

Deanne M. O'Dell  
717.255.3744  
dodell@eckertseamans.com

January 24, 2020

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Interstate Gas Supply, Inc. et al., v. Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company,  
Docket Nos. C-2019-3013805; C-2019-3013806; C-2019-3013807; C-2019-3013808

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Retail Energy Supply Association's ("RESA") Petition to Intervene with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

  
Deanne M. O'Dell

DMO/lww  
Enclosure

cc: Hon. Joel H. Cheskis w/enc.  
Cert. of Service w/enc.

**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of RESA's Petition to Intervene upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

**Via First Class Mail and/or Email**

Todd S Stewart Esquire  
Hawke McKeon And Sniscak LLP  
100 North Tenth Street  
Harrisburg PA 17101  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

Tori L Giesler Esquire  
Teresa Harrold Esquire  
FirstEnergy  
2800 Pottsville Pike  
PO Box 16001  
Reading PA 19612-6001  
[tgiesler@firstenergycorp.com](mailto:tgiesler@firstenergycorp.com)  
[tharrold@firstenergycorp.com](mailto:tharrold@firstenergycorp.com)

Date: January 24, 2020

  
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Deanne M. O'Dell, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Interstate Gas Supply, Inc. d/b/a IGS Energy	:	
Direct Energy Services LLC, and	:	
Shipley Choice, LLC d/b/a Shipley Energy	:	Docket No.: C-2019-3013805
Complainants	:	C-2019-3013806
v.	:	C-2019-3013807
	:	C-2019-3013808
Metropolitan Edison Company,	:	
Pennsylvania Electric Company,	:	
Pennsylvania Power Company, and	:	
West Penn Power Company	:	
Respondents	:	

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**PETITION TO INTERVENE OF  
RETAIL ENERGY SUPPLY ASSOCIATION**

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Pursuant to 52 Pa. Code §§ 5.72-5.75, the Retail Energy Supply Association (“RESA”)<sup>1</sup> petitions to intervene in this proceeding involving the complaint filed by Interstate Gas Supply, Inc. d/b/a IGS Energy, Direct Energy Services LLC, and Shipley Choice, LLC d/b/a Shipley Energy (collectively, “Complainants”) against Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively, “Respondents” or “FirstEnergy”). In support of its intervention, RESA states as follows:

1. On October 25, 2019, Complainants filed formal complaints against each of the four FirstEnergy electric distribution companies (“EDCs”) challenging the practice of the FirstEnergy EDCs to include non-commodity charges assessed by FirstEnergy on the EDC utility

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<sup>1</sup> The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).

bill while refusing to include non-commodity charges assessed by electric generation suppliers (“EGSs”) on the utility bill.

2. On November 15, 2019, FirstEnergy served an Answer and New Matter in response to the Complaint, which Complainants answered on December 4, 2019.

3. Pursuant to a Prehearing Conference Notice dated December 23, 2019, the Commission has scheduled an In-Person Prehearing Conference for this matter for February 3, 2020. Pursuant to a Prehearing Conference Order dated December 26, 2019, the parties were directed to serve a Prehearing Conference Memorandum on or before January 27, 2020. Though party status is subject to the granting of this Petition to Intervene, RESA is simultaneously filing its Prehearing Conference Memorandum consistent with the Prehearing Conference Order.

4. RESA is a trade association of retail energy suppliers who share the common vision that competitive retail electricity markets deliver a more efficient, customer-oriented outcome than does the monopoly-protected, rate-regulated utility structure. RESA members are licensed to sell electric energy in the markets of Pennsylvania’s major EDCs, including the service territories of the FirstEnergy EDCs.

5. RESA’s attorneys in this matter are:

Deanne M. O’Dell, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
213 Market St., 8th Floor  
P.O. Box 1248  
Harrisburg, PA 17101  
717.237.6000  
Fax 717.237.6019  
dodell@eckertseamans.com

6. The Commission’s regulations allow intervention where a person has an interest in the proceeding which may be directly affected and which is not adequately represented by existing parties, and as to which the person may be bound by the action of the Commission in the

proceeding. 52 Pa. Code § 5.72(a)(2). Intervention is also permitted where participation of the person may be in the public interest. 52 Pa. Code § 5.72(a)(3). A “person” includes a corporation and an association. 52 Pa. Code § 1.8.

7. RESA meets the standards for intervention set forth in 52 Pa. Code § 5.72(a). As an organization whose members include competitive EGSs licensed to do business in the service territories of the FirstEnergy EDCs, RESA has interests that will be directly affected by the outcome of this proceeding. The current practice of the FirstEnergy EDCs to prohibit RESA members from having their non-commodity charges included on the EDC utility bill directly impedes the ability of the RESA members to offer these products and services. The prohibition interferes with the ability of RESA members to efficiently serve their customers and to offer a reasonable payment option for the ease of these customers.

8. Moreover, permitting the FirstEnergy EDCs to bill their own non-commodity products and services while prohibiting the billing of similar products and services from EGSs is not consistent with Electricity Generation Customer Choice and Competition Act (“Choice Act”), which requires the Commission to foster the development of a workable competitive market, in part, by ensuring that the EDCs do not exercise their competitive advantage in an unfair way or to advantage any particular EGS over another or to deny EGSs equal access to the EDCs facilities in the same manner the EDC can access those facilities.<sup>2</sup> In this case, the FirstEnergy EDCs have the direct billing relationship with all ratepayers in their service territories. Although the EDC bill includes EGS commodity charges, FirstEnergy is not allowing

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<sup>2</sup> See, 66 Pa. C.S. §§ 2803, 2804(6)(requires EDCs to provide EGSs nondiscriminatory access to the public utility’s transmission and distribution system on “rates, terms of access and conditions that are comparable to the utilities own use of its system.”); and, 66 Pa. C.S. §§ 2811(a) and (b)(empowers the Commission to take steps to prevent anticompetitive or discriminatory conduct and to investigate “the impact on the proper functioning of a fully competitive retail electricity market. . . anticompetitive or discriminatory conduct affecting the retail distribution of electricity.”).

any non-commodity charges on the EDC bill even though similar non-commodity charges from FirstEnergy are included on the bill. Thus, the current prohibition – and any changes as a result of this proceeding – has a direct impact on RESA members who offer non-commodity products and services but are without the ability to have those charges included on the utility bill of the EDCs.

9. Though RESA members are also EGSs (like the Complainants in this proceeding), RESA's interests are not adequately represented by the Complainants or any other individual EGS that may be granted intervention in this proceeding. This is because RESA represents the interests of a diverse and broad group of electric generation suppliers in general and not the interests of any individual member.

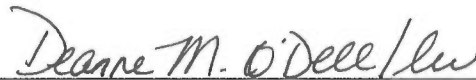
10. RESA's members will be bound by the action of the Commission in this proceeding directly impacting the ability (or lack of ability) of RESA members to have their non-commodity products and services included on the FirstEnergy EDC bills.

11. RESA's intervention is in the public interest. RESA's participation will enable it to contribute the unique perspectives and insights of a trade association of EGSs and complete presentation of the issues to be addressed in this proceeding.

12. RESA's list of presently identified issues is set forth in its Prehearing Conference Memorandum, which is incorporated herein by reference. Due to the early stage of this proceeding, RESA reserves the right to raise and address issues identified through its continued review and analysis of the pleadings, discovery and/or issues raised by other parties.

**WHEREFORE**, RESA respectfully requests that the Commission grant RESA's Petition to Intervene.

Respectfully submitted,

A handwritten signature in cursive script that reads "Deanne M. O'Dell". The signature is written in dark ink and is positioned above a horizontal line.

Deanne M. O'Dell, Esquire

Attorney ID 81064

Eckert Seamans Cherin & Mellott, LLC

213 Market St., 8th Floor

Harrisburg, PA 17101

717.237.6000

Fax 717.237.6019

Date: January 24, 2020

Attorneys for Retail Energy Supply Association