BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

PETITION TO INTERVENE AND ANSWER OF THE PENELEC INDUSTRIAL CUSTOMER ALLIANCE[1]

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 the 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 ("LTIIP") and obtain the Commission's approval in accordance with 66 Pa. C.S. § 1352 and 52 Pa. Code §§ 121.7(a)-(d).

[1] On March 7, 2016, PICA filed a Petition to Intervene and Answer in response to the Company's Petition. This filing, which includes PICA's Amended Answer replaces PICA's March 7, 2016, filing. For ease of Commission review, only PICA's Answer has been amended from the March 7, 2016, filing. The Petition to Intervene remains unchanged.

On October 19, 2015, the Company filed with the Commission its Petition for approval of its LTIIP, 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 LTIIP. PICA's comments did not oppose the LTIIP, but requested further review of the LTIIP to ensure it was fair, just, and reasonable.

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

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 amended Answer. In support of its Petition to Intervene and amended 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 LTIIP 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 implementation of a 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 some parameters the Company is proposing with respect to implementation of its proposed DSIC may not be compliant with the requirements of Act 11. 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

Class") is just and reasonable. Some customers outside of the Exempt Class only use a small portion of distribution infrastructure and therefore it is unjust and unreasonable to impose a DSIC on these customers. The Company's Petition excludes the Exempt Class from DSIC-eligibility because the LTIIP "does not contain any infrastructure improvement projects for distribution facilities operating at transmission-level voltages." Penelec Statement No. 1, p. 6. As a result, the Company has not identified within its filing a rule for determining whether or not a customer is DSIC eligible. Additional fact finding is necessary to determine which customers should be eligible for the DSIC based on both the current and future LTIIPs. Moreover, a hearing is necessary in order to review the facts and ensure that cost causation principles are followed in application of the DSIC to current and future customers. PICA questions whether the imposition of DSIC costs on those customers that have only *de minimis* distribution plant can survive a challenge under *Lloyd v. Pa. PUC*, 904 A.2d 1010 (Pa. Commw. 2006), *appeal denied,* 916 A.2d 1104 (Pa. 2007). A hearing will ensure that all customers receive just and reasonable treatment with regard to the Company's proposed DSIC, and specifically, that customers on the Company's system have certainty regarding whether they are DSIC-eligible or not.

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 which 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 included for calculating the 5% cap on distribution revenue, PICA remains concerned that this ambiguous language would permit the Company to include revenue from non-distribution based

sources, such as Act 129 Energy Efficiency and Conservation ("EE&C") or Non-Market Based Transmission charges, for purposes of calculating the 5% cap. 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 through a hearing process, would be inadvisable from a policy standpoint and inconsistent with the Commission's Regulations. *See id.* A hearing is necessary in order to identify the clauses and riders that comprise the 5% DSIC cap. While the Company's Petition notes that the Company will abide by a DSIC cap equal to 5% of billed distribution revenues, the Petition fails to clarify whether the Company's distribution revenues will include any revenues coming from the Company's EE&C Plan or any revenues related to collection of Non-Market Based Transmission charges pursuant to the Default Service Support Rider ("DSSR"). *See* Penelec Exhibit KMS-2, page 4. A hearing is necessary to ensure that the DSIC is calculated properly.[2]

13. Further analysis by the parties through a hearing process is warranted regarding the foregoing issues 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 after consideration at hearings and by an Administrative Law Judge, the PUC should modify these aspects of the Petition.

---

[2] Before permitting PPL Electric Utilities to include its Act 129 Compliance Rider charges within its distribution revenues for the 5% DSIC calculation, the PUC assigned the proceeding to an Administrative Law Judge for evidentiary hearings to review whether such inclusion was proper. *Petition of PPL Elec. Utils. Corp. for Approval of a Distribution Sys. Improvement Charge*, Docket Nos. P-2012-2325034 *et al.*, p. 4 (Final Order entered Apr. 9, 2015). More recently, in PECO Energy Company's request to implement a DSIC for its electric customers, the Commission assigned to the Office of Administrative Law Judge the issue of determining whether "revenues associated with the riders in PECO's tariff are properly included as distribution revenues." *Petition of PECO Energy Co. for Approval of their Electric Distrib. Sys. Improvement Charge*, Docket Nos. P-2015-2471423, *et al.*, p. 29 (Opinion and Order entered Oct. 22, 2015).

III. CONCLUSION

WHEREFORE, for the reasons stated above, the Penelec Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission (1) grant this Petition to Intervene and Answer; (2) provide the Penelec Industrial Customer Alliance with full-party status in this proceeding; and (3) initiate hearings to evaluate the issues discussed herein.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By ______________________

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: April 19, 2016

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA)
) ss:
COUNTY OF DAUPHIN)

Alessandra Hylander, being duly sworn according to law, deposes and says that she is Counsel to the Penelec Industrial Customer Alliance, and that in this capacity she is authorized to and does make this affidavit for them, and that the facts set forth in the foregoing Petition and Answer are true and correct to the best of her knowledge, information and belief.

Alessandra Hylander

SWORN TO and subscribed
before me this 19th day
of April, 2016.

Mary A. Sipe
Notary Public

(SEAL)

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Mary A. Sipe, Notary Public
City of Harrisburg, Dauphin County
My Commission Expires March 19, 2017

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.