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February 16, 2017

## **VIA e-FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17105-3265

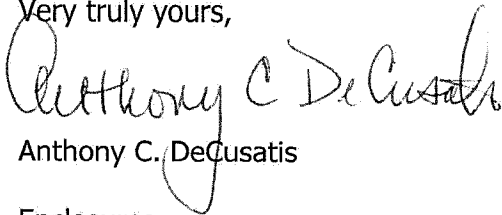
**Re: Petitions of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of a Distribution System Improvement Charge, Docket Nos. P-2015-2508942, et al.  
Office of Consumer Advocate v. Metropolitan Edison Company, et al.,  
Docket Nos. C-2016-2531040, et al.**

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Dear Secretary Chiavetta:

Enclosed for filing is the **Joint Petitioners' Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs** for filing in the above-captioned matters. A copy has been served on Administrative Law Judge Joel H. Cheskis and the parties / intervenors of record in accordance with the attached Certificate of Service.

Very truly yours,



Anthony C. DeCusatis

Enclosures

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

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITIONS OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER COMPANY AND WEST PENN POWER COMPANY FOR APPROVAL OF A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE** : **Docket Nos. P-2015-2508942, et al.**  
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**OFFICE OF CONSUMER ADVOCATE** : **Docket Nos. C-2016-2531040, et al.**  
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**METROPOLITAN EDISON COMPANY,** :  
**ET AL.** :

v.

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served a copy of the **Joint Petitioners' Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs** on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

**VIA ELECTRONIC AND/OR FIRST CLASS MAIL**

The Honorable Joel H. Cheskis  
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Power Company and West Penn Power Company*

Dated: February 16, 2017

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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<b>Petition of Metropolitan Edison Company for</b>	:	
<b>Approval of a Distribution System Improvement</b>	:	<b>Docket No. P-2015-2508942</b>
<b>Charge</b>	:	

<b>Office of Consumer Advocate</b>	:	
<b>v.</b>	:	<b>Docket No. C-2016-2531040</b>
<b>Metropolitan Edison Company</b>	:	

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<b>Petition of Pennsylvania Electric Company for</b>	:	
<b>Approval of a Distribution System Improvement</b>	:	<b>Docket No. P-2015-2508936</b>
<b>Charge</b>	:	

<b>Office of Consumer Advocate</b>	:	
<b>v.</b>	:	<b>Docket No. C-2016-2531060</b>
<b>Pennsylvania Electric Company</b>	:	

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<b>Petition of Pennsylvania Power Company for</b>	:	
<b>Approval of a Distribution System Improvement</b>	:	<b>Docket No. P-2015-2508931</b>
<b>Charge</b>	:	

<b>Office of Consumer Advocate</b>	:	
<b>v.</b>	:	<b>Docket No. C-2016-2531054</b>
<b>Pennsylvania Power Company</b>	:	

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<b>Petition of West Penn Power Company for</b>	:	
<b>Approval of a Distribution System Improvement</b>	:	<b>Docket No. P-2015-2508948</b>
<b>Charge</b>	:	

<b>Office of Consumer Advocate</b>	:	
<b>v.</b>	:	<b>Docket No. C-2016-2531019</b>
<b>West Penn Power Company</b>	:	

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<b>JOINT PETITIONERS' PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS</b>
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February 16, 2017

## PROPOSED FINDINGS OF FACT

1. On February 16, 2016, Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power Company (“West Penn”) (individually, a “Company” and, collectively, the “Companies”) filed with the Pennsylvania Public Utility Commission (the “Commission”) Petitions requesting approval to establish and implement a Distribution System Improvement Charge (“DSIC”) Rider to their respective electric tariffs<sup>1</sup> to become effective as of July 1, 2016 (individually, a “Petition” and, collectively, the “Petitions”).

2. The Companies provided customers bill-insert notices of the filing of their respective Petitions and served copies of their Petitions on the parties to their prior base rate cases.

3. Following filing and service of the Petitions, parties initiated their participation in one or more of the Companies’ cases, as follows:

- On February 26, 2016, the Office of Consumer Advocate (“OCA”) filed Answers to the Companies’ Petitions as well as Complaints against those Petitions;
- On March 7, 2016, Citizens for Pennsylvania’s Future (“PennFuture”) and the Environmental Defense Fund (“EDF”) jointly filed Petitions to Intervene in each Company’s case;
- Also on March 7, 2016, the Met-Ed Industrial Energy Users Group (“MEIUG”), the Penelec Industrial Customer Alliance (“PICA”), the Penn Power Users Group (“PPUG”) and the West Penn Power Industrial Intervenors (“WPPII”) each filed a Petition to Intervene and Answer with respect to the Petition of the Company that serves their respective members;
- On March 9, 2016, the Office of Small Business Advocate (“OSBA”) filed a Notice of Appearance and Intervention in each of the Companies’ cases as well as Answers to each of the Petitions;

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<sup>1</sup> Met-Ed Tariff Electric Pa. P.U.C. No. 52; Penelec Tariff Electric Pa. P.U.C. No. 81; Penn Power Tariff Electric Pa. P.U.C. No. 36 and West Penn Tariff Electric Pa. P.U.C. No. 40.

- Also on March 9, 2016, The Pennsylvania State University (“PSU”) filed a Petition to Intervene in West Penn’s case;
- On April 1, 2016, AK Steel Corporation (“AK Steel”) filed a Petition to Intervene in West Penn’s case<sup>2</sup>;
- On April 4, 2016, a Complaint was filed by E. McCauley, an individual customer, with respect to Penelec’s Petition; and
- On April 18, 2016, a Complaint was filed by Michelle Perry, an individual customer, with respect to Penelec’s Petition.

4. In response to the filings summarized above, the Companies filed: (1) Answers to the OCA’s Complaints; (2) Answers to the Petitions to Intervene and Replies to the New Matter set forth in the Answers of MEIUG, PICA, PPUG and WPPII; (3) Answers in opposition to EDF/PennFuture’s Petition to Intervene; (4) Replies to the New Matter set forth in the joint Answers of EDF/PennFuture; (5) an Answer to the Petition to Intervene of PSU; and (6) Answers to the Complaints filed by Ms. McCauley and Ms. Perry.

5. On March 29, 2016, EDF/PennFuture served Interrogatories upon each of the Companies. On April 8, 2016, the Companies served Objections to the EDF/PennFuture Interrogatories. On April 19, 2016, EDF/Penn Future filed and served Motions to Dismiss the Companies’ Objections and Compel Answers. On April 25, 2016, the Companies filed and served Answers to the EDF/PennFuture Motion.

6. On April 18 and May 16, 2016, the OSBA served its Interrogatory Sets I and II, respectively, on each of the Companies, to which the Companies served answers on April 28 and May 19, 2016, respectively.

7. On June 9, 2016, the Commission entered four Opinions and Orders in which it concluded for each Company as follows<sup>3</sup>:

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<sup>2</sup> AK Steel stated it was not taking issue with any provision of West Penn’s filing.

Upon review, the Commission finds that the Petition of [the Company] 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, [the Company] may elect to implement a DSIC mechanism consistent with this Order on ten days' notice.

8. On June 20, 2016, each of the Companies filed a tariff supplement adding its DSIC Rider to its tariff. On July 13, 2016, the Commission's Secretary issued a single letter informing all the Companies that their respective DSIC Riders complied with the terms of the DSIC Orders.

9. In Ordering Paragraph No. 4 of each of the DSIC Orders, the Commission identified issues that it was referring to the Office of Administrative Law Judge ("OALJ") for the parties to address in on-the-record proceedings and evidentiary hearings, as needed, as follows:

- a. Whether certain customers taking service at transmission voltage rates should be included under the DSIC;<sup>4</sup>
- b. Whether other customers should also be exempt from the DSIC;
- c. If revenues associated with the riders in [the Company's] tariff are properly included as distribution revenues;

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<sup>3</sup> *Petition of Metropolitan Edison Company for Approval of a Distribution System Improvement Charge*, Docket No. P-2015-2508942 and *Office of Consumer Advocate v. Metropolitan Edison Company*, Docket No. C-2016-2531040 (June 9, 2016) ("Met-Ed DSIC Order"); *Petition of Pennsylvania Electric Company for Approval of a Distribution System Improvement Charge*, Docket No. P-2015-2508936 and *Office of Consumer Advocate v. Pennsylvania Electric Company*, Docket No. C-2016-2531060 (June 9, 2016) ("Penelec DSIC Order"); *Petition of Pennsylvania Power Company for Approval of a Distribution System Improvement Charge*, Docket No. P-2015-2508931 and *Office of Consumer Advocate v. Pennsylvania Power Company*, Docket No. C-2016-2531054 (June 9, 2016) ("Penn Power DSIC Order"); *Petition of West Penn Power Company for Approval of a Distribution System Improvement Charge*, Docket No. P-2015-2508948 and *Office of Consumer Advocate v. West Penn Power Company*, Docket No. C-2016-2531019 (June 9, 2016) ("West Penn DSIC Order") ("DSIC Orders").

<sup>4</sup> Ordering Paragraph No. 4.a. of the Penn Power DSIC Order and the West Penn DSIC Order reads as follows: "Whether certain customers should or should not be included under the distribution system improvement charge."

- d. The Petition for Intervention of [MEIUG] [PICA] [PPUG] [WPPII];
- e. The Joint Petition for Intervention of the Citizen's for Pennsylvania's Future and the Environmental Defense Fund; and
- f. The Joint Motion to Compel of the Citizen's for Pennsylvania's Future and the Environmental Defense Fund and the Commission waives the fifteen (15) day timeframe restriction set forth in 52 Pa. Code § 5.342.

10. On July 25, 2016, EDF/PennFuture filed a joint Notice of Withdrawal from each of the Companies' proceedings.

11. This matter was assigned to Administrative Law Judge Joel H. Cheskis (the "ALJ") and, on July 28, 2016, the Commission issued Hearing Notices establishing consecutive Initial Prehearing Conferences for all four of the Companies' cases for Wednesday, August 10, 2016, beginning at 10:00 a.m. On July 21, 2016, the ALJ issued Prehearing Conference Orders for all four Companies. Paragraph No. 10 of the Prehearing Conference Orders provided as follows:

That any party wishing to remain on the service list for this case must appear at the Initial Prehearing Conference or take an affirmative step indicating their desire to remain on the service list no later than August 10, 2016. **Any party on the Commission's current service list who has not taken such actions will be removed from the service list.** (Emphasis in original.)

12. Pursuant to the Prehearing Conference Orders, Prehearing Memoranda were filed by the Companies, the OCA, the OSBA, MEIUG, PICA, PPUG, WPPII and PSU. The Prehearing Conferences were convened as scheduled at which appearances were entered by counsel on behalf of the parties that filed Prehearing Memoranda. Counsel for AK Steel informed the ALJ that, while he was unable to attend the Prehearing Conference for West Penn,



he wished to remain on the active party service list on behalf of AK Steel. Pursuant to Paragraph No. 10 of the Prehearing Conference Orders regarding participation in the Companies' cases, the service list of active parties was limited to the foregoing parties.

13. In each of their respective Prehearing Memoranda, the Companies proposed consolidating the four proceedings in order to promote administrative efficiency and avoid delays and duplicative efforts that would cause the unnecessary expenditure of time and resources by the Commission, the ALJ and the parties. No party objected to the consolidation. Therefore, one Prehearing Conference was held for all four proceedings, and a Consolidation Order dated August 11, 2016 was issued by the ALJ to formally consolidate the Petition and Complaint cases.

14. The Companies proposed that, in lieu of establishing a litigation schedule, the parties would: (1) schedule two or more settlement and/or technical conferences to be held between August 15 and September 15, 2016, (2) report back to the ALJ on the status of the negotiations by September 19, 2016; and (3) if the consolidated proceedings were not the subject of a settlement, a second prehearing conference would be held to determine whether the submission of testimony and scheduling of an evidentiary hearing may be required. No party objected to the Companies' proposal, which was adopted by the ALJ.

15. By Scheduling Order dated August 12, 2016, the ALJ memorialized the parties' agreement on the process for attempting to reach a settlement, reporting on settlement status and holding a second Prehearing Conference, if needed. The Scheduling Order also adopted the OCA's proposed modifications to the Commission's discovery rules, addressed the possibility that a Protective Order might be requested in the future, and established rules for service of documents on the parties and the ALJ.

16. A total of three formal Status Reports on Settlement Discussions were submitted on behalf of the parties on September 19, October 20 and November 7, 2016. In addition, an informal interim Status Report on Settlement Discussions was provided on September 27, 2016. In each Status Report, the parties noted their agreement that scheduling a second Prehearing Conference would not be necessary. In the Third Status Report, filed and served on November 7, 2016, the parties reported that a settlement in principle had been reached on the issues assigned to the ALJ by the Commission's June 9, 2016 DSIC Orders and the settling parties would submit a Joint Petition for Settlement and Statements in Support to memorialize their agreement.

17. On February 2, 2017, the Companies, the OCA, the OSBA, MEIUG, PICA, PPUG and WPPII submitted a Joint Petition for Settlement of Pending Issues ("Settlement" or "Joint Petition") and requested that the ALJ approve the Settlement without modification. AK Steel and PSU, by letters of non-opposition appended to the Joint Petition, indicated that they did not oppose the Settlement.

18. The Joint Petition consists of thirty-five numbered paragraphs. Exhibits 1-4 to the Joint Petition consist of the tariff supplements to implement the terms of the Settlement. Statements in Support of the Settlement were submitted by the Companies, the OCA, the OSBA and, collectively, by MEIUG, PICA, PPUG and WPPII, which were appended to the Joint Petition as Statements A-D. In their respective Statements In Support, each of the Joint Petitioners explains why it believes that the Settlement resolves the issues assigned to the ALJ for consideration in this case and why the Settlement overall is in the public interest and should be approved.

19. The principal substantive terms and conditions of the Settlement are set forth in Paragraph Nos. 20-27 of the Joint Petition, which address the issues the Commission identified in Paragraph Nos. 4.a. through 4.c. of the DSIC Orders and assigned to the ALJ for consideration and resolution in this case. Paragraph No. 4.d. of the DSIC Orders related to the Petitions to Intervene of MEIUG, PICA, PPUG and WPPII. The Petitions to Intervene were not opposed by the Companies and, accordingly, were deemed granted. Paragraph Nos. 4.e. and 4.f., related to PennFuture's and EDF's Joint Petition to Intervene and Joint Motion to Compel answers to interrogatories to which the Companies had objected. These issues became moot when PennFuture and EDF filed their Notice of Withdrawal.

20. Paragraph No. 20 of the Joint Petition addresses and resolves the following issue identified in Paragraph No. 4.c. of the DSIC Orders:

If revenues associated with the riders in [the Company's] tariff are properly included as distribution revenues . . .

21. Paragraph No. 20 of the Joint Petition provides as follows:

Projected Quarterly Revenues for Distribution Service will exclude the following Riders in calculating the DSIC percentage:

- a. Default Service Support Rider (for all Companies);
- b. NUG [Non-Utility Generation] Rider (for Met-Ed and Penelec, which are the only Companies with NUG Riders);  
and
- c. Solar Photovoltaic Rider (for Met-Ed, Penelec, and Penn Power, which are the only Companies with Solar Photovoltaic Riders).

22. Paragraph Nos. 4.a. and 4.b. of the DSIC Orders identified the following issues:

- a. Whether certain customers taking service at transmission voltage rates should be included under the DSIC;<sup>5</sup>
- b. Whether other customers should also be exempt from the DSIC . . .

23. The issues identified in Paragraph Nos. 4.a. and 4.b. of the DSIC Orders are addressed in Paragraph Nos. 21-25 of the Joint Petition.

24. Paragraph Nos. 21 and 23 provide, with respect to Penelec and Penn Power, respectively, that, as to certain identified rate schedules under which customers may take service at transmission voltage or voltages lower than transmission voltage, only customers served at transmission voltage (for the applicable company) are excluded from the application of the DSIC. Accordingly, Paragraph Nos. 21 and 23 state as follows:

21. With respect to Penelec Rate Schedules GP and LP, the Company clarifies, confirms and agrees that, consistent with current practice, only those customers served at voltages over 46 kV are excluded from the application of the DSIC.
23. With respect to Penn Power Rate Schedules GT and GSDS, the Company clarifies, confirms and agrees that, consistent with current practice, only those customers served at voltages over 69 kV are excluded from the application of the DSIC.

25. Paragraph No. 22 of the Joint Petition provides a clarification with regard to a provision of Penelec's Partial Service Rider, which is available to provide Back-Up and Maintenance Service to customers that also have their own generation. Paragraph No. 22 clarifies that the DSIC does not apply to certain customers under the conditions specified. Paragraph No. 22 provides as follows:

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<sup>5</sup> Ordering Paragraph No. 4.a. of the Penn Power DSIC Order and the West Penn DSIC Order used slightly different wording to identify the same issue: "Whether certain customers should or should not be included under the distribution system improvement charge."

Any customers taking service under the second paragraph of the Availability/Applicability section of Penelec's Partial Service Rider (which applies to customers taking service at a voltage level that is less than 115 kV but are served directly from a source with voltage of 115 kV or greater through a single transformation) are excluded from the DSIC because such customers pay an investment charge for the facilities connecting the 115 kV or higher source and their location and are deemed to be Transmission-level customers.

26. Paragraph No. 24 of the Joint Petition was agreed to in order to deal with issues raised by WPPII concerning the application of the DSIC to certain of its members. Paragraph No. 24 provides as follows:

With respect to West Penn Power, if DSIC revenues billed to one or more Rate 40 customers receiving service by a single transformation from a transmission line operating at 100 kV or greater through a substation located on the customer's premises or within 2500 feet of the customer's premises exceed \$750 per month, WPPII may file a Notice to reopen the issue of the application of the DSIC to Rate 40 customers that meet the previously-described criteria and, upon filing of such a Notice, (1) discussions among the parties to resolve this issue shall be reconvened promptly; and (2) if an impasse is reached and the issue cannot be resolved by negotiations among the parties, WPPII may reinstate the portion of its challenge to the Petition relating to this issue. Any refunds, recoupment and/or reallocation of customer payment responsibility for the DSIC that result from a Commission decision entered at the conclusion of the process described above shall be effective only for charges under the DSIC billed from and after the date of the first quarterly update of the DSIC after such Order is entered unless the parties expressly agree otherwise.

27. The Companies, the OCA and WPPII each address why they support Paragraph No. 24 of the Joint Petition in their respective Statements in Support (Companies' Statement in Support, pp. 7-9 and 11-12; OCA Statement in Support, pp. 4-5; MEIUG/PICA/PPUG/WPPII Statement in Support, pp. 5-6).

28. Paragraph No. 25 of the Joint Petition was agreed to in order to deal with issues raised by MEIUG and the OCA concerning the application of the DSIC to certain customers served on Met-Ed Rate TP. Paragraph No. 25 provides as follows:

The DSIC Rider for Met-Ed will be revised to provide that the DSIC will not apply to customers on Rate TP served at Transmission Voltage. If DSIC revenues billed to one or more Rate TP customers receiving service voltages other than Transmission Voltage exceed \$750 per month, MEIUG may file a Notice to reopen the issue of the application of the DSIC to such customers and, upon filing of such a Notice, (1) discussions among the parties to resolve this issue shall be reconvened promptly; and (2) if an impasse is reached and the issue cannot be resolved by negotiations among the parties, MEIUG may reinstate the portion of its challenge to the Petition relating to this issue. Any refunds, recoupment and/or reallocation of customer payment responsibility for the DSIC that result from a Commission decision entered at the conclusion of the process described above shall be effective only for charges under the DSIC billed from and after the date of the first quarterly update of the DSIC after such Order is entered unless the parties expressly agree otherwise.

29. The Companies, the OCA and WPPII each address why they support Paragraph No. 25 of the Joint Petition in their respective Statements in Support (Companies' Statement in Support, pp. 7-9 and 12; OCA Statement in Support, pp. 4-5; MEIUG/PICA/PPUG/WPPII Statement in Support, pp. 5-6).

30. Paragraph No. 26 of the Joint Petition provides as follows:

Modifications to the existing DSIC charge will begin to apply when the Companies become eligible to begin to charge the DSIC after the DSIC is reduced to zero at the conclusion of their pending base rate cases at Docket Nos. R-2016-2537349 (Met-Ed), R-2016-2537342 (Penelec), R-2016-2537355 (Penn Power) and R-2016-2537359 (West Penn).

31. The base rate cases identified in Paragraph No. 26 of the Joint Petition were the subject of Joint Petitions for Partial Settlement that were filed on October 14, 2016. The

Commission entered a Final Order approving the Joint Petitions for Partial Settlement on January 19, 2017.

32. In their Statement in Support (pp. 12-13), the Companies stated that the effect of the modifications made pursuant to the Settlement is small and would not justify the costs that would be incurred to calculate and implement credits and/or charges to reflect changes in customer class DSIC rates the modifications might require.

33. Paragraph No. 27 provides as follows:

Within 90 days of the Commission's entering an Order approving this Settlement, the Companies will meet with representatives of MEIUG, PICA, PPUG and WPPII to develop a process to provide, for each year of the remaining term of their current Long-Term Infrastructure Improvement Plans ("LTIPs"), annual, and annually updated, estimates of the impact of the DSIC on the members of those groups.

34. Paragraph No. 30 of the Joint Petition, which is procedural in nature, provides as follows:

The Settlement encompasses and resolves only those issues that were assigned to the OALJ by the DSIC Orders entered on June 9, 2016 for this consolidated proceeding (the "DSIC Docket Numbers"). The Joint Petitioners acknowledge and agree that the Settlement does not extend to, or resolve, additional issues the Commission may assign to the OALJ at the DSIC Docket Numbers. Additionally, the Joint Petitioners agree, and hereby request, that the DSIC Docket Numbers not be marked closed until the latter of: (1) the entry of a Final Order approving the Settlement; (2) the entry of a Final Order or Final Orders in the Companies' base rate cases at Docket Nos. R-2016-2537349 (Met-Ed), R-2016-2537342 (Penelec), R-2016-2537355 (Penn Power) and R-2016-2537359 (West Penn) conclusively determining that no additional DSIC-related issues are to be assigned to the DSIC Docket Numbers; or (3) if additional DSIC-related issues are assigned to the DSIC Docket Numbers, the entry of a final, nonappealable order that decides and resolves such issues. It is also acknowledged and understood that, if additional DSIC-related

issues are assigned to the DSIC Docket Numbers, the Settlement shall not restrict, compromise or otherwise affect the Joint Petitioners' rights to litigate such issues by, *inter alia*, conducting discovery, submitting testimony, participating in evidentiary hearings, filing main and reply briefs, and filing exceptions and reply exceptions, all in accordance with the schedule and procedures that may be established by the presiding Administrative Law Judge and the Commission.

35. In its Final Order entered on January 19, 2017, the Commission stated as follows concerning the further DSIC issue assigned to this consolidated docket:

3. That the contested issue in this proceeding concerning the Office of Consumer Advocate's claim with regard to the calculation of Accumulated Deferred Income Tax in the First Energy Companies' DSIC Riders is referred to the First Energy Companies' consolidated DSIC proceeding at Docket Nos. P-2015-2508942, P-2015-2508936, P 2015-2508931, and P-2015-2508948 for such proceedings as may be necessary and the issuance of a Recommended Decision.

4. That the relevant parts of the record in this proceeding concerning the Office of Consumer Advocate's claim with regard to the calculation of Accumulated Deferred Income Tax in the First Energy Companies' DSIC Riders case, including the Office of Consumer Advocate's Exceptions and the First Energy Companies' Replies to Exceptions that pertain to the contested issue, the Office of Consumer Advocate's Main and Reply Briefs, the First Energy Companies' Initial and Reply Briefs; OCA St. 1, and the First Energy Companies' St. 2-R are transferred to the First Energy Companies' consolidated DSIC proceeding.

36. On February 3, 2017, the OCA filed a Petition for Reconsideration or Clarification of the January 19, 2017 Order in which it asked the Commission to transfer to this docket an additional statement of its witness that the OCA believes is relevant to the transferred issue. The OCA's Petition is not opposed by any party.

37. On February 8, 2017 the Companies filed a Motion for the Admission of Testimony and Exhibits, which included as Appendix A, a Stipulation by all parties to admit the



testimony and exhibits listed therein and a waiver of cross-examination. The evidential record consists of the statements and exhibits listed in the Motion for Admission.

38. The terms and conditions of the Settlement address and resolve in a fair and reasonable fashion all of the issues identified by the Commission in its June 9, 2016 Order.

## PROPOSED CONCLUSIONS OF LAW

1. In order to approve a settlement, the Commission must determine that the proposed terms and conditions, viewed in the context of the settlement as a whole, are in the public interest. *See Pa. P.U.C. v. CS Water & Sewer Ass'n*, 74 Pa. P.U.C. 767, 771 (1991); *Pa. P.U.C. v. Philadelphia Elec. Co.*, 60 Pa. P.U.C. 1, 22 (1985).

2. The Commission's policy and precedent embodied in its regulation at 52 Pa. Code § 5.231 and its Policy Statement on Settlements at 52 Pa. Code § 69.401 encourage parties to resolve contested proceedings by settlement.

3. In its Policy Statement, the Commission stated that "the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate *are often preferable to those achieved at the conclusion of a fully litigated proceeding*" (emphasis added).

4. *Pa. P.U.C. v. PECO Energy Co.*, Docket No. R-2010-2161575 (Recommended Decision issued November 2, 2010), p. 12, which was approved and adopted by the Commission in its Final Order entered December 21, 2010, summarized the benefits of resolving contested cases by settlement:

Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. Rate cases are expensive to litigate and the cost of such litigation at a reasonable level is an operating expense recovered in the rates approved by the Commission. This means that a settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply

briefs necessitated by any appeal of the Commission's decision, yields significant expense savings for the company's customers. That is one reason why settlements are encouraged by long-standing Commission policy.

5. The terms and conditions of the Joint Petition satisfy all of the Commission's criteria for approval of a settlement.

## **PROPOSED ORDERING PARAGRAPHS**

1. The Joint Petition is granted and the Settlement is approved.
2. The modifications to the Companies' DSIC as set forth in the Joint Petition will begin to apply when the Companies next become eligible to charge the DSIC, recognizing that their DSIC charges were reduced to zero as of January 27, 2017, the effective date of the base rates approved by the Commission in its Final Order in the Companies' base rate cases at Docket Nos. R-2016-2537349 (Met-Ed), R-2016-2537342 (Penelec), R-2016-2537355 (Penn Power) and R-2016-2537359 (West Penn).
3. The Companies are authorized to file the tariff supplements attached to the Joint Petition as Exhibits 1-4 to be effective in accordance with the terms of the Settlement and Ordering Paragraph No. 2, above.
4. The Motion for Admission of Testimony and Exhibits is granted and the testimony and exhibits listed therein are admitted to the evidentiary record in this case.
5. The Settlement does not address or resolve the issue assigned to this docket by the Commission in Ordering Paragraph No. 3 of its Final Order entered January 19, 2017 at Docket Nos. R-2016-2537349, R-2016-2537342, R-2016-2537355 and R-2016-2537359 ("January 19, 2017 Order").
6. This consolidated docket will remain open to address the issue assigned to this docket by the Commission in Ordering Paragraph No. 3 of the January 19, 2017 Order.