

# Morgan Lewis

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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 Power Company for Approval To Establish and Implement A Distribution System Improvement Charge  
Docket No. P-2015-2508931**

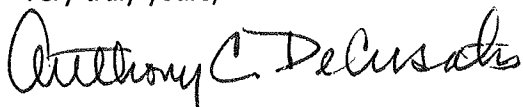
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Dear Secretary Chiavetta:

On March 7, 2016, the Penn Power Users Group ("PPUG") filed a single document captioned "Petition to Intervene and Answer" with respect to the above-referenced matter. In response to PPUG's pleading, Pennsylvania Power Company is filing the enclosed Answer and Reply to New Matter ("Answer and Reply") to PPUG's Petition and Answer, respectively.

As evidenced by the enclosed Certificate of Service, copies of the Answer and 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** : **Docket No. P-2015-2508931**  
**POWER COMPANY FOR APPROVAL** :  
**TO ESTABLISH AND IMPLEMENT A** :  
**DISTRIBUTION SYSTEM** :  
**IMPROVEMENT CHARGE** :

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served a copy of the **Pennsylvania Power Company's Answer and Reply to New Matter, Respectively, to the Penn Power Users Group's Petition to Intervene and Answer to the Above-Referenced Petition** on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

**VIA ELECTRONIC MAIL & FIRST CLASS MAIL**

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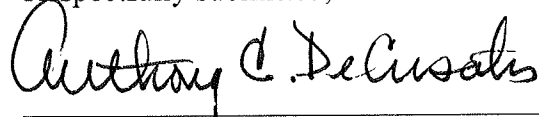
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Respectfully submitted,



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*Attorneys for Pennsylvania Power  
Company*

Dated: March 24, 2016

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PENNSYLVANIA** :  
**POWER COMPANY FOR APPROVAL** :  
**TO ESTABLISH AND IMPLEMENT A** : **Docket No. P-2015-2508931**  
**DISTRIBUTION SYSTEM** :  
**IMPROVEMENT CHARGE** :

**PENNSYLVANIA POWER COMPANY’S ANSWER AND  
REPLY TO NEW MATTER, RESPECTIVELY, TO THE  
PENN POWER USERS GROUP PETITION TO INTERVENE  
AND ANSWER TO THE ABOVE-REFERENCED PETITION**

NOW COMES, the Respondent, Pennsylvania Power Company (“Penn Power” or the “Company”), pursuant to 52 Pa. Code §§ 5.62, 5.63 and 5.66, and submits this Answer and Reply to New Matter with respect to the consolidated Petition to Intervene and Answer of the Penn Power Users Group (“PPUG”),<sup>1</sup> as follows:

**I. ANSWER TO PETITION TO INTERVENE**

1. Admitted in part, and denied in part. The Company lacks knowledge or information sufficient to form a belief as to the truth of the averments concerning the collective annual electricity use of PPUG’s members or the proportion of their total costs of operation that electricity represents. Accordingly, those averments are denied and proof thereof requested at a hearing, if any, in this matter. The remaining averments of Paragraph No. 1 are admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted.

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<sup>1</sup> PPUG filed a single document titled “Petition to Intervene and Answer of the Penn Power Users Group,” which contained consecutively numbered paragraphs.

## II. REPLY TO NEW MATTER

In Paragraph No. 9 of its Answer, PPUG states that it “does not oppose the Company’s DSIC” but requests that the Pennsylvania Public Utility Commission (“PUC” or 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.” Paragraph Nos. 11, 12 and 13, which appear under the subheading “Argument” in PPUG’s Answer, set forth new matter to which the Company is entitled to respond pursuant to 52 Pa. Code §§ 5.62 and 5.63. The Company’s reply is set forth below in numbered paragraphs that correspond to those in PPUG’s Answer.

11. Denied. As explained in its Petition For Approval To Establish And Implement A Distribution System Improvement Charge (“Petition”) filed on February 16, 2016, the terms of the Company’s proposed Distribution System Improvement Charge (“DSIC”) provide that, for the five-year term of the Company’s current, Commission-approved Long-Term Infrastructure Improvement Plan (“LTIP”), the DSIC rate will not be charged to customers served on its Rate Schedules GSDS and GT at voltage levels higher than 69,000 volts (which PPUG refers to in its Answer as the “Exempt Class”). The reason for not applying the DSIC rate to that class for the term of the current LTIP was explained in the direct testimony of Kevin M. Siedt (Statement No. 1, p. 6), which was filed with the Company’s Petition, as follows:

The DSIC will not apply to customers receiving service under Rate Schedules GSDS and GT at voltage levels over 69,000 volts. Although those customers receive service at what are, for Penn Power, transmission-level voltages, they are served by facilities that are properly classified as distribution plant, are recorded in the Company’s distribution plant accounts and have been included in the Company’s Pennsylvania distribution rate base for purposes of establishing its distribution base rates. However, Penn Power’s LTIP does not contain any infrastructure improvement projects for

distribution facilities operating at transmission-level voltages and, therefore, the Company's calculations of its DSIC rates, during the five-year term of its currently approved LTIIP, will not include any additions to such plant. Accordingly, it is appropriate that the DSIC not apply to customers receiving service under Rate Schedules GSDS and GT at voltage levels over 69,000 volts.

PPUG does not contest the Company's proposal. Rather, in its new matter, it argues that the Company should have gone even further and included in the Exempt Class members of PPUG that receive service at primary voltage, not transmission voltage. Although PPUG concedes that those customers are, in fact, served from facilities that are part of the Company's distribution system, PPUG nonetheless contends that they should be included in the Exempt Class because they "only use a small portion of distribution infrastructure." PPUG's proposal to expand the scope of the Exempt Class should be rejected for two principal reasons.

First, PPUG's position is contrary to the Commission's holding in the proceeding on the DSIC for PPL Electric Utilities Corporation ("PPL").<sup>2</sup> In that case, the Commission interpreted and applied operative language from its final order implementing Act 11 of 2012.<sup>3</sup> In the *Final Implementation Order*, the Commission stated that a DSIC surcharge should not be applied to customers receiving service at transmission voltage unless customers are served "from higher voltage facilities which are included within the EDC's distribution plant for ratemaking purposes." The Commission stated further that each electric distribution company proposing a DSIC should address this issue in its applicable tariff.

PPL proposed to apply its DSIC to customers served on its Rate Schedule LP-5 (which is limited to service at voltages of 69 kV and higher). The PPL Industrial Customer Alliance ("PPLICA"), representing a group of industrial customers, argued that PPL's DSIC should not

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<sup>2</sup> *Petition of PPL Elec. Util. Corp. for Approval of a Distribution System Improvement Charge*, Docket Nos. P-2012-2325034 *et al* (Final Order entered Apr. 9, 2015) (the "PPL Final Order").

<sup>3</sup> *Implementation of Act 11 of 2012 – Final Implementation Order*, Docket No. M-2012-2293611 (August 2, 2012), p. 46 (hereafter "*Final Implementation Order*").

apply to transmission voltage customers served on Rate LP-5. In support of its position, PPLICA presented evidence demonstrating that “the LP-5 class does not utilize the facilities repaired, improved or replaced through the DSIC.”<sup>4</sup> The Commission found that PPL had not presented any evidence to rebut the evidence presented by PPLICA and, therefore, ruled that PPL’s DSIC should not apply to customers served at transmission voltages on PPL’s Rate Schedule LP-5.<sup>5</sup>

In this case, the additional customers that PPUG proposes to exempt from the DSIC are, by its own admission, not served at “transmission” voltages. In addition, as PPUG also concedes, the customers it proposes to exempt from the DSIC are, in fact, served from portions of the Company’s distribution system that are the focus of the distribution system infrastructure initiatives set forth in the Company’s Commission-approved LTIIP. Simply stated, PPUG’s proposal satisfies none of the conditions established by the Commission in the *Final Implementation Order* and the *PPL Final Order* for excluding a class of customers from the DSIC.

Second, as explained above, what PPUG refers to as the Exempt Class was defined by the Company as customers that take service at transmission voltage from a category of higher voltage facilities to which the distribution system infrastructure improvements in the Company’s LTIIP simply do not apply. Stated another way, all of the infrastructure initiatives in the Company’s LTIIP are targeted at facilities operating at voltage levels lower than those of the “Exempt Class.” However, the same is not true for the additional customers PPUG proposes to exclude from the DSIC; PPUG admits those customers are receiving service from lower voltage

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<sup>4</sup> *PPL Final Order*, p. 66.

<sup>5</sup> *Id.*

facilities, which are within the categories of infrastructure encompassed by the Company's LTIIIP.

In summary, PPUG's proposal has no factual basis – as evidenced by averments in its own Answer, discussed above – and is contrary to the operative principles already established by the Commission in the *Final Implementation Order* and the *PPL Final Order*.

12. Denied. The new matter in Paragraph No. 12 of PPUG's Answer concerns the "distribution" revenue that should be included in the revenue base to determine the 5% "cap" on DSIC charges. The Company's proposed DSIC Rider incorporates the same language set forth in the Commission's Model Tariff approved in the *Final Implementation Order*, specifically, 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."<sup>6</sup> PPUG contends that this language is "ambiguous" and "permits recovery for DSIC-ineligible investments through the DSIC (such as Act 129 Energy Efficiency and Conservation charges)." PPUG's contention is wrong in two principal respects.

First, the level of revenue used to establish the revenue base for calculating the DSIC cap could not, under any circumstances, "permit recovery for DSIC-ineligible investments," as PPUG alleges. The investment in distribution infrastructure improvements that will be reflected in the Company's DSIC rates will be property identified and described in the Company's previously approved LTIIIP, which the Commission has already determined consists of DSIC-eligible property.<sup>7</sup> The revenue base used to determine the DSIC cap has no effect on the totality of "costs" that are being recovered because actual DSIC revenues must be reconciled to actual DSIC-eligible costs and over or under-recoveries must be refunded or recouped, pursuant to the

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<sup>6</sup> Compare Model Tariff, Section 4.A. (Customer Safeguards; Cap) with the comparable provision in the Company's proposed DSIC Rider (Exhibit KMS-2, p. 4).

<sup>7</sup> *Petition Of Pennsylvania Power Company For Approval Of Its Long-Term Infrastructure Improvement Plan*, Docket No. P-2015-2508931 (Final Order entered February 11, 2016), pp. 8-15.

express terms of the Model Tariff adopted by the Company. Increasing the revenue base used to calculate the DSIC cap could incrementally increase the cap. However, increasing the revenue base would not permit the Company to recover the cost of property that is not eligible for DSIC recovery because such property cannot, and will not, be reflected in DSIC-eligible costs used to calculate the DSIC rate and to which DSIC revenues must be reconciled.

PPUG's contention that revenues recovered under the Company's Energy Efficiency and Conservation Charge Rider should not be considered "distribution" revenues for purposes of calculating the DSIC cap is also wrong, as a matter of law. In the *PPL Final Order*, the Commission held that PPL's Act 129 Compliance Rider ("ACR"), which recovers PPL's cost of Act 129 energy efficiency and conservation compliance, as well as PPL's Competitive Enhancement Rider ("CER"), which recovers PPL's costs for competitive retail enhancements and customer education, are properly considered distribution revenues used to calculate the DSIC cap because they are non-bypassable charges included in customers' bills for distribution service.<sup>8</sup> The Commission affirmed that holding in its Order on Reconsideration, stating that "we find the amount billed to customers under applicable distribution rates, as delineated in the statute, includes the ACR and CER which are included in customers' distribution *bills* under Commission-approved rates."<sup>9</sup>

13. Denied. To the extent that Paragraph No. 13 avers the Commission must hold a hearing before approving the Company's DSIC, such averment is denied. The issues raised in PPUG's new matter lack merit and should be summarily rejected by the Commission. As explained above, as to PPUG's proposal to expand the Exempt Class, PPUG's own Answer concedes that there is no factual basis for that proposal; it is also contrary to established

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<sup>8</sup> *PPL Final Order*, pp. 61-63.

<sup>9</sup> *Petition of PPL Elec. Util. Corp. for Approval of a Distribution System Improvement Charge*, Docket Nos. P-2012-2325034 *et al* ("*PPL Order on Reconsideration*") (Oct. 1, 2015), p. 20 (emphasis in original).

Commission precedent. As also explained above, PPUG's claim that there is "ambiguity" with regard to the revenues to be included in the revenue base for determining the DSIC cap is directly contrary to the Commission's holdings in the *PPL Final Order* and the *PPL Order on Reconsideration*.

Nothing set forth in PPUG's Answer requires the Commission to hold a hearing before approving the Company's DSIC and authorizing it to become effective on July 1, 2016. In fact, the Commission approved PPL's proposed DSIC and authorized it to go into effect subject to refund or recoupment, and referred certain issues raised by parties in that case to the Office of Administrative Law Judge.<sup>10</sup> Moreover, the Commission did the same with respect to the DSIC Petitions of many other utilities.<sup>11</sup>

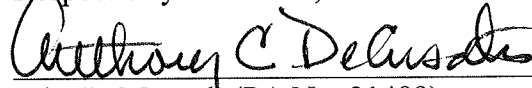
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<sup>10</sup> *Petition of PPL Elec. Util. Corp. for Approval of a Distribution System Improvement Charge*, Docket Nos. P-2012-2325034 *et al* (Order entered May 23, 2013), p. 20: "Upon review, the Commission finds that the Petition of PPL Electric for a Distribution System Improvement Charge complies with the requirements of Act 11 and our Final Implementation Order. Moreover, the Commission has reviewed the filing and does not find it to be inconsistent with the applicable law or Commission policy. Subject to recoupment and/or refund pending final resolution of the matters referred herein to the OALJ, PPL Electric may elect to implement a DSIC mechanism consistent with this order on ten day's notice."

<sup>11</sup> *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), pp. 37-39; *Petition Of PECO Energy Company For Approval To Establish A Distribution System Improvement Charge For Its Gas Operations*, Docket Nos. P-2015-2347340 and C-2015-2475763 (Final Order entered Sept. 11, 2015), pp. 19-21); *Petition Of Pennsylvania-American Water Company For Approval Of A Distribution System Improvement Charge*, P-2014-2431005 and C-2014-2433700 (Final Order entered Dec. 4, 2014), pp. 43-45; *Petition Of Peoples Natural Gas Company, LLC For Approval Of A Distribution System Improvement Charge*, Docket Nos. P-2013-2344596 and C-2013-234884 (Final Order entered May 23, 2013), pp. 63-66; *Petition Of Columbia Gas Of Pennsylvania, Inc. For Approval Of A Distribution System Improvement Charge*, Docket Nos. P-2012-2338282 and C-2013-2344495 (Final Order entered March 13, 2013), pp. 46-47.

WHEREFORE, for the foregoing reasons, the New Matter set forth in PPUG's Answer should be rejected, and the Company's proposed DSIC should be approved to become effective on July 1, 2016.

Respectfully submitted,



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*Attorneys for Pennsylvania Power Company*

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**

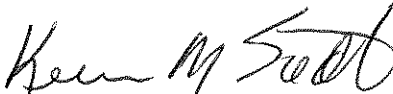
**PETITION OF WEST PENN POWER  
COMPANY FOR APPROVAL TO  
ESTABLISH AND IMPLEMENT A  
DISTRIBUTION SYSTEM  
IMPROVEMENT CHARGE** : : **DOCKET NO. P-2015-2508948**

**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 the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Penn Power Users Group and the West Penn Power Industrial Intervenors 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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