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February 25, 2020

**VIA E-FILING**

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

**Re: Interstate Gas Supply, Inc. d/b/a IGS Energy, Direct Energy Services LLC and Shipley Choice, LLC d/b/a Shipley Energy 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, and C-2019-3013808**

Dear Secretary Chiavetta:

Enclosed please find a Petition for Protective Order of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company with regard to the above-captioned matter. This document has been served on the parties as shown in the Certificate of Service.

Please contact me if you have any questions regarding this matter.

Very truly yours,

*Teresa Harrold/kbw*

Teresa Harrold

·kbw  
Enclosures

c: Administrative Law Judge Cheskis (via-email and first-class mail)  
As Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>INTERSTATE GAS SUPPLY, INC. D/B/A</b>	:	
<b>IGS ENERGY, DIRECT ENERGY</b>	:	
<b>SERVICES LLC AND SHIPLEY CHOICE,</b>	:	<b>Docket No. C-2019-3013805</b>
<b>LLC D/B/ A SHIPLEY ENERGY</b>	:	<b>C-2019-3013806</b>
<b>v.</b>	:	<b>C-2019-3013807</b>
	:	<b>C-2019-3013808</b>
<b>METROPOLITAN EDISON COMP ANY,</b>	:	
<b>PENNSYLVANIA ELECTRIC COMPANY,</b>	:	
<b>PENNSYLVANIA POWER COMPANY,</b>	:	
<b>AND WEST PENN POWER COMPANY</b>	:	

**PETITION FOR PROTECTIVE ORDER**

Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively, the “Companies”) hereby move pursuant to 52 Pa. Code § 5.365(c)(4) of the Commission’s Regulations for the entry of a Protective Order to restrict access to proprietary information to be filed or otherwise provided in connection with this proceeding. In support of this Petition, the Companies state as follows:

1. Since the Prehearing Conference was held in this matter, it has become apparent that the Companies may be required to file with this Commission and/or furnish to the parties non-public proprietary information and documents that contain proprietary information within the definition of 52 Pa. Code § 5.365. Such information has been requested during the course of this proceeding and may be used in testimony or for cross-examination purposes. Treatment of such information as set forth in the attached proposed Protective Order is justified because unrestricted disclosure of such information would not be in the public interest.

2. In particular, sales and financial information related to the Companies’ product and service offerings is highly confidential information and may not be accessible to competitive product and service providers. If the material is not kept in a proprietary folder in the Secretary’s

office, then competitors could obtain copies of the information. Also, information not marked proprietary could be publicly released on the Commission's website or from the Secretary's office. These considerations constitute cause for the restrictions specified in 52 Pa. Code § 5.365.

3. The Companies believe that the litigation of this matter will be facilitated by the adoption of the Protective Order attached as Exhibit A hereto to govern the treatment of proprietary materials. This Order would protect all proprietary materials from disclosure to the public or to employees of competitors of producing parties who would use proprietary information to harm competition.

4. Under 52 Pa. Code §§ 5.362(a)(7) and 5.365, Administrative Law Judge Cheskis may issue a Protective Order to limit or prohibit disclosure of confidential commercial information where the potential harm to a party would be substantial and outweighs the public's interest in having access to the confidential information. In applying this standard, relevant factors to be considered include: the extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information is known by others and used in similar activities; and the worth or value of the information to the party and to the party's competitors. 52 Pa. Code § 5.365(a)(1)-(3).

5. Limitation on the disclosure of information deemed "confidential information" and "highly confidential information" will not prejudice the rights of the parties, nor will such limitation frustrate the prompt and fair resolution of this proceeding. The proposed Protective Order balances the interests of the parties, the public, and the Commission.

6. The proposed Protective Order sought by the Companies will protect the proprietary nature of competitively valuable information while only allowing access to this information by parties who could not use the information for competitive purposes. The proposed

Protective Order applies to least restrictive means of limitation that will provide the necessary protections from disclosure.

7. The Companies circulated the proposed Protective Order to the other parties in this proceeding and did not receive any objections.

WHEREFORE, for all the reasons set forth above, the Companies respectfully request that Administrative Law Judge Cheskis issue the attached Protective Order.

Respectfully submitted,

Date: February 25, 2020

Teresa Harrold/kbw

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*Counsel for Metropolitan Edison Company,  
Pennsylvania Electric Company, Pennsylvania  
Power Company, and West Penn Power  
Company*

## **EXHIBIT A**

### **FORM OF PROTECTIVE ORDER**

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>INTERSTATE GAS SUPPLY, INC. D/B/A</b>	<b>:</b>	
<b>IGS ENERGY, DIRECT ENERGY</b>	<b>:</b>	
<b>SERVICES LLC AND SHIPLEY</b>	<b>:</b>	
<b>CHOICE, LLC D/B/A SHIPLEY</b>	<b>:</b>	
<b>ENERGY</b>	<b>:</b>	<b>Docket No. C-2019-3013805</b>
	<b>:</b>	<b>C-2019-3013806</b>
<b>v.</b>	<b>:</b>	<b>C-2019-3013807</b>
	<b>:</b>	<b>C-2019-3013808</b>
<b>METROPOLITAN EDISON COMPANY,</b>	<b>:</b>	
<b>PENNSYLVANIA ELECTRIC</b>	<b>:</b>	
<b>COMPANY, PENNSYLVANIA POWER</b>	<b>:</b>	
<b>COMPANY, AND WEST PENN POWER</b>	<b>:</b>	
<b>COMPANY</b>	<b>:</b>	

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**PROTECTIVE ORDER**

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IT IS HEREBY ORDERED THAT:

1. This Protective Order is granted with respect to all materials identified in Ordering Paragraph Nos. 2 and 3, below, which are filed with the Commission, produced in discovery or otherwise presented during this proceeding. All persons now, and hereafter, granted access to the information identified in Ordering Paragraph Nos. 2 and 3 shall use and disclose such information only in accordance with this Order.

2. The information subject to this Order includes all correspondence, documents, data, studies, methodologies, and all other materials or information that any party or an affiliate of any party (“the producing party”) furnishes in this proceeding pursuant to filing, discovery or evidentiary procedures, or otherwise may provide as a courtesy to other active parties in this proceeding, which are claimed to be of a security-sensitive, proprietary or other confidential nature

and which are designated “CONFIDENTIAL INFORMATION” or “HIGHLY CONFIDENTIAL INFORMATION.” Such materials are referred to in this Order as “Proprietary Information.”

3. For purposes of this Protective Order there are two categories of Proprietary Information: — “CONFIDENTIAL INFORMATION” and “HIGHLY CONFIDENTIAL INFORMATION.” A producing party may designate as “CONFIDENTIAL INFORMATION” materials concerning electric service facilities, inspection or maintenance practices or policies that may be security-sensitive, proprietary or otherwise confidential, and any other information that is either specified as confidential by its terms or pertains to business practices, operations or financial matters that are commercially sensitive or that is ordinarily considered and treated as confidential by the producing party. A producing party may designate as “HIGHLY CONFIDENTIAL INFORMATION” those materials that the producing party deems to be of such a commercially sensitive nature, relative to the business interests of itself or other parties to this proceeding, or of such a private or personal nature, that the producing party determined that a heightened level of confidential protection with respect to those materials is appropriate. The parties shall endeavor to limit the information designated as “HIGHLY CONFIDENTIAL INFORMATION.”

4. Confidential Information shall be disclosed solely to the Commission, its Staff, counsel to the parties in this proceeding, parties’ employees, officers and members (as applicable) who are directly responsible for reviewing, preparing or presenting evidence, cross-examination or argument in this proceeding and outside expert consultants retained by the parties’ counsel for this proceeding. Confidential Information shall be specifically marked “CONFIDENTIAL INFORMATION.”

5. Highly Confidential Information shall be provided solely to other parties’ counsel. Such highly sensitive information may be copied only for the limited purpose of review by a

party's expert or consultant in this case. Such specific prohibition from copying such Highly Confidential Information shall be clearly designated on the face of the information. In such cases, the producing party shall permit other parties' counsel to take custody of such Highly Confidential Information, provided that it shall not be copied, except as provided for in this Ordering Paragraph, and shall be returned or destroyed as provided for in Ordering Paragraph No. 11, below. The producing party may designate certain Highly Confidential Information that, absent the express agreement of the producing party, may not be viewed by the employees of an inspecting party who are involved in competitive activities or by employees of an outside expert or consultant that provide services to any person or entity involved in such competitive activities. Further, in accordance with the provisions of Sections 5.362 and 5.431(e) of the Commission's Rules of Practice and Procedure (52 Pa. Code §§ 5.362, 5.431(e)) and Sections 2209(f)(3) and 2811(c)(3) of the Public Utility Code (66 Pa.C.S. §§ 2209(f)(3), 2811(c)(3)), any party may, by objection or motion, seek further protection with respect to Highly Confidential Information, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties. Highly Confidential Information shall be specifically marked "HIGHLY CONFIDENTIAL INFORMATION – DO NOT COPY OR DISTRIBUTE EXCEPT IN ACCORDANCE WITH PROTECTIVE ORDER."

6. Proprietary Information shall be made available to the Commission and its Staff for use in this and any related proceeding and for all internal Commission analyses, studies or investigations related to the same. For purposes of filing, to the extent that Proprietary Information is placed in the Commission's report folders, testimony folders or other document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Order. The Proprietary Information shall be considered and treated as "confidential proprietary



information” as defined in the Pennsylvania Right-to-Know Law, 65 P.S. § 67.101, *et seq.* Public inspection of the Proprietary Information shall be permitted only in accordance with this Protective Order.

7. Proprietary Information shall be made available only as permitted by this Order and only for purposes of reviewing, preparing or presenting evidence, cross-examination or argument in this proceeding. No counsel, expert, employee, officer or member (as applicable) will be afforded access to Proprietary Information until a signed acknowledgement of this Protective Order in the form attached to this Order, from each such individual, has been returned to the producing party. Upon return of a signed acknowledgment, parties will receive access to Proprietary Information consistent with this Order. No other persons may have access to the Proprietary Information, except as specifically authorized by further order of the Commission or the Administrative Law Judge; provided, however, that counsel for the Office of Consumer Advocate (“OCA”) may share Proprietary Information with the Consumer Advocate without obtaining a Non-Disclosure Certificate from them, provided the Consumer Advocate otherwise abides by the terms of the Protective Order. No person may be entitled to receive, or if afforded access to any Proprietary Information shall possess, use or disclose Proprietary Information for the purpose of business or competition or any purpose other than the preparation for, and conduct of, this proceeding or any administrative or judicial review thereof.

8. The producing parties shall designate data or documents as constituting or containing Confidential Information or Highly Confidential Information by affixing an appropriate stamp or typewritten designation on all such data or documents. Where only part of a compilation or multi-page document constitutes or contains Confidential Information or Highly Confidential Information, the producing party shall designate only the specific data or pages of documents

which constitute or contain Confidential Information or Highly Confidential Information. Upon request from another party, the producing party shall produce a redacted (public) version of any such partially confidential compilation or multi-page document within a reasonable period of time.

9. Any public reference to Proprietary Information by the Commission or by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand the reference fully and not more. Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, direct testimony, cross-examination, argument, and responses to discovery, and including reference thereto as mentioned in the above Ordering Paragraphs, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Order, either through the agreement of the parties or pursuant to a further order of the Administrative Law Judge or the Commission.

10. The parties affected by the terms of this Order shall retain the right to question or challenge the confidential nature of the Proprietary Information; to question or challenge the admissibility of Proprietary Information; to refuse or object to the production of Proprietary Information on any proper ground, including but not limited to irrelevance, immateriality, or undue burden; and to seek additional measures of protection of Proprietary Information beyond those provided in this Order. If a challenge is made to the designation of a document or information as Proprietary Information, the party claiming that the information is proprietary or otherwise confidential retains the burden of demonstrating that the designation is necessary and appropriate.

11. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, whether written or oral, which contain any Proprietary Information, shall be immediately returned to the party furnishing such Proprietary Information or destroyed. This provision, however, shall not apply to the Commission, its Staff, the OCA, or any other party receiving the consent of the producing party; except, however, that Highly Confidential Information provided to any party pursuant to Ordering Paragraph No. 5, above, shall be returned to the producing party or destroyed in all cases. In the event that a party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies to the producing party, that party shall certify in writing to the producing party that all copies of the documents and other materials containing Proprietary Information have been destroyed.

Dated: February \_\_, 2020

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Joel H. Cheskis  
Administrative Law Judge

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>INTERSTATE GAS SUPPLY, INC. D/B/A</b>	:	
<b>IGS ENERGY, DIRECT ENERGY</b>	:	
<b>SERVICES LLC AND SHIPLEY</b>	:	
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<b>ENERGY</b>	:	<b>Docket No. C-2019-3013805</b>
	:	<b>C-2019-3013806</b>
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	:	<b>C-2019-3013808</b>
<b>METROPOLITAN EDISON COMPANY,</b>	:	
<b>PENNSYLVANIA ELECTRIC</b>	:	
<b>COMPANY, PENNSYLVANIA POWER</b>	:	
<b>COMPANY, AND WEST PENN POWER</b>	:	
<b>COMPANY</b>	:	

TO WHOM IT MAY CONCERN:

The undersigned is the expert, counsel, employee, member or officer of \_\_\_\_\_ (the retaining party).

The undersigned has read and understands the Protective Order issued in the above-captioned proceeding deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order. The undersigned agrees that any Proprietary Information shall be used or disclosed only for purposes of preparation for, and conduct of the above-captioned proceeding, and any administrative or judicial review thereof, and shall not be disclosed or used for purposes of business or competition.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

Date: \_\_\_\_\_

\_\_\_\_\_  
Employer

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>INTERSTATE GAS SUPPLY, INC. D/B/A</b>	:	
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<b>PENNSYLVANIA POWER COMPANY,</b>	:	
<b>AND WEST PENN POWER COMPANY</b>	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by electronic and first-class mail, postage prepaid, as follows:

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Dated: February 25, 2020

Teresa Harrold/KBW

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