragraphs; otherwise, the minimum charge is the one applicable to the service rendered.

**CONTINUOUS 12 MONTHS SERVICE NET MINIMUM (other than seasonal steam heating)**

The monthly minimum, chargeable each and every month of the year, shall be based on the pounds of steam used during the maximum hour of use during the current month or any of the preceding 11 months, as follows:

---

**RATE 2**  
**HIGH PRESSURE COMMERCIAL**  
**AND INDUSTRIAL SERVICE**

**APPLICATION OF SCHEDULE**

This schedule is applicable to high pressure steam service under contract for commercial and industrial Customers which own and maintain a private system of distribution mains, provided that the Company shall not be obligated hereunder to supply steam in excess of 100,000 pounds during the maximum hour of use in the months of October to May, inclusive.

New services will be rendered hereunder only when the Company determines that it has adequate facilities to render such service on an economic basis.

**NET MONTHLY RATE**

\$5,142.79	For the first 25,000 pounds of demand
\$20.57	Per 100 pounds for all additional pounds of demand
\$8.59	Per Mlb. for all steam used

(1)

**STEAM COST RATE**

The net bill as determined by the above schedule shall be adjusted by multiplying all Mlbs. of steam billed by the steam cost rate factor as determined in Rider A. Minimum bills shall not be reduced by reason of this adjustment, nor shall charges under this adjustment be a part of the monthly minimums in the above schedule.

**DEMAND**

The demand shall be the pounds of steam supplied during the one hour period of maximum use during the current month or any preceding 11 months. In no case shall the monthly bill be based

NRG Energy Center Harrisburg LLC  
Rate Case Settlement Support

CUSTOMER	Annual Revenue (\$)	
	Normalized	Settled
CENTRAL REFRIGERATION	609,400	755,000
STRAWBERRY SQUARE	437,800	542,500
KEYSTONE BLDG	470,000	582,400
EDUCATION & FINANCE	244,600	303,100
MUSEUM & ARCHIVES	52,300	64,900
LABOR & INDUSTRY	148,600	184,100
COURT HOUSE ANNEX	33,000	40,900
333 MARKET ST BLDG	120,800	149,600
CROWNE PLAZA	86,100	106,700
EXECUTIVE HOUSE	34,900	43,200
HEALTH & WELFARE	76,400	94,700
FEDERAL BUILDING	85,600	106,100
COURT HOUSE	78,200	96,900
LIQUOR CONTROL BOARD	50,000	62,000
PUBLIC SAFETY BUILDING	54,400	67,400
OLD CITY HALL, LP	1,200	1,500
GRAYCO	2,973	2,973
VERIZON	24,400	30,200
STATE PUBLICATION	13,800	17,100
ST JOHN HOLDINGS	6,900	8,600
NRG CW PLANT	3,400	4,200
HARRISBURG HILTON	177,100	219,500
M&T BANK	18,300	22,600
P S E A	14,000	17,400
MUNICIPAL BUILDING	20,700	25,600
PINE ST PRESBYTERIAN	7,900	9,800
P H E A A	70,300	87,000
HBG SCHOOL DISTRICT	18,200	22,600
RACHEL CARSON BLDG	43,400	53,700
M&T BANK	27,900	34,600
PENN NATIONAL INSURANCE	52,700	65,400
RIVERS EDGE APARTMENTS	7,300	9,100
KEYSTONE SERVICE SYS	35,000	43,300
NURICK BUILDING	3,988	3,988
ZION LUTHERAN CHURCH	10,700	13,200
EARL ETZWEILER	5,200	6,500
ST STEPHENS CHURCH	7,100	8,700
FRED CLARK	4,400	5,500
HARRISBURG ENERGY CTR	6,500	8,000
FLYNN GROUP BUILDING	7,300	9,000
PINE ST LLC	2,558	2,558

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SECRETARY'S BUREAU

NRG Energy Center Harrisburg LLC  
Rate Case Settlement Support

CUSTOMER	Annual Revenue (\$)	
	Normalized	Settled
PA BAR ASSOCIATION	8,000	9,900
CVS STORE #4037	2,459	2,459
MESSIAH LUTHERAN CHURCH	6,500	8,000
SALEM UNITED CHURCH	2,800	3,500
FIRST CHURCH OF GOD	-	-
MARKET SQR PRESBYTERIAN	3,100	3,900
VETERANS BUILDING	3,200	3,900
PMI (OMEGA CORP)	2,800	3,400
ROBERT KARDOS	1,500	1,900
ALVA HOTEL (MATER)	2,300	2,900
BOSWELL SNYDER TINTNER	3,900	4,900
CIVIC CLUB	4,200	5,200
BRM ASSOCIATES	2,300	2,800
SOVEREIGN BANK	1,400	1,700
PA LEGAL SVCS CTR	2,400	3,000
DAUPHIN COUNTY LIBRARY	6,500	8,100
AICUP	3,300	4,100
KILLIAN & GEPHART	5,000	6,300
ST STEPHENS EPISCOPAL	3,900	4,900
APSCUF INC	2,400	3,000
GARY DOBRINOFF	3,400	4,300
GOVERNORS HOTEL	6,600	8,200
PRESSLEY RIDGE	1,400	1,700
114 ASSOCIATES	16,900	20,900
EARL ETZWEILER	2,000	2,500
PA LEAGUE OF CITIES	2,500	3,100
SAID & MONA MATER	500	600
WHITAKER CENTER	17,200	21,300
DPHN COUNTY COMMISSION	2,700	3,400
Y M C A	57,700	71,500
PA CABLE & TELECOM	3,400	4,200
WALNUT COURT ASSOC	4,000	5,000
WILLIAM NICHOLS	3,600	4,500
M. SHANE RORKE	634	634
KEYSTONE PLAZA	3,400	4,300
HBG ART ASSOCIATION	2,300	2,800
GREENLEE PARTNERS LLC	2,400	3,000
GOODMAN REAL ESTATE	1,555	1,555
WILLIAM NICHOLS	2,000	2,500
PEPINO ENTERPRISES	-	-
SECOND BAPTIST CHURCH	1,600	1,900

NRG Energy Center Harrisburg LLC  
Rate Case Settlement Support

CUSTOMER	Annual Revenue (\$)	
	Normalized	Settled
ST. STEPHENS CHURCH	1,900	2,400
PA BAR ASSOC	3,200	3,900
KENIL ASSOC, LLC	1,100	1,300
WILLIAM W ALLIS	1,000	1,200
TROND GRENAGER	1,500	1,900
KILLIAN & GEPHART	1,100	1,400
COMM ACTION ASSOC OF PA	900	1,200
JAMES ROXBURY	1,100	1,400
200 N 2ND ST ASSOC	2,600	3,300
MSP INVESTMENTS	2,800	3,400
MILFORD PATTERSON	700	900
STEPHEN MACNETT	400	500
PA FAMILY INSTITUTE	2,900	3,600
FIRST STATE PROPERTY	1,900	2,300
PELETON INVESTMENTS LLC	1,900	2,300
MEDICAL BUREAU OF HBG	1,400	1,800
SHAGIN LAW GROUP LLC	1,100	1,400
DUSAN BRATIC	2,000	2,400
WCI PARTNERS	900	1,100
LEWIS AND ASSOC	500	700
EUGENE SHORE	1,500	1,800
ELIAS HARBILAS	1,900	2,300
CRAIG LONGYEAR	400	500
DER HBG MAENNERCHOR	1,600	1,900
SEIBERT & WION	800	900
BILL LEHR JR	1,500	1,900
CHAD FREY	300	300
SUITES AT STOCKS	1,000	1,300
INTL HOUSE OF HBURG	2,200	2,700
RHEA MAFF	300	300
LEON CZIKOWSKY	368	368
ST STEPHENS EPISCOPAL	4,200	5,200
PA OPTOMETRIC ASSOC	600	700
HOPE GOLDHABER	368	368
MAMAS PIZZA	200	200
- DAVID BOTERO	-	-
KYLE TYSON	600	800
DOWNTOWN NEWS	200	300
WALKERS ART & FRAMING	500	600
STEFAN JACOBSON	200	300
FRANK PINES	500	600

NRG Energy Center Harrisburg LLC  
Rate Case Settlement Support

CUSTOMER	Annual Revenue (\$)	
	Normalized	Settled
TROPHY HOUSE	400	500
JACK MACHEK	400	500
CHARLES SCHENCK	500	600
SUSAN STECHER	400	500
STEPHEN MACNETT	200	200
P S E A	2,300	2,800
WILL SEIBERT	900	1,200
PACD	3,500	4,300
MAY LYNN YEH	500	600
PINNACLE HOSPITAL	-	-
METRO BANK	8,400	10,400
18 SOUTH THIRD INC.	1,900	2,400
DOUGLAS HASSLER MCKLLP	2,300	2,800
PRESBYTERIAN APTS	16,000	17,300
HEALTH & HUMAN SVCS	1,300	1,700
PHFA	13,400	16,600
MKT SQR OFFICE PLAZA	11,599	11,599
PINNACLE HEALTH LAB	63,700	78,200
HARRISBURG UNIV	39,100	48,400
PA JUDICIAL CENTER	97,000	120,200
HBURG NATIONAL RAILWAY	400	500
TOTAL	3,693,403	4,566,903
INCREASE		873,500

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**RECEIVED**

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Administrative Law Judge  
Dennis J. Buckley

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AUG 2 - 2013

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Pennsylvania Public Utility Commission, *et al.* :  
: Docket Nos. R-2013-2350265  
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NRG Energy Center Harrisburg LLC :

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**STATEMENT OF NRG ENERGY CENTER HARRISBURG LLC  
IN SUPPORT OF THE JOINT PETITION FOR APPROVAL OF  
UNANIMOUS SETTLEMENT OF ALL ISSUES**

---

**I. INTRODUCTION**

NRG Energy Center Harrisburg LLC (“NRG”) hereby files this Statement in Support of the Joint Petition for Approval of Unanimous Settlement of All Issues (“Settlement”) entered into by NRG, the Bureau of Investigation & Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”) (hereinafter, collectively “Joint Petitioners”) in the above-captioned base rate case proceeding. The Settlement, if approved, will resolve all issues raised by the Joint Petitioners in this proceeding. NRG respectfully requests that Administrative Law Judge Dennis J. Buckley (the “ALJ”) recommend approval of, and that the Commission approve, the Settlement, including all terms and conditions thereof, without modification.

As an initial matter, the fact that the Settlement is unopposed in this base rate proceeding is, in and of itself, strong evidence that the Settlement is reasonable and in the public interest – particularly given the diverse interests of the parties and the active role that they have taken in this proceeding. The active parties in this proceeding, and their counsel and experts, have considerable experience in rate proceedings. Their knowledge, experience, and ability to evaluate the strengths and weaknesses of their litigation positions provided a strong basis upon which to build a consensus on the settled issues.

The Settlement was achieved only after a thorough investigation of NRG’s claims and operations by I&E, OCA, and OSBA. All three public advocates made discovery requests, either formal or informal, to NRG, to which NRG provided timely and thorough answers. The cooperative nature of the process led to a settlement prior to the public advocates’ expenditure of time and resources on the preparation of direct testimony. Because NRG is a relatively small steam utility, it was important to reach an early settlement in order to mitigate rate case expense.

The Settlement reflects a carefully-balanced compromise of the interests of the Joint Petitioners to this proceeding. For these reasons and the reasons set forth below, the Settlement is just and reasonable and in the public interest and, accordingly, should be approved without modification.

## **II. COMMISSION POLICY PROMOTES SETTLEMENT**

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. The Commission has indicated that settlement

results are often preferable to those achieved at the conclusion of a fully litigated proceeding. *See* 52 Pa. Code § 69.401.

The Joint Petitioners achieved this Settlement through the assistance of the Commission's Mediation Division. Commission policy promotes mediation as a means to achieve Settlement. *See* 52 Pa. Code § 69.391. Successful mediation leading to settlement can lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve administrative resources. The Commission encourages parties to seek negotiated settlements of contested proceedings in lieu of incurring the time, expense, and uncertainty of litigation.

### **III. THE SETTLEMENT IS IN THE PUBLIC INTEREST**

In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991). There were five main issues raised by the parties during the course of the instant proceeding: (a) revenue requirement; (b) treatment of expenses associated with the Repair/Painting of the South Stack and the Repair of the Plant Roof; (c) treatment of current rate case expense; (d) reporting associated with the use of a fully projected future test year ("FPFTY"); and, (e) cost of service and rate structure. For the reasons discussed below, all five issues have been resolved in the public interest by the Settlement.

#### **A. Revenue Requirement**

The primary reason for NRG's base rate filing is to recover part of the revenue lost due to significant conservation efforts made by its largest steam customers. Since NRG's last base rate

relief in 2008, NRG has experienced an unanticipated loss of 100,000 Mlbs. of sales, representing 24% of NRG's base load and resulting in over \$1,000,000 in lost revenue. Despite internal cost savings measures including reduction of workforce by two employees, increased charges to NRG's affiliates, suspension of corporate service charges by NRG's ultimate parent, and deferred maintenance projects, NRG needs to restore income to an acceptable level in light of the reduced consumption. See NRG Answer to Minimum Filing Requirement ("MFR") at 52 Pa. Code § 53.52(a)(1); see also Direct Testimony of Jan P. Sockel, NRGH Statement No. 1, pp. 8-10.

Although NRG could have supported an annual revenue increase of \$1,387,400 that would have produced an overall rate of return of approximately 8.5%, the lower rate increase claim was requested in order to preserve competitive pricing as much as possible. The claimed annual increase of \$875,000 would result in an overall rate of return of approximately 3.3% for NRG. NRG proposed a mitigated claim because, while NRG is a rate-regulated public utility, it is in a competitive business. Its customers have options for their heating needs, including natural gas and electric. NRG's management talks with its customers on a regular basis, particularly its 17 largest customers who represent 75% of its load. Based on these conversations, NRG believes that a \$3.00 per Mlb. increase is fair and will not lead to a steam price which is no longer competitive to the alternatives. NRG also requested a mitigated amount in order to control rate case expense through a quick settlement. See NRG Answer to MFR at 52 Pa. Code § 53.52(a)(1); see also Direct Testimony of Jan P. Sockel, NRGH Statement No. 1, pp. 15-17.

After extensive discovery and settlement discussions, the Joint Petitioners have agreed to the full \$875,000 annual increase and to permit NRG to implement its proposed rates, as contained in the *pro forma* tariff supplement attached as **Appendix A** to the Settlement. See

Settlement, ¶¶ 13(a), (b). The increase is necessary in order for NRG to maintain safe, adequate, and reliable steam service in the City of Harrisburg and is, therefore, in the public interest.

**B. Repair/Painting of South Stack and Repair of Plant Roof**

NRG's filing included claims for two major maintenance projects: (a) the *Repair/Painting of the South Stack* (\$225,000); and, (b) the *Repair of the Plant Roof* (\$100,000). Direct Testimony of Keith L. Li, NRGH Statement No. 2, p. 9; NRGH Exhibit No. KLL-1, p. 1-15. In order to ensure that these projects are completed and in order to avoid any future confusion regarding amortization of the project expenses, the Joint Petitioners have agreed that the expenses are included in and fully recovered through the Settlement's allowed revenue increase. This provision essentially prevents NRG from claiming any portion of the expenses in a future base rate proceeding. NRG has also agreed to provide notice to the Commission and the public advocates upon completion of the projects. *See* Settlement, ¶ 13(c). These projects are necessary for NRG's continued provision of safe, adequate, and reliable steam service; accordingly, these provisions of the Settlement are in the public interest.

**C. Current Rate Case Expense**

NRG's rate case expense in this proceeding has been mitigated by NRG's claim of an annual revenue increase of less than what it could otherwise support – resulting in a quick settlement. NRG also controlled rate case expense by using in-house management as its primary witnesses. *See* Direct Testimony of Jan P. Sockel, NRGH Statement No. 1; Direct Testimony of Keith L. Li, NRGH Statement No. 2.

In order to avoid any confusion regarding whether any portion of the rate case expense can be claimed in a future base rate proceeding, the Joint Petitioners have agreed that the rate case expense (projected in the filing to be approximately \$200,000 for legal and consulting services, *see* NRGH Exhibit No. KLL-1, p. 1-16) will be normalized instead of amortized. *See* Settlement, ¶ 13(d). Normalization of the rate case expense will prevent NRG from claiming any portion of current rate case expense in a future base rate filing.

**D. Fully Projected Future Test Year Reporting**

Act 11 of 2012 permits a utility company to use a FPFTY. NRG used a FPFTY ending January 11, 2015 for purposes of the instant base rate filing. *See* Direct Testimony of Keith L. Li, NRGH Statement No. KLL-1, pp. 3-4. Act 11 requires a utility company that uses a FPFTY to submit appropriate data evidencing the accuracy of the estimates contained in the FPFTY. *See* 66 Pa. C.S. § 315(c)(regarding “Burden of proof”).

In order to satisfy this reporting requirement, the Joint Petitioners have agreed that NRG will update certain schedules contained in its filing (relating to “Statement of Operating Expenses” and “Original Cost of Utility Plant in Service”) for the twelve months ending December 31, 2013 and the twelve months ending December 31, 2014. The updates will be provided to the Commission’s Bureau of Technical Utility Services and also served on the public advocates. Additionally, in NRG’s next base rate filing, it will provide a comparison of its actual expenses and rate base additions to its projections in this case. *See* Settlement, ¶ 13(e).

### **E. Cost of Service and Rate Structure**

NRG submitted a cost of service study as part of its base rate filing, as required by the approved settlement in its last base rate case at Docket No. R-2008-2028395. The study was prepared by AUS Consultants. *See* NRGH Exhibit No. KLL-3. The study concludes that costs should be assigned according to the presently-existing rate classes. Currently, NRG has two basic rate classes: Rate 1 and Rate 2. All customers, with the exception of one Rate 2 customer with its own internal distribution system, are Rate 1 customers. *See* Direct Testimony of Keith L. Li, NRGH Statement No. 2, p. 14-15.

The conclusion of the study is reasonable because NRG's system is confined to a limited geographic location in the City of Harrisburg, and it is a closed loop system. All customers, with the exception of the one Rate 2 customer, essentially use the same facilities to receive service. Moreover, there is little, if any, difference in the administrative costs associated with providing service to a customer – whether the customer is large or small. It costs as much to prepare and mail an invoice to a small customer as it does for a large customer. NRG's service is not like the service of a large utility with a large geographic base and diverse customer base. Maintaining its current rate structure is accordingly fair to all customers. *See* Direct Testimony of Keith L. Li, NRGH Statement No. 2, p. 14-15.

The existing rate structure is also appropriate because NRG is in a very competitive business. Its customers have other options, such as electric and natural gas, for their heating needs. The current rate structure is fair and customers generally view it as fair. If NRG started to create layers of distinction between customers, it would risk losing certain customers. Moreover, for a small company like NRG, administrative efficiency is realized by having a simplified rate structure. *See* Direct Testimony of Keith L. Li, NRGH Statement No. 2, p. 14-15.

For the foregoing reasons, the Settlement proposes no changes to rate structure. The current structure is fair to all customers and recognizes the competitive nature of steam service in the City of Harrisburg.

#### **IV. CONCLUSION**

Through cooperative efforts and the open exchange of information, the Joint Petitioners have arrived at a settlement that resolves all issues in the proceeding in a fair and equitable manner. The Settlement is the result of detailed examination of NRG's finances and operations through numerous discovery responses and extensive settlement negotiations. A fair and reasonable compromise has been achieved in this case, as is evident by the fact that NRG, I&E, OCA, and OSBA all have agreed to the resolution of all issues in this proceeding. NRG fully supports the Settlement and respectfully requests that the Honorable Dennis J. Buckley recommend approval of, and the Commission approve, the Settlement in its entirety, without modification.

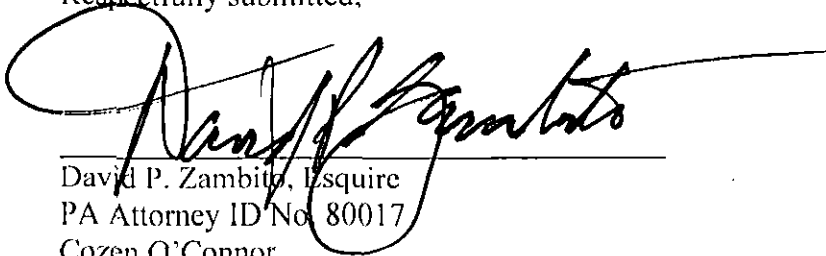
WHEREFORE, NRG Energy Center Harrisburg LLC respectfully requests as follows:

(a) That Administrative Law Judge Dennis J. Buckley and the Commission approve the Settlement as submitted including all terms and conditions thereof;

(b) That the Commission's Investigation at Docket No. R-2013-2350265 and the Complaints of OCA and OSBA at Docket Nos. C-2013-2366273 and C-2013-2367232 be marked closed; and,

(c) That the Commission enter a final order consistent with the Settlement, terminating the proceeding and authorizing NRG Energy Center Harrisburg LLC to file the tariff supplement attached as **Appendix A** to the Settlement effective on one day's notice.

Respectfully submitted,



Date: 8/2/13

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Pennsylvania Public Utility Commission</b>	:	
	:	
<b>v.</b>	:	<b>Docket No. R-2013-2350265</b>
	:	
<b>NRG Energy Center Harrisburg LLC</b>	:	

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**BUREAU OF INVESTIGATION AND ENFORCEMENT  
STATEMENT IN SUPPORT OF JOINT PETITION FOR  
APPROVAL OF UNANIMOUS SETTLEMENT OF ALL ISSUES**

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**TO ADMINISTRATIVE LAW JUDGE DENNIS J. BUCKLEY:**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Prosecutor Richard A. Kanaskie, hereby respectfully submits that the terms and conditions of the foregoing *Joint Petition for Approval of Unanimous Settlement of All Issues* (“Settlement”) are in the public interest and represent a fair, just, reasonable and equitable balance of the interest of NRG Energy Center Harrisburg LLC (“NRG” or “Company”) and its customers. In support of this position, I&E offers the following enumerated Comments:

**INTRODUCTION**

1. On April 12, 2013, NRG filed Supplement No. 48 to Tariff Steam – PA PUC No. 4 (“Supplement No. 48”) seeking to change its rates, rules and regulations so as to produce an additional \$875,000 in annual base rate revenue. This request results in an

increase of approximately 11.46% over existing revenue. The requested increase is based on the fully forecasted test year ending January 11, 2015.

2. The Bureau of Investigation and Enforcement entered its Notice of Appearance on May 22, 2013. The Office of Consumer Advocate (“OCA”) filed a Formal Complaint and Public Statement on May 31, 2013. This was followed by the Complaint, Verification, Public Statement and Notice of Appearance of the Office of Small Business Advocate (“OSBA”) dated June 5, 2013.

3. By Order Adopted and Entered on June 13, 2013, the Commission allowed Supplement No. 48 to be suspended by operation of law until January 14, 2014 pending allowance of an earlier effective date by subsequent ruling.

4. The filing was assigned to the Office of Administrative Law Judge (“OALJ”) for the purpose of conducting Evidentiary Hearings and the preparation and issuance of a Recommended Decision. The OALJ subsequently assigned Administrative Law Judge (“ALJ”) Dennis J. Buckley as the presiding officer.

5. A Prehearing Conference followed by an Initial Mediation was held on July 18, 2013.

## **DISCUSSION**

6. In accordance with the Commission’s policy at 52 Pa. Code §5.231 that encourages settlements over costly and time consuming litigation, I&E, OCA, OSBA and the Company were successful in achieving a full settlement of all issues through comprehensive Discovery, the Mediation process and several Settlement discussions.

7. I&E is charged with the representation of the public interest in proceedings relating to rates, rate-related services and application proceedings affecting the public interest held before the Commission. Consequently, in all contested proceedings, including those resolved through negotiated settlements, it is incumbent upon I&E to ensure that the public interest is served and to comment on how the amicable resolution of any such proceeding will benefit the public interest. The request for approval of the Joint Petition is based on the I&E conclusion that the Settlement meets all the legal and regulatory standards necessary for approval. “The prime determinant in the consideration of a proposed Settlement is whether or not it is in the public interest.”<sup>1</sup> I&E opines that this unopposed filing meets this standard.

8. Prior to agreeing to the instant Settlement, I&E conducted a thorough review of the Company’s filing and supporting information as well as discovery responses and additional submitted data. Based on its analysis of the Company’s entire filing as well as information obtained during discovery and settlement discussions I&E determined that the submission of testimony was unnecessary.

9. The Settlement provides for allowance of the requested increase of \$875,000 to the Company’s annual overall revenue. The additional revenue in this proceeding is base rate revenue and has been agreed to in the context of a “Black Box” settlement with very limited exceptions. A “Black Box” agreement does not specifically identify the resolution of any disputed issues. Instead, an overall increase to base rates is agreed to and parties retain all rights to further challenge all issues in subsequent proceedings. A “Black Box”

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<sup>1</sup> *Pennsylvania Public Utility Commission v. Philadelphia Electric Company*, 60 PA PUC 1, 22 (1985).

settlement benefits ratepayers as it allows for the resolution of a proceeding in a timely manner while avoiding significant additional expenses. I&E is of the opinion that an agreement as to the resolution of each and every disputed issue in this proceeding would not have been possible without judicial intervention. The involvement of the Administrative Law Judge (“ALJ”) would have added time and expense to this proceeding. Avoiding unnecessary complexity will benefit ratepayers by keeping the expenses associated with this filing at a reasonable level.

The Chairman of the Commission has commented on “Black Box” settlements with his statement that the “[d]etermination of a company’s revenue requirement is a calculation that involves many complex and interrelated adjustments affecting revenue, expenses, rate base and the company’s cost of capital. To reach an agreement on each component of a rate increase is an undertaking that in many cases would be difficult, time-consuming, expensive and perhaps impossible. Black box settlements are an integral component of the process of delivering timely and cost-effective regulation.”<sup>2</sup>

This increased level of “Black Box” revenue adequately balances the interests of ratepayers and the Company. The Company will receive sufficient operating funds in order to provide safe and adequate service while ratepayers are protected from exorbitant rates and are somewhat assured of continued service at a high level of reliability. Mitigation of the level of the rate increase occurred prior to the filing of the base rate increase request.

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<sup>2</sup> See, Statement of Commissioner Robert F. Powelson, *Pennsylvania Public Utility Commission v. Wellsboro Electric Company*, Docket No. R-2010-2172662. See also, Statement of Commissioner Robert F. Powelson, *Pennsylvania Public Utility Commission v. Citizens’ Electric Company of Lewisburg, PA*, Docket No. R-2010-2172665.

I&E had preliminary discussions with the Company and acknowledges that the filing consists of a claimed mitigated rate request. The I&E analysis makes no representation that a higher requested level is appropriate. I&E merely represents that, based on its analysis, the requested base rate revenue increase of \$875,000 is adequately supported. The agreed to revenue requirement supports the standard for approval of a settlement as the resulting rates are just and reasonable and in accordance with the Public Utility Code and all pertinent case law.

10. In addition, the Settlement provides that the Company will provide updated schedules on, or before, April 1, 2014 and April 1, 2015 showing all going-level adjustments, actual capital expenditures, plant additions and retirements for the twelve months ending December 31, 2013 and December 31, 2014 respectively. Also, in NRG's next base rate case proceeding, the Company will prepare a comparison of its actual expenses and rate base additions to the projections provided in this case. In light of the extended time allowed for the projection of rate base investment by recent legislation, I&E offers that interim reporting requirements are in the public interest as it allows for the timely review of the accuracy of the estimates provided by the Company in its projected test year. This interim report will allow for the verification that projected plant investments are being incurred. This review will allow for a more informed analysis in the Company's next rate filing. Accurate projections are necessary to ensure that ratepayers are not providing a return on an investment that is not used in the provision of public service. In addition, the Company will have current information as to the status of its planned investment to assist in maintaining the reliability of its system. Projections, by their very nature, are estimates.

Additional information that allows for a prudent review in subsequent proceedings is in the best interests of all parties.

11. Although I&E did not file testimony, I&E fully supports the Settlement and believes that all issues have been satisfactorily resolved through Discovery and discussions with the Company and are incorporated into the “Black Box” resolution of the revenue requirement in this proceeding. Line by line identification of the ultimate resolution of every averment is not necessary as I&E represents that the Settlement maintains the proper balance of the interests of all parties. Each signatory acknowledges the ultimate revenue allowance but makes no representation as to how this addition to base rate revenue was achieved. Because of the characteristics of “Black Box” settlements, no representation of the resolution of any issue not specifically identified is possible in future proceedings. I&E is satisfied that no further action is necessary and considers its investigation of this filing complete.

### **CONCLUSION**

12. Based on I&E’s analysis of the base rate revenue increase requested by NRG Energy Center Harrisburg LLC, acceptance of this proposed Settlement is in the public interest. Resolution of these provisions by settlement rather than continued litigation will avoid the additional time and expense involved in formally pursuing all issues in this proceeding. While the revenue increase allowance cannot exceed the amount requested, pursuing litigation through to its conclusion would have driven expenses even higher which may have impacted the utilization of funds by the Company. Increased rate case expense would require the diversion of funds from operational

concerns. Curtailment of expenses in this proceeding is in the public interest as it allows funds to be allocated to the operations of the Company which will provide the most benefit to ratepayers.

13. I&E further submits that acceptance of the foregoing Settlement will negate the need to engage in additional litigation including the preparation of multiple levels of testimony as well as Main Briefs, Reply Briefs, Exceptions and Reply Exception. As stated above, the avoidance of further rate case expense by settlement of these provisions in this Base Rate Investigation proceeding best serves the interests of NRG and its customers.

14. The Settlement Agreement is conditioned upon the Commission's approval of all terms and conditions contained therein and should the Commission fail to grant such approval or otherwise modify the terms and conditions of the Settlement, it may be withdrawn by I&E or any of the signatories.

15. I&E agrees to settle the disputed issue as to the proper level of additional base rate revenue through a "Black Box" agreement. Although specific expenses have been deemed included in the allowed revenue increase, no identification of the revenue requirement applicable to these claims has been established. Furthermore, no other regulatory determinations are associated with the identification of these projects that are deemed to be recognized in the Company's increased revenue requirement. I&E acknowledges that a claim has been made for the repair/painting of the South Stack as

well as the repair of the plant roof. However, nothing in the resolution of this proceeding assigns any level of awarded revenue to these projects. I&E's agreement to settle this case is made without any admission or prejudice to any position that I&E might adopt during subsequent litigation or the continuation of this litigation in the event the Settlement is rejected by the Commission or otherwise properly withdrawn by any of the signatories.

16. If the ALJ recommends that the Commission adopt the Settlement Agreement as proposed, I&E has agreed to waive the right to file Exceptions. However, I&E has not waived its rights to file Exceptions with respect to any modifications to the terms and conditions of the Settlement Agreement, or any additional matters, that may be proposed by the ALJ in his Recommended Decision. I&E also reserves the right to file Reply Exceptions to any Exceptions that may be filed by OCA, OSBA or the Company.

**WHEREFORE**, the Commission's Bureau of Investigation and Enforcement represents that it supports the *Joint Petition for Approval of Unanimous Settlement of All Issues* as being in the public interest and respectfully requests that Administrative Law Judge Dennis J. Buckley recommend, and the Commission subsequently approve, the foregoing Settlement, including all terms and conditions contained therein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard A. Kanaskie", written over a horizontal line.

Richard A. Kanaskie  
Deputy Chief Prosecutor  
PA Attorney I.D. #80409

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
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Dated August 1, 2013

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APPENDIX E

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, et al.	:	
	:	Docket Nos. R-2013-2350265
	:	C-2013-2366273
NRG Energy Center Harrisburg LLC	:	C-2013-2367232

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OFFICE OF CONSUMER ADVOCATE  
STATEMENT IN SUPPORT OF SETTLEMENT

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The Office of Consumer Advocate (OCA), one of the signatories to the Joint Petition For Approval of Unanimous Settlement of All Issues for NRG Energy Center Harrisburg LLC's (NRG or Company) base rate proceeding, recommends that the Pennsylvania Public Utility Commission (Commission) find the Settlement to be in the public interest and approve the Settlement for the following reasons:

**I. Background**

On April 12, 2013, NRG filed Supplement No. 48 to Tariff Steam- PA PUC No. 4 (Supplement No. 48) which proposed to become effective on June 11, 2013. Supplement No. 48 proposed to increase the Company's base rates for its steam service by \$875,000, an increase of 11.46% on a total bill basis (*i.e.* inclusive of fuel costs) for NRG's 142 Rate 1 customers. NRG's one Rate 2 customer would see a proportionate increase in rates. The Company filed notice for an increase of \$875,000 in annual base rate revenues, but included in its filing information that the Company claimed supported a \$1,387,400 increase.

On May 31, 2013, the OCA filed a Formal Complaint and Public Statement against the proposed rate increase. The OCA Complaint was docketed at C-2013-2366273. On May 22,

2013, the Bureau of Investigation and Enforcement (I&E) entered its appearance. On June 5, 2013, the Office of Small Business Advocate (OSBA) filed a Formal Complaint and Public Statement and was docketed at C-2013-2367232.

At the Public Meeting on June 13, 2013, the Commission instituted an investigation into the rate increase, suspended the proposed effective date of the rate increase until January 14, 2014, and assigned the matter to the Office of Administrative Law Judge (OALJ). The matter was subsequently assigned to Administrative Law Judge Dennis J. Buckley.

On June 18, 2013, a Prehearing Conference and Mediation Notice was issued which set the Prehearing and Mediation Conference in this matter.

On June 25, 2013, NRG voluntarily extended the effective date of the proposed base rates an additional sixty (60) days until March 15, 2014 so that the parties could pursue settlement discussions.

On July 16, 2013, ALJ Buckley issued a Prehearing Order. The Prehearing Conference before ALJ Buckley, followed by a Mediation Conference before Mediator Cynthia Lehman, was held on July 18, 2013.

On July 22, 2013, the Joint Petitioners advised the ALJ that they had reached a unanimous settlement in principle of all issues in the case and requested a suspension of the procedural schedule. On July 26, 2013, ALJ Buckley consolidated the OCA and OSBA Complaints with the base rate proceeding and suspended the procedural schedule pending submission of the Settlement. The ALJ directed the parties to submit all settlement documents by August 2, 2013.

The parties engaged in several discovery and settlement discussions as well as the mediation session. As a result of these discussions, the parties were able to achieve a settlement.

As set forth below, the OCA submits that the terms and conditions of the settlement are in the public interest.

## **II. Terms and Settlement**

### **A. Stipulated Rate Increase**

The Settlement provides that NRG will be permitted to increase its annual base rate revenues in the amount of \$875,000, using a fully projected future test year ending January 11, 2015. Settlement at ¶ 13 (a). The Company filed notice for an increase of \$875,000 in annual base rate revenues, but included in its filing information that the Company claimed supported a \$1,387,400 increase. The Company stated that it requested the lesser amount “in order to preserve competitive pricing as much as possible.” Statement of Reasons for Tariff Change at 1.<sup>1</sup> After review of the Company’s filing, testimony, participation in discovery sessions with the Company, and in consideration of the information provided in support of the \$1.3 million “potential” claim, the OCA determined that the \$875,000 request represented a just and reasonable result. The OCA found that NRG’s proposal to limit the increase to \$875,000 is in the public interest.<sup>2</sup> In addition, due to the early Settlement of the proceeding, the customers and the public benefit from the foregone expense of further litigation. For these reasons, the OCA submits that the Settlement amount of \$875,000 is in the interests of both customers and the public.

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<sup>1</sup> Concurrently with the Settlement, the Company has also filed a Stipulation of Evidence in order to enter into the evidentiary record materials including the Company’s Tariff Supplement No. 48; Supporting Information required by 52 Pa. Code § 53.52 (a); NRGH Statement No. 1 and attached Exhibits; and NRGH Statement No. 2 and attached Exhibits.

<sup>2</sup> The OCA notes that this is a black box settlement and specifically notes in Paragraph 17 that the Settlement does not indicate “the Joint Petitioner’s agreement to the methodologies, calculations and claims as used or submitted by NRG in its filing.” Settlement at ¶ 17.

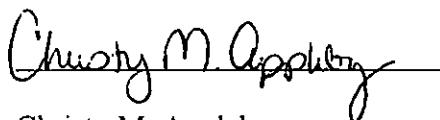
Although the Settlement is a black box settlement, the parties have specifically identified that the rate increase includes and fully recovers the costs of Repair/Painting of the Company's South Stack and Repair of the Plant Roof. The Company specifically agrees that it will not include these projects in any future base rate proceeding. NRG also agrees that it will file a letter and inform all parties upon completion of the project. The OCA submits that this will ensure that both of these projects are completed to the benefit of ratepayers and that these costs will not be claimed again.

Further, pursuant to the requirements of Act 11, Section 315(e), NRG will provide to the Commission's Bureau of Technical Services and the statutory advocates updates to Schedules included in NRGH Exhibit No. KLL-1. Settlement at ¶ 13(e). The Settlement provides that the Company will update these Schedules to include all going-level adjustments, actual capital expenditures, plant additions and retirements for the twelve months ending December 31, 2013 and December 31, 2014. Id. The Company will also include a comparison of its actual expenses and rate base additions to its projections in this case. Id. The OCA submits that in addition to being a requirement of Act 11, the information will benefit all parties in understanding the projections included in the fully forecasted future test year and help to evaluate information provided in the Company's next base rate proceeding.

### III. Conclusion

For the foregoing reasons, the Office of Consumer Advocate submits that the terms and conditions of the proposed Settlement are in the public interest and in the interest of NRG's customers and should be approved by the ALJ and the Commission.

Respectfully Submitted,



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DATE: August 2, 2013  
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY** :  
**COMMISSION** :  
 :  
**v.** : **Docket No. R-2013-2350265**  
 :  
**NRG ENERGY CENTER HARRISBURG LLC** :

**STATEMENT OF  
THE OFFICE OF SMALL BUSINESS ADVOCATE  
IN SUPPORT OF THE  
JOINT PETITION FOR APPROVAL OF  
UNANIMOUS SETTLEMENT OF ALL ISSUES**

**Introduction**

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers of utility services in the Commonwealth of Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. Pursuant to that statutory authority, the Office of Small Business Advocate (“OSBA”) filed a complaint in the above-captioned proceeding, which was initiated by NRG Energy Center Harrisburg LLC (“NRG Harrisburg” or the “Company”) on April 12, 2013.

The OSBA actively participated in the negotiations that led to the proposed settlement and is a signatory to the Joint Petition for Approval of Unanimous Settlement of All Issues (“*Joint Petition*”). The OSBA submits this statement in support of the *Joint Petition*.

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### **The Joint Petition**

The *Joint Petition* sets forth a comprehensive list of issues that were resolved through the negotiation process. The following issues was of particular significance to the OSBA when it concluded that the *Joint Petition* was in the best interests of NRG's small business customers.

Although the OSBA did not serve testimony in this proceeding, the OSBA did focus its efforts on evaluating the propriety of the cost of service study ("COSS") and rate design proposals submitted by NRG in its original filing. The OSBA also served discovery upon NRG on these issues.

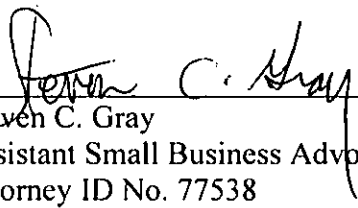
After reviewing the Company's COSS and rate design proposals, the OSBA concluded that there were no issues to be raised with respect to rate design. This is mainly because virtually all remaining customers (many former smaller customers were given incentives to leave the system) are now on the same rate.

Therefore, because the Company's COSS appears to be reasonably and accurately performed, and because NRG's filing presents no current rate design issues, the OSBA submits that the *Joint Petition's* proposal to adopt the Company originally filed rate design is just and reasonable.

**Conclusion**

For the reasons set forth in the *Joint Petition*, as well as the additional factors that are enumerated in this statement, the OSBA supports the proposed *Joint Petition* and respectfully requests that the ALJ and the Commission approve the *Joint Petition* in its entirety.

Respectfully submitted,

  
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Steven C. Gray  
Assistant Small Business Advocate  
Attorney ID No. 77538

Office of Small Business Advocate  
300 North Second Street, Suite 1102  
Harrisburg, PA 17101

Dated: August 1, 2013

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**CERTIFICATE OF SERVICE**  
**Docket No. R-2013-2350265**

I hereby certify that I have this day served a true copy of Joint Petition for Approval of Unanimous Settlement of All Issues, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

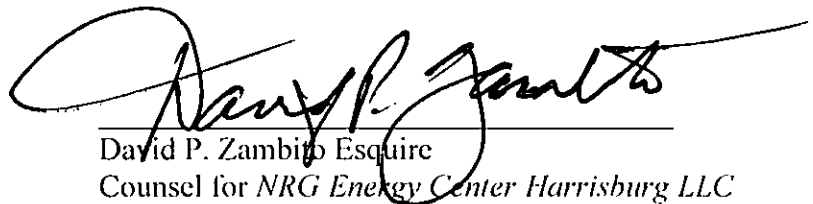
**VIA FIRST CLASS MAIL:**

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DATED: August 2, 2013

  
\_\_\_\_\_  
David P. Zambino Esquire  
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