



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166  
Tel: 717.232.8000 • Fax: 717.237.5300

Alessandra L. Hylander  
Direct Dial: 717.237.5435  
Direct Fax: 717.260.1689  
ahylander@mwn.com

March 7, 2016

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

**VIA ELECTRONIC FILING**

**RE: Petition of Pennsylvania Electric Company for Approval to Establish and Implement a Distribution System Improvement Charge;  
Docket No. P-2015-2508936**

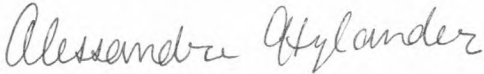
Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission is the Petition to Intervene and Answer of the Penelec Industrial Customer Alliance ("PICA") in the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to these proceedings are being duly served.

Very truly yours,

McNEES WALLACE & NURICK LLC

By   
Alessandra L. Hylander

Counsel to the Penelec Industrial Customer Alliance

/lmc

Enclosures

c: Administrative Law Judge Charles E. Rainey, Jr. (via e-mail and First-Class Mail)  
Certificate of Service

[www.mwn.com](http://www.mwn.com)

HARRISBURG, PA • LANCASTER, PA • SCRANTON, PA • STATE COLLEGE, PA • COLUMBUS, OH • WASHINGTON, DC

## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

### VIA E-MAIL AND FIRST-CLASS MAIL

John L. Munsch  
Pennsylvania Energy Company  
800 Cabin Hill Drive  
Greensburg, PA 15601  
[jmunsch@firstenergycorp.com](mailto:jmunsch@firstenergycorp.com)

Anthony C. DeCusatis  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
[adecusatis@morganlewis.com](mailto:adecusatis@morganlewis.com)

Daniel G. Asmus  
Office of Small Business Advocate  
Suite 202, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101  
[dasmus@pa.gov](mailto:dasmus@pa.gov)

Johnnie E. Simms  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor West  
Harrisburg, PA 17120  
[josimms@pa.gov](mailto:josimms@pa.gov)

Tanya J. McCloskey  
Office of Consumer Advocate  
555 Walnut Street  
Fifth Floor, Forum Place  
Harrisburg, PA 17101-1923  
[tmccloskey@paoca.org](mailto:tmccloskey@paoca.org)

Scott J. Rubin  
333 Oak Lane  
Bloomsburg, PA 17815  
[scott.j.rubin@gmail.com](mailto:scott.j.rubin@gmail.com)  
*Counsel for International Brotherhood of  
Electrical Workers Local 777*

Thomas J. Sniscak  
William E. Lehman  
Hawke McKeon & Sniscak LLP  
100 N. 10th Street  
P.O. Box 1778  
Harrisburg, PA 17105  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)  
[welehman@hmslegal.com](mailto:welehman@hmslegal.com)  
*Counsel for Pennsylvania State University*

Charles E. Thomas, III  
Thomas, Niesen & Thomas, LLC  
212 Locust Street, Suite 600  
Harrisburg, PA 17101  
[cet3@tntlawfirm.com](mailto:cet3@tntlawfirm.com)  
*Counsel for Noble Americas Energy  
Solutions LLC*

Thomas T. Niesen  
Thomas, Niesen & Thomas, LLC  
212 Locust Street, Suite 600  
Harrisburg, PA 17101  
[tniesen@tntlawfirm.com](mailto:tniesen@tntlawfirm.com)  
*Counsel for Pennsylvania Rural Electric  
Association and Allegheny Electric  
Cooperative, Inc.*

Certificate of Service

P-2015-2508936

Page 2


David J. Dulick  
Pennsylvania Rural Electric Association  
Allegheny Electric Cooperative, Inc.  
212 Locust Street  
P.O. Box 1266  
Harrisburg, PA 17108-1266  
[david\\_dulick@prea.com](mailto:david_dulick@prea.com)

Harry S. Geller  
Elizabeth R. Marx  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101-1414  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)  
*Counsel for CAUSE-PA*

Michael Panfil  
John Finnigan  
Environmental Defense Fund  
1875 Connecticut Ave., N.W.  
Washington, DC 20009  
[mpanfil@edf.org](mailto:mpanfil@edf.org)  
[jfinnigan@edf.org](mailto:jfinnigan@edf.org)

Heather Langeland  
200 First Avenue, Suite 200  
Pittsburgh, PA 15222  
[langeland@pennfuture.org](mailto:langeland@pennfuture.org)  
*Counsel for PennFuture*

Donald R. Wagner  
Linda R. Evers  
Michael A. Gruin  
Stevens & Lee  
111 N. Sixth Street  
Reading, PA 19601  
[drw@stevenslee.com](mailto:drw@stevenslee.com)  
[lre@stevenslee.com](mailto:lre@stevenslee.com)  
[mag@stevenslee.com](mailto:mag@stevenslee.com)  
*Counsel for Wal-Mart Stores East LP and  
Sam's East, Inc.*

  
\_\_\_\_\_  
Alessandra L. Hylander

Counsel to the Penelec Industrial Customer Alliance

Dated this 7<sup>th</sup> day of March, 2016, at Harrisburg, Pennsylvania

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Pennsylvania Electric Company for :                   Docket No. P-2015-2508936  
Approval to Establish and Implement                   :  
a Distribution System Improvement Charge            :

---

**PETITION TO INTERVENE AND ANSWER OF  
THE PENELEC INDUSTRIAL CUSTOMER ALLIANCE**

---

TO THE HONORABLE, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to Sections 5.71 through 5.74 of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Regulations, 52 Pa. Code §§ 5.71 - 5.74, Penelec Industrial Customer Alliance ("PICA") hereby files this Petition to Intervene in response to the above-captioned Petition of Pennsylvania Electric Company (the "Company"). Furthermore, pursuant to Section 5.61(a) of the Commission's Regulations, 52 Pa. Code § 5.61(a), PICA hereby files this Answer in response to the above-captioned Petition of the Company.

Act 11 of 2012 ("Act 11") provides utilities with the opportunity to implement a Distribution System Improvement Charge ("DSIC") to recover reasonable and prudent costs incurred to repair, improve, or replace eligible distribution system property as defined in 66 Pa. C.S. § 1351(1). In order to recover costs through a DSIC, the utility must first file a Long Term Infrastructure Improvement Plan ("LTIIIP") and obtain the Commission's approval in accordance with 66 Pa. C.S. § 1352 and 52 Pa. Code §§ 121.7(a)-(d).

On October 19, 2015, the Company filed with the Commission its Petition for approval of its LTIIIP, which proposed \$ 56.74 million in upgrades for facilities and equipment within the Company's distribution system.

On November 18, 2015, PICA filed Comments on the Company's LTIIIP. PICA's comments did not oppose the LTIIIP, but requested further review of the LTIIIP to ensure it was fair, just, and reasonable.

On February 11, 2016, the Commission approved the Company's LTIIIP.

On February 16, 2016, the Company filed with the Commission its Petition requesting approval to establish a DSIC that would take effect on July 1, 2016.

In response to the Company's filing, PICA now submits this Petition to Intervene and Answer. In support of its Petition to Intervene and Answer, PICA asserts the following:

### **I. PETITION TO INTERVENE**

1. PICA is an ad hoc group of energy-intensive large commercial and industrial ("Large C&I") customers receiving electric service from the Company primarily under Rate Schedules GP and LP, as well as available riders. PICA members annually consume approximately 791,687,658 kWh of electricity in their manufacturing and operational processes, and electricity costs comprise a significant element of their respective costs of operation.

2. PICA has been actively involved in many proceedings related to the introduction of electric generation supply choice in the Company's service territory. PICA consistently participates in, *inter alia*, the Company's base rate case proceedings and Default Service Plan proceedings. PICA also submitted Comments on the Company's recent LTIIIP proceeding at Docket No. P-2015-2508936.

3. The PUC's disposition of the Company's Petition in this instance may impact the rates PICA members pay for electric service.

4. The names and address of PICA's attorneys are:

Charis Mincavage (Pa. I.D. No. 82039)  
Teresa K. Schmittberger (Pa. I.D. No. 311082)  
Alessandra L. Hylander (Pa. I.D. No. 320967)  
McNEES WALLACE & NURICK LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 237-5300  
cmincavage@mwn.com  
tschmittberger@mwn.com  
ahylander@mwn.com

5. For purposes of this proceeding, PICA includes the companies listed in Appendix A hereto. PICA will update Appendix A during the course of this proceeding as needed to reflect changes in its membership.

6. The Company's Petition requests implementation of an initial DSIC rate of 0.043% to become effective on July 1, 2016. The Company proposes to allocate this DSIC across all customer classes with the exception of customers receiving service under Rate Schedules GP and LP at voltage levels over 46,000 volts.

7. Therefore, consistent with 52 Pa. Code § 5.72(a), PICA has a significant interest in this proceeding that is not represented by any other party of record. Consequently, PICA should be granted full-party status in this proceeding.

## II. ANSWER

### A. *Introduction*

8. This answer identifies specific issues impacting PICA. PICA reserves the right, however, to raise and address additional issues of concern during the course of the proceeding based on further review of the Petition, the Company's Direct Testimony, and discovery.

9. As filed, the Company's Petition proposes to increase revenues available to fund distribution system improvements by instituting a DSIC at an initial rate of 0.043%, with the DSIC ultimately capped at 5% of billed distribution revenues. However, the Company's Petition contains numerous ambiguities that warrant further review by the parties and the Commission. Specifically, although PICA does not oppose the Company's DSIC, PICA requests that the Commission carefully consider whether the Company's proposed eligible property and cost recovery methods are reasonable, prudent, and compliant with Act 11 and applicable Commission rules, regulations, and precedent.

10. Thus, for the reasons set forth above and further discussed below, the PUC should require the Company to produce evidence demonstrating that the Company's proposed DSIC is reasonable, fair, and compliant with Act 11 and applicable Commission rules, regulations, and precedent before granting the Company's request.

*B. Argument*

11. An initial review of the Company's Petition indicates that its proposed DSIC may not be in the public interest. The Company has not fully demonstrated that full allocation of the DSIC among customers in all rate classes with the exception of customers taking service under Rate Schedules GP and LP at voltage levels over 46,000 volts (the "Exempt Classes") is just and reasonable. Some customers outside of the Exempt Classes only use a small portion of distribution infrastructure and therefore it is unjust and unreasonable to impose a DSIC on these customers.

12. Furthermore, PICA is concerned with the Company's method of calculating the DSIC cap of 5% of billed distribution revenues. The Company has not demonstrated what clauses and riders will be included in calculating the 5% DSIC cap. The Company only states

that "the DSIC is capped at 5% of the amount billed to customers for distribution service (including all applicable clauses and riders) as determined on an annualized basis." *See* Petition, Penelec Exhibit KMS-2, p. 4. Without further information as to which clauses and riders are applicable, PICA remains concerned that this ambiguous language permits recovery for DSIC-ineligible investments through the DSIC (such as Act 129 Energy Efficiency and Conservation charges). As referenced earlier, a utility can only recover costs for distribution system improvements via a DSIC. *See* 66 Pa. C.S. §§ 1351(1), 1352, and 1353. A grant of the Company's Petition in its current form, absent more thorough review of its DSIC cap calculation methods, would be inadvisable from a policy standpoint and inconsistent with the Commission's Regulations. *See id.*

13. Further analysis by the parties and the Commission is warranted to ensure that the DSIC is properly and lawfully calculated. Where the Company has not sufficiently shown that its DSIC is proper, reasonable, and fairly allocated among customers, the PUC should not grant its Petition.



### III. CONCLUSION

**WHEREFORE**, for the reasons stated above, the Penelec Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission grant this Petition to Intervene and Answer and provide the Penelec Industrial Customer Alliance with full-party status in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By Alessandra Hylander  
Charis Mincavage (Pa. I.D. No. 82039)  
Teresa K. Schmittberger (Pa. I.D. No. 311082)  
Alessandra L. Hylander (Pa. I.D. No. 320967)  
McNEES WALLACE & NURICK LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 237-5300  
cmincavage@mwn.com  
tschmittberger@mwn.com  
ahylander@mwn.com

Counsel to the Penelec Industrial Customer Alliance

Dated: March 7, 2016



## APPENDIX A

### PENELEC INDUSTRIAL CUSTOMER ALLIANCE

American Refining Group Inc.  
Appvion, Inc.  
Electralloy, a G.O. Carlson, Inc., Co.  
Ellwood National Steel  
Erie Forge & Steel, Inc.  
Glen-Gery Corporation  
Indiana Regional Medical Center  
Pittsburgh Glass Works  
Sheetz, Inc.  
Standard Steel  
Team Ten, LLC - American Eagle Paper Mills  
The Plastek Group  
The Proctor & Gamble Paper Products Co.  
U.S. Silica Company  
Wegmans Food Markets, Inc.