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May 8, 2020

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

VIA ELECTRONIC FILING

RE: Petition of the Energy Association of Pennsylvania to Amend the Commission's June 19, 2015 Implementation Order; P-2020-_____; M-2014-2424864


Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("Commission") is the Answer of the Pennsylvania Energy Consumer Alliance ("PECA"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customer Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPPI") (collectively, "Industrial Customers"), in Support of the Industrial Energy Consumers of Pennsylvania's Petition in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By 
Kenneth R. Stark

Counsel to the Pennsylvania Energy Consumer Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors

c: 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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Certificate of Service

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Dated this 8th day of May 2020 at Mechanicsburg, Pennsylvania



Industrial Customers Answer to EAP Petition A7485270-3.docx

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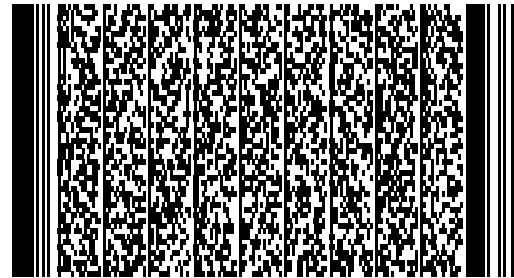
E-Signature Summary

E-Signature 1: Kenneth R. Stark (KRS)

May 08, 2020 14:53:49 -5:00 [C149843DFB23] [73.101.12.43]
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E-Signature Notary: Tricia R. Cordivano (TRC)

May 08, 2020 14:53:49 -5:00 [BCE30E1C7DC0] [73.101.12.43]
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 I, Tricia R. Cordivano, did witness the participants named above electronically sign this document.



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF THE ENERGY :
ASSOCIATION OF PENNSYLVANIA TO : P-2020-_____
AMEND THE COMMISSION’S JUNE 19, : M-2014-2424864
2015 IMPLEMENTATION ORDER. :

**PETITION TO INTERVENE AND ANSWER OF THE
PENNSYLVANIA ENERGY CONSUMER ALLIANCE,
MET-ED INDUSTRIAL USERS GROUP,
PENELEC INDUSTRIAL CUSTOMER ALLIANCE,
PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP,
PP&L INDUSTRIAL CUSTOMER ALLIANCE, AND
WEST PENN POWER INDUSTRIAL INTERVENORS**

Pursuant to Section 5.61 and Sections 5.71 through 5.74 of the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) Regulations, 52 Pa. Code §§ 5.61, 5.71-5.74, the Pennsylvania Energy Consumer Alliance (“PECA”), Met-Ed Industrial Users Group (“MEIUG”), Penelec Industrial Customer Alliance (“PICA”), Philadelphia Area Industrial Energy Users Group (“PAIEUG”), PP&L Industrial Customer Alliance (“PPLICA”), and West Penn Power Industrial Intervenors (“WPPII”) (collectively, “Industrial Customers”) hereby file this Petition to Intervene Answer to the Energy Association of Pennsylvania’s (“EAP”) Petition to Amend the Commission’s June 19, 2015 Implementation Order in Docket M-2014-2424864 (“Petition to Amend Phase III” or “Petition”) that EAP filed with the Commission on May 1, 2020 in the above-referenced proceeding on behalf of Pennsylvania’s seven largest electric distribution companies (“EDCs”).¹

¹ *Petition of the Energy Association of Pennsylvania to Amend the Commission’s June 19, 2015 Implementation Order*, Docket No. M-2014-2424864, P-2020-____ (filed May 1, 2020) (hereinafter “Petition to Amend Phase III”).

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BACKGROUND

On May 1, 2020, EAP filed the Petition to Amend the Act 129² Phase III Implementation Order of the Commission’s Energy Efficiency and Conservation (“EE&C”) Program.³ EAP seeks to modify the Phase III peak demand reduction targets based on EDC performance during the second, third, and fourth years of Phase III (June 1, 2017 through May 31, 2020) and to allow EDCs to implement approved demand reduction programs on a voluntary basis for the fifth program year (June 1, 2020 through May 31, 2021).⁴ EAP explains that the COVID-19 pandemic “has significantly impaired the ability of EDCs” to achieve demand reduction targets in the fifth program year of Phase III.⁵ EAP explained that orders closing non-essential businesses and associated substantial reductions in demand for electricity (at a drop between eight and ten percent) materially impair the ability of EDCs to meet their remaining Phase III reduction targets for reasons outside their control.⁶ However, each EDC has met or exceeded its demand reduction target over the course of 13 events called during the second, third, and fourth years of Phase III.⁷ Because EAP petitions for an amendment of obligations that begin on June 1, 2020, EAP asked the Commission to rule on the Petition on an expedited basis.⁸

² 66 Pa. C.S. § 2806.1(a).

³ *Energy Efficiency and Conservation Program*, Docket No. M-2014-2424864, Final Implementation Order (June 19, 2015) (“Phase III Final Implementation Order”).

⁴ Petition to Amend Phase III at 1.

⁵ *Id.* at 2.

⁶ *Id.* at ¶¶ 15, 17, 20 (explaining that the COVID-19 pandemic impacts were not envisioned when the Commission established the reduction targets in Phase III).

⁷ *Id.* at ¶ 10.

⁸ *Id.* at ¶ 26.



PETITION TO INTERVENE

In support of its Petition to Intervene, the Industrial Customers assert the following:

1. PECA is an unincorporated association of large energy consumers that advocates for statewide energy and environmental policies that will advance the interests of large commercial and industrial ("Large C&I") customers. In addition to PUC proceedings, PECA advocates to protect its interests before other government agencies, the legislative branch, and the executive branch.

2. MEIUG is an ad hoc group of energy-intensive Large C&I customers receiving electric service from the Metropolitan-Edison Company ("Met-Ed"). PICA is an ad hoc group of energy-intensive Large C&I customers receiving electric service from the Pennsylvania Electric Company ("Penelec"). PAIEUG is an ad hoc group of energy-intensive customers receiving electric service from PECO Energy Company ("PECO"). PPLICA is an ad hoc group of energy-intensive Large C&I customers receiving electric service from PPL Electric Utilities ("PPL"). WPPII is an ad hoc group of energy-intensive Large C&I customers receiving electric service from the West Penn Power ("West Penn").

3. The Industrial Customers annually consume substantial amounts of electricity in their manufacturing and operational processes, and electricity costs comprise a significant element of their respective costs of operation.

4. The names and address of the Industrial Customers' attorneys are:



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5. The Industrial Customers' members include commercial, institutional, and industrial customers of electricity that have participated in various proceedings before this Commission. Because the COVID-19 pandemic ("COVID-19") has detrimentally impacted the economic well-being of businesses and consumers throughout Pennsylvania and materially impacted power demand and energy consumption, the Industrial Customers have a significant interest in participating in this proceeding and desire to monitor PUC regulatory and procedural changes due to COVID-19.

6. Because the Industrial Customers have an interest in this proceeding that is not represented by any other party of record, the Industrial Customers satisfy the standards for intervention under Section 5.72 of the Commission's Regulations, 52 Pa. Code § 5.72.

ANSWER

The Industrial Customers agree with EAP that COVID-19 has materially impacted power demand and consumption patterns and has caused a profound economic impact on businesses



and consumers.⁹ EAP asks that the Commission measure compliance with Phase III reduction targets based on EDC performance during the second, third, and fourth program years of Phase III, and to make performance voluntary for the fifth and final year of Phase III.¹⁰ The Industrial Customers recognize the potential difficulty of EDCs to perform in the fifth and final year of Phase III, which runs from June 1, 2020 through May 31, 2021.

In its Petition, EAP contends that continuing demand reduction and demand response (“DR”) programs on a voluntary basis provides various benefits, such as allowing participating customers to receive compensation for their load curtailment activities.¹¹ If a curtailment event is called, EAP explains that customers will continue to receive the benefits associated with the Act 129 demand reduction programs.¹² Accordingly, the ability of end-use customers to comply with the Act 129 demand reduction program requirements for the upcoming summer of 2020 would not impact the EDCs from an Act 129 compliance perspective if the EDCs are no longer under an obligation to meet demand reduction requirements for the fifth year of Phase III. The Industrial Customers support EAP’s proposal so long as customers who are not able to participate in the Act 129 demand reduction programs (*e.g.*, respond to a curtailment event) during the voluntary period in the fifth year of Phase III are not penalized.

In seeking to make the fifth program year of Phase III voluntary, EAP also seeks a Commission finding that EDCs would not be exposed to Act 129 statutory or civil penalties due

⁹ See Petition to Amend Phase III at 2, 6-8. For a more detailed discussion regarding the impact of COVID-19 on power demand/consumption and the economy, please see the Industrial Customers’ pleadings that were recently filed in the following proceedings: *Energy Efficiency and Conservation Program*, Docket No. M-2020-3015228 (Industrial Customer Comments filed April 27, 2020); *Petition of Industrial Energy Consumers of Pennsylvania’s (“IECPA”) to Suspend Implementation of Act 129 Phase IV Requirements and for Other Relief*, Docket No. P-2020-3019562 (Industrial Customer Answer filed on May 5, 2020) (hereinafter “Industrial Customers Answer to IECPA Petition”).

¹⁰ Petition to Amend Phase III at 8, ¶ 21.

¹¹ *Id.* at ¶ 23.

¹² *Id.* at ¶ 23.



to failure to perform and meet required reduction targets during the fifth year of Phase III.¹³ If EE&C program penalties will be removed during the fifth program year of Phase III because the EDCs question whether 100% of the expected participants will be able to perform, then the EE&C surcharges during that time period (June 1, 2020 – May 31, 2021) need to be adjusted on the same basis. Having fewer participants in the DR measures for 2020-2021 means that fewer program resources will be spent to compensate the reduced number of participants. On May 5, 2020, the Industrial Customers filed an answer in support of a Petition seeking an immediate reduction of 50% of EE&C surcharges in light of the impact of COVID-19.¹⁴ For some EDCs, the DR measures comprise a significant portion of the projected expenditures allocated to the Large C&I class in the calculation of the surcharges that will take effect on June 1, 2020. Accordingly, if the penalties are removed and the fifth year of Phase III is now “voluntary,” then the Industrial Customers request an immediate reduction, effective June 1, 2020, of the projected 2020 EE&C program costs, reflecting a 50% to 75% reduction in projected costs for DR measures reflected in the EE&C surcharges, starting June 1, 2020. In addition, the surcharges should be revised to reflect updated expenditures for other measures that will not be able to be fully marketed and implemented due to the COVID-19 workplace restrictions. Given that the EDCs have limited and reduced ability to carry out the Act 129 program (and will be incurring fewer expenses associated with the fifth program year of Phase III) a substantial reduction in surcharges is just and reasonable. In addition, the surcharges should be closely monitored during the upcoming year to ensure expedited adjustments based on the experienced levels of expenditures. Relying on the annual reconciliation is not sufficient when customers are facing declining economic conditions and forecasts for this year.

¹³ See Petition to Amend Phase III at ¶ 21.

¹⁴ See generally Industrial Customers Answer to IECPA Petition at 4-17.



As EAP recognizes, the Commission retains discretionary authority under Sections 501(a) and 703(g) of the Public Utility Code, 66 Pa. C.S. §§ 501(a), 703(g), to amend the Commission's June 19, 2015 Implementation Order in Docket M-2014-2424864.¹⁵ The Commission also has the responsibility to ensure that rates made, demanded, or received by public utilities are just and reasonable.¹⁶ Those rates include EE&C surcharges. Granting EAP's request to make the reduction requirements in the fifth year of Phase III voluntary and providing a commensurate reduction in Phase III EE&C surcharges of at least 50% (due to a decrease in program costs for the remainder of Phase III) is in the public interest, balances the needs of the utilities and consumers, and is consistent with the Commission's powers and duty to ensure that all public utility rates are "just and reasonable."¹⁷

In summary, the Industrial Customers support EAP's Petition and recommend the Commission grant EAP's Petition under three conditions:

- 1) The Commission clarify that customers who had commitments to do DR under Act 129 programs are not penalized during the remainder of Phase III;
- 2) The Commission order an immediate reduction of the projected 2020 cost for the EE&C DR program by at least 50% to 75%, to be reflected in revised EE&C surcharges, beginning June 1, 2020; and
- 3) The Commission require the EDCs to closely monitor actual and projected EE&C expenditures for all measures during the June 1, 2020 to May 31, 2021 program year for Phase III and to implement interim adjustments to the EE&C surcharges if the actual conditions vary from the assumptions used to establish the June 1, 2020 rates.

¹⁵ Petition to Amend Phase III at ¶ 24.

¹⁶ 66 Pa. C.S. § 1301(a) ("Every rate made, demanded, or received by any public utility ... shall be just and reasonable.").

¹⁷ See 66 Pa. C.S. § 1301.



WHEREFORE, the Industrial Customers respectfully request that the Commission grant the Energy Association of Pennsylvania's Petition, subject to the following three conditions:

- 1) The Commission clarify that customers who had commitments to do DR under Act 129 programs are not penalized during the remainder of Phase III;
- 2) The Commission order an immediate reduction of the projected 2020 cost for the EE&C DR program by at least 50% to 75%, to be reflected in revised EE&C surcharges, beginning June 1, 2020; and
- 3) The Commission require the EDCs to closely monitor actual and projected EE&C expenditures for all measures during the June 1, 2020 to May 31, 2021 program year for Phase III and to implement interim adjustments to the EE&C surcharges if the actual conditions vary from the assumptions used to establish the June 1, 2020 rates.

Respectfully submitted,

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Dated: May 8, 2020



