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March 24, 2016

VIA eFILING

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

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:

Enclosed for filing is the **Reply of Pennsylvania Electric Company to New Matter set forth in the Joint Answer of Citizens for Pennsylvania's Future and the Environmental Defense Fund** (the "Reply") in the above-captioned matter.

As evidenced by the enclosed Certificate of Service, copies of the Reply have been served on all parties to this proceeding.

Very truly yours,

Anthony C. DeCusatis

ACD/ap
Enclosures

c: Per Certificate of Service (w/encls.)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PENNSYLVANIA ELECTRIC COMPANY FOR APPROVAL TO ESTABLISH AND IMPLEMENT A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE	:	**Docket Nos. P-2015-2508936**

REPLY OF PENNSYLVANIA ELECTRIC COMPANY TO NEW MATTER SET FORTH IN THE JOINT ANSWER OF CITIZENS FOR PENNSYLVANIA'S FUTURE AND THE ENVIRONMENTAL DEFENSE FUND

NOW COMES, the Respondent, Pennsylvania Electric Company ("Penelec" or the "Company"), pursuant to 52 Pa. Code § 5.63, and submits this Reply to the new matter set forth in the joint Answer filed by Citizens for Pennsylvania's Future ("PennFuture") and the Environmental Defense Fund ("EDF") on March 11, 2016 to the Petition Of Pennsylvania Electric Company For Approval To Establish And Implement A Distribution System Improvement Charge ("Petition"), which was filed and served upon PennFuture and EDF on February 16, 2016.[1]

I. INTRODUCTION

Approximately six months before it filed its Petition, on October 19, 2015, the Company filed with the Pennsylvania Public Utility Commission ("PUC" or the "Commission") the Petition Of Pennsylvania Electric Company For Approval Of Its Long-Term Infrastructure Improvement Plan ("LTIIP Petition") to which the Company's Long-Term Infrastructure Improvement Plan ("LTIIP") was appended. The Company served a copy of its LTIIP Petition and LTIIP upon the parties to its prior base rate proceeding, including PennFuture and EDF.

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[1] Pursuant to 52 Pa. Code § 1.56(a)(4), the Company's Petition was served by electronic mail prior to 4:30 p.m. local time. The Commission's regulations provide that an answer to the Petition was due within 20 days of service, or by March 7, 2016.

Comments on the LTIIP Petition were filed by the Penelec Industrial Customer Alliance ("PICA"), an *ad hoc* group of industrial customers, and the Office of Consumer Advocate ("OCA"). The Office of Small Business Advocate filed an Answer and Notice of Intervention. PennFuture and EDF did not file either comments upon, or an Answer to, the LTIIP Petition.

PICA's comments noted that they did not oppose the Company's LTIIP but reserved "their right to raise and address cost recovery and allocation issues" in a subsequent proceeding to establish a Distribution System Improvement Charge ("DSIC"). The OCA's comments recommended that the Commission ask the Company to provide additional information to ensure that its LTIIP "accelerated infrastructure repair and replacement in a cost effective manner as required by Act 11."[2] The Company filed a Reply to the OCA's Comments, which was also served on PennFuture and EDF.

On December 11, 2015, the Commission issued a Secretarial Letter requesting additional details: (1) to assess the extent to which the initiatives in the LTIIP represented an acceleration of repair and replacement of the Company's distribution infrastructure; (2) to support the cost-effectiveness of those projects; and (3) to determine the LTIIP's impact on projected reliability performance as measured by the SAIDI and SAIFI indices.[3] On January 8, 2016, the Company submitted responses containing the information requested in the Commission's Secretarial Letter, which were posted on the Commission's website at the above-referenced docket.

On February 11, 2016, the Commission issued the LTIIP Order, by which it approved the Company's LTIIP, as follows:

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2 *See Petition Of Pennsylvania Electric Company For Approval Of Its Long-Term Infrastructure Improvement Plan*, Docket No. P-2015-2508936 (Final Order entered Feb. 11, 2016), p. 3 (hereafter, the "LTIIP Order").

3 LTIIP Order, p. 4.

LTIIP SUMMARY

The Commission reviewed the eight required elements for each FirstEnergy Company Petition for Approval of their LTIIPs and any resulting Petition comments. The FirstEnergy Companies' proposed LTIIPs appear to demonstrate their associated expenditures are reasonable, cost effective, and designed to ensure and maintain efficient, safe, adequate, reliable, and reasonable service to their customers.

CONCLUSION

The Commission finds that the FirstEnergy Companies' Long-Term Infrastructure Improvement Plans and the manner in which they were filed conform to the requirements of Act 11 and our Final Implementation Order. The plans, as approved herein, are designed to maintain safe, adequate and reliable service and, as such, the FirstEnergy Companies shall be required to comply with the infrastructure replacement schedule and elements of each plan. **THEREFORE,**

IT IS ORDERED...

2. That the Petition for Approval of Long-Term Infrastructure Improvement Plan (LTIIP) filed by Pennsylvania Electric Company is approved, consistent with this Order.

In the LTIIP Order, the Commission discussed its examination of the types and ages of eligible property encompassed by the Company's LTIIP and included a table identifying and describing each of the seventeen infrastructure initiatives the Company proposed to undertake pursuant to its LTIIP.[4] Pursuant to Section 1352 of the Public Utility Code, 66 Pa.C.S. § 1352(a)(1), and the Commission's Final Order implementing Act 11 of 2012,[5] the Commission stated as follows:

> Upon review of FirstEnergy's LTIIPs and all supplemental information filed, the Commission finds the schedule for planned repair and replacement of eligible property requirements of the Final Implementation Order has been fulfilled. The Commission

[4] LTIIP Order, pp. 9-10 and Appendix A.

[5] *Implementation of Act 11 of 2012 – Final Implementation Order*, Docket No. M-2012-2293611 (August 2, 2012) (hereafter "*Final Implementation Order*").

> acknowledges the level of detail contained within the LTIIPs conforms to Commission requirements and is presented in a manner that allows for complete and efficient review of, and reference to, these materials.

The Company obtained Commission approval of its LTIIP before filing its Petition to establish a DSIC in order to comply with the Commission's guidance in the *Final Implementation Order*, where the Commission stated as follows:

> Finally, we recommend that utilities . . . file their respective long-term infrastructure improvement plans in advance of filing a DSIC petition. If the LTIIP is, upon review, approved by the Commission, *this can reduce the scope of issues in the DSIC petition* and expedite the process of getting this new rate mechanism in place.[6]

Thus, the *Final Implementation Order* makes it clear that all issues pertaining to a utility's LTIIP are to be addressed and resolved in the proceeding for approval of its LTIIP.

As previously noted, on February 16, 2016, the Company filed its Petition requesting approval to file the DSIC Rider appended to its Petition as Exhibit KMS-2 and, thereby, establish a DSIC to become effective on July 1, 2016. As required by 66 Pa.C.S. § 1353(b)(3) and the *Final Implementation Order*, the Company also appended a copy of its previously-approved LTIIP to its Petition (Exhibit KMS-1).

On March 7, 2016, PennFuture and EDF jointly filed a Petition to Intervene with respect to the Company's Petition. As previously noted, on March 11, 2016, PennFuture and EDF jointly filed their Answer to the Petition ("PF/EDF Answer").

II. REPLY TO NEW MATTER

The PF/EDF Answer is divided into two parts, which are captioned First Defense (p. 2) and Second Defense (p. 4). The First Defense contains responses that affirm or deny the

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[6] *Id.*, p. 21 (emphasis added).

averments in each numbered paragraph of the Petition. The Second Defense sets forth new matter consisting of a specific request that the Petition be "dismissed," as follows:

> The Company's Petition should be dismissed because the Company has failed to establish that it will use the eligible property to perform Volt/VAR Control; therefore, the DSIC charge is not in the public interest and will not result in the provision and maintenance of adequate, efficient, safe, reliable and reasonable service.

The request for dismissal set forth in the Second Defense of the PF/EDF Answer is DENIED. The alleged basis for "dismissal" is improper and invalid for two principal reasons.

First, by their Second Defense, PennFuture and EDF are attempting an improper collateral attack on the Commission's LTIIP Order. As previously explained, by that Order, the Commission approved the Company's LTIIP and, thereby, found and determined that it is "adequate and sufficient to ensure and maintain adequate, efficient, safe, reliable and reasonable service . . ."[7] The *Final Implementation Order* also speaks directly to this point by describing what it is that the Commission approves when it approves a utility's LTIIP:

> In order to qualify for DSIC recovery, Section 1352 requires that a utility submit a LTIIP for Commission approval. *See* 66 Pa. C.S. § 1352(a). This provision ensures that the quarterly DSIC repairs, improvements, and replacements to eligible property are being made consistent with a LTIIP that has carefully examined the utility's current distribution infrastructure, including its elements, age, and performance and that also reflects reasonable and prudent planning of expenditures over the course of many years to replace and improve aging infrastructure in order to maintain the safe, adequate, and reliable service required by law. *See* 66 Pa. C.S. § 1501.[8]

In short, the LTIIP Order conclusively forecloses PennFuture and EDF from raising the issue they offered as a purported reason to "dismiss" the Petition. The proffered issue relates

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[7] 66 Pa.C.S. § 1352(a)(7).

[8] *Final Implementation Order*, p. 11.

solely to the nature of the projects to be included in an electric utility's LTIIP and, because the Commission previously approved the Company's LTIIP, that issue has been decided and is not within the scope of this proceeding.

Second, there is nothing in Section 1353 of the Public Utility Code,[9] the *Final Implementation Order* or the Commission's orders approving DSICs for other electric utilities that states an electric utility cannot establish and implement a DSIC unless its "eligible property" includes equipment that will "perform Volt/VAR Control."[10] Additionally, the Commission has approved DSIC riders for other electric utilities without requiring that their eligible property include any "Volt/VAR Control" projects.[11]

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9 66 Pa.C.S. § 1353. Section 1353 specifies the requirements of a Petition for approval to establish a DSIC.

10 *See, e.g., Petition Of PECO Energy Company For Approval Of Its Electric Long Term Infrastructure Improvement Plan And To Establish A Distribution System Improvement Charge For Its Electric Operations*, Docket Nos. P-2015-2471423 and C-2015-2476587 (Final Order entered Oct. 22, 2015); *Petition Of PPL Electric Utilities Corporation For Approval Of A Distribution System Improvement Charge*, Docket Nos. P-2012-2325034 and C-2013-2345750 et al (May 23, 2013)

11 *Id.*

WHEREFORE, for the foregoing reasons, Pennsylvania Electric Company denies that PennFuture and EDF are entitled to the relief requested in their Second Defense; asks that their Second Defense be rejected; and asks further that its Petition be approved and its proposed DSIC be authorized to become effective on July 1, 2016.

Respectfully submitted,

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Dated: March 24, 2016

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF METROPOLITAN EDISON COMPANY FOR APPROVAL TO ESTABLISH AND IMPLEMENT A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE	:	**Docket No. P-2015-2508942**
PETITION OF PENNSYLVANIA ELECTRIC COMPANY FOR APPROVAL TO ESTABLISH AND IMPLEMENT A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE	:	**Docket No. P-2015-2508936**
PETITION OF PENNSYLVANIA POWER COMPANY FOR APPROVAL TO ESTABLISH AND IMPLEMENT A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE	:	**Docket No. P-2015-2508931**
PETITION OF WEST PENN POWER COMPANY FOR APPROVAL TO ESTABLISH AND IMPLEMENT A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE	:	**Docket No. P-2015-2508948**

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **Reply to New Matter set forth in the Joint Answer of Citizens for Pennsylvania's Future and the Environmental Defense Fund** on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

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Respectfully submitted,

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Dated: March 24, 2016

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

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VERIFICATION

I, Kevin M. Siedt, Consultant, Rates and Regulatory Affairs, FirstEnergy Service Company, hereby state that the facts set forth in the Replies of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, the "Companies") to the New Matter set forth in the Answers of Citizens for Pennsylvania's Future and the Environmental Defense Fund to the Petitions filed by the Companies in the above-referenced matters 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, if any, in these

matters. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Date: March 24, 2016

Kevin M. Siedt

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