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December 7, 2016

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

VIA ELECTRONIC FILING

**RE: Respond Power LLC v. Pennsylvania Electric Company;
Docket No. C-2016-2576287**

**Petition of Metropolitan Edison Company, Pennsylvania Electric Company,
Pennsylvania Power Company and West Penn Power Company for Approval of a
Default Service Program For the Period Beginning June 1, 2017 Through May 31,
2019; Docket Nos. P-2015-2511333, P-2015-2511351, P-2015-2511355, and P-2015-
2511356**

**Petition of Respond Power LLC For Issuance of Ex Parte Emergency Order;
Docket No. P-2016-2572934**

Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission the Joint Petition to Intervene of the Penelec Industrial Customer Alliance ("PICA"), the West Penn Power Industrial Intervenors ("WPPII"), and the Met-Ed Industrial Users Group ("MEIUG"), (collectively, the "Industrials"), in the above-referenced proceedings.

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 

Charis Mincavage

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

Enclosures

c: Administrative Law Judge David A. Salapa (via e-mail and First-Class Mail)
Certificate of Service

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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).

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Intervenors, and the Met-Ed Industrial Users Group

Dated this 7th day of December, 2016, at Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RESPOND POWER LLC	:	DOCKET NO. C-2016-2576287
	:	
v.	:	
	:	
PENNSYLVANIA ELECTRIC COMPANY	:	
	:	
PETITION OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER COMPANY AND WEST PENN POWER COMPANY FOR APPROVAL OF A DEFAULT SERVICE PROGRAM FOR THE PERIOD BEGINNING JUNE 1, 2017 THROUGH MAY 31, 2019	:	DOCKET NO. P-2015-2511333 P-2015-2511351 P-2015-2511355 P-2015-2511356
	:	
PETITION OF RESPOND POWER LLC FOR ISSUANCE OF EX PARTE EMERGENCY ORDER	:	DOCKET NO. P-2016-2572934
	:	

**JOINT PETITION TO INTERVENE OF
THE PENELEC INDUSTRIAL CUSTOMER ALLIANCE,
THE WEST PENN POWER INDUSTRIAL INTERVENORS, AND
THE MET-ED INDUSTRIAL USERS GROUP**

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, the Penelec Industrial Customer Alliance ("PICA"), the West Penn Power Industrial Intervenors ("WPPII"), and the Met-Ed Industrial Users Group ("MEIUG") (collectively, the "Industrials") hereby file this Petition to Intervene in the above-captioned proceeding. In support of their Petition to Intervene, the Industrials assert as follows:

1. PICA is an ad hoc association of energy-intensive commercial and industrial customers receiving electric service in Pennsylvania Electric Company's ("Penelec") service territory. PICA members purchase service from Penelec primarily under Rate Schedules GS-

Large, GP, and LP, as well as available riders. WPPII is an ad hoc association of energy-intensive commercial and industrial customers receiving electric service in West Penn Power Company's ("West Penn") service territory.¹ WPPII members purchase service from West Penn primarily under Rate Schedules 30, 35, 40, 41, 44, and 46. MEIUG is an ad hoc association of energy-intensive commercial and industrial customers receiving electric service in Metropolitan Edison Company's ("Met-Ed") service territory. MEIUG members purchase service from Met-Ed primarily under Rate Schedules GS-Large, GP, and TP, as well as available riders. For purposes of this proceeding, PICA, WPPII, and MEIUG membership is listed on the attached Appendices A, B, and C, respectively. PICA, WPPII, and MEIUG will update the appendices as needed during the course of this proceeding to reflect changes in membership.

2. The Industrials' members use substantial volumes of electricity on an annual basis, and any changes to the Companies' rates, terms, and conditions of service can have an impact on members' energy costs. For this reason, the Industrials have been active in many Commission proceedings addressing the rates, terms, and conditions of the Companies' service, including all four of the Companies' Default Service Plan ("DSP") proceedings.² Moreover, the Industrials were signatories to the Joint Petition for Settlement ("Joint Petition" or "Settlement") achieved in the Companies' DSP IV proceeding.

¹ Hereinafter, Met-Ed, Penelec, and West Penn are referred to collectively as "Companies."

² Respondent's Complaint is docketed at C-2016-2576287 and is directed against Penelec; however, the Complaint was also docketed at the consolidated DSP IV proceedings of the Companies (*i.e.*, P-2015-2511333, P-2015-2511351, P-2015-2511355, P-2015-2511356). As noted above, the Industrials were a party to the Companies' consolidated DSP IV proceeding; however, out of an abundance of caution, the Industrials are submitting this Petition to Intervene in this proceeding. A parallel Complaint by Respondent was filed against West Penn and docketed at C-2016-2576292, as well as at the consolidated dockets of the Companies' DSP IV proceeding. Again, out of an abundance of caution, the Industrials are simultaneously filing a similar Petition to Intervene at the West Penn Power Complaint docket.

3. The names and address of attorneys for the Industrials are:

Susan E. Bruce (Pa. I.D. No. 80146)
Charis Mincavage (Pa. I.D. No. 82039)
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The Industrials request that the names and address of their attorneys be added to the Commission's and all parties' service lists.

4. On November 3, 2015, the Companies filed their Fourth Default Service Plans pursuant to Section 54.185 of the Commission's regulations, which the Commission consolidated into a single proceeding.³ The Industrials were a party to this proceeding, which was eventually resolved via a Settlement. Upon review and recommendation of the assigned Administrative Law Judge, the Commission entered a Final Order approving the Joint Petition without modification on May 19, 2016.

5. Approximately six months later, on November 17, 2016, Respond Power filed a Complaint ("Complaint") against Penelec challenging the application of the "clawback charges" contained in Penelec's Supplier Tariff.⁴ Presumably, because the Supplier Tariff was filed by

³ Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of Their Default Service Programs, Docket Nos. P-2015-2511333, et al. (Nov. 3, 2015).

⁴ Prior to the filing of the aforementioned Complaint, Respond Power submitted a Petition for Issuance of an Ex Parte Emergency Order. On November 17, 2016, Respond Power filed a Petition for Leave to Withdraw its Petition for Ex Parte Emergency Order.

Penelec and approved by the Commission in the DSP IV proceeding, Respond Power also filed this Complaint at the consolidated dockets of the Companies' DSP IV proceeding.⁵

6. As parties to the DSP IV proceeding, as well as Joint Petitioners to the Settlement, the Industrials are concerned with any issues in this proceeding that would result in ramifications to the carefully crafted and meticulously approved Joint Petition. Moreover, the Industrials seek to ensure that the provisions approved in the Settlement are appropriately implemented. In addition, the Industrials hope to safeguard the procedural process resulting in the Joint Petition.

7. Specifically, the Industrials question whether Respond Power's complaint should be filed at the DSP IV docket. Under 52 Pa. Code § 5.572(c), a petition "for reconsideration, rehearing, reargument, clarification, supersedeas, or other" of a PUC final order must be filed within fifteen (15) days after the order becomes final. Respond Power has clearly failed to meet this deadline and therefore may not reopen the DSP Proceeding by simply filing a complaint at the DSP docket.

8. If Respond Power seeks to reopen the DSP IV proceeding, Complainant should be compelled to submit a petition for rescission or amendment pursuant to 52 Pa. Code § 5.572(d) and 66 Pa.C.S. § 703(g). Simply filing a complaint at a previously closed PUC docket fails to meet this requirement. Moreover, the substantive basis of Respond Power's complaint lacks any basis for rescission or amendment. In its Complaint, Respond Power asserts that the Settlement, Recommended Decision, and Final Order in the DSP IV proceeding were "not served on Respond Power." In making this statement, however, Respond Power overlooks the fact that it was not a party to the DSP IV proceeding. Moreover, Respond Power does not present any claims that it was unaware of the DSP IV proceeding, that it was unable to intervene in the DSP

⁵ The Industrials were not served with a copy of Respond Power's Petition for Issuance of an Ex Parte Emergency Order.

IV proceeding, or that it lacked constructive notice of the Settlement, Recommended Decision, and Final Order, all of which are on file with the Commission. Accordingly, Respond Power should not be able to effectively reopen the DSP IV proceeding without meeting the statutory and regulatory standards for reopening a final order by the Commission in light of the lack of evidence presented hereto.

9. As users of substantial volumes of electricity in the Companies' service territories, the Industrials are directly impacted by changes to the terms and conditions of their electricity service, and thus, are profoundly concerned with any potential alterations of the DSP IV Settlement. As some of the Companies' largest customers, the Industrials are in a unique position to address the effect of the Companies' resulting Settlement in the DSP IV proceeding on Large Commercial and Industrial customers.

10. The Industrials have an interest in this proceeding that is not represented by any other party of record. Thus, the Industrials satisfy the standards for intervention under Section 5.72 of the Commission's Regulations. 52 Pa. Code § 5.72. Accordingly, the Industrials should be granted intervenor status in this proceeding.

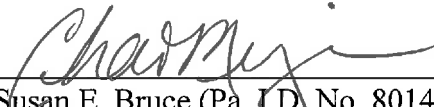
WHEREFORE, for the reasons stated above, the Penelec Industrial Customer Alliance, the West Penn Power Industrial Intervenors, and the Met-Ed Industrial Users Group respectfully request that the Pennsylvania Public Utility Commission:

- (1) Grant this Petition to Intervene, providing the Penelec Industrial Customer Alliance, the West Penn Power Industrial Intervenors, and the Met-Ed Industrial Users Group with full-party status in this proceeding; and
- (2) Provide other such relief as it deems necessary.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By


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

Dated: December 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.

APPENDIX B

WEST PENN POWER INDUSTRIAL INTERVENORS

Matheson Tri-Gas, Inc. (f/k/a Air Liquide Industrial U.S. LP)
Air Products & Chemicals, Inc.
Carpenter Technology Corporation
Ervin Industries
INDSPEC Chemical Corporation
Lehigh Specialty Melting (Whemco)
MERSEN USA St Marys-PA Corp.

APPENDIX C

MET-ED INDUSTRIAL USERS GROUP

Carpenter Technology Corporation
East Penn Manufacturing Company
Farmers Pride, Inc.
Glen-Gery Corporation
Hanover Foods Corporation
Knouse Foods Cooperative, Inc.
Lebanon Valley College
Magnesita Refractories Co.
Matheson Tri-Gas, Inc. (f/k/a Air Liquide Industrial U.S. LP)
Royal Green LLC
Sweet Street Desserts, Inc.