



January 4, 2021

**VIA E-File**

Deputy Chief Administrative Law Judge Mark A. Hoyer  
Pennsylvania Public Utility Commission  
Piatt Place  
Suite 220  
301 5th Avenue  
Pittsburgh, PA 15222  
[mhoyer@pa.gov](mailto:mhoyer@pa.gov)

**Re: Joint Petition for Consolidation of Proceedings and Approval of the Phase IV Energy Efficiency and Conservation Plan of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company, Docket Nos. M-2020-3020820, M-2020-3020821, M-2020-3020822, M-2020-3020823**

**Prehearing Conference Memorandum of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA).**

Dear Judge Hoyer,

Please find the attached **Prehearing Conference Memorandum of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** in the above-referenced matters.

Pursuant to the Commission's Emergency Order issued on March 20, 2020, and as indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully Submitted,

A handwritten signature in blue ink that reads "John W. Sweet". The signature is written in a cursive style with a horizontal line above the name.

John W. Sweet, Esq.  
*Counsel for CAUSE-PA*

CC: Rosemary Chiavetta, Secretary  
Certificate of Service

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition for Consolidation of	:	Docket Nos.	M-2020-3020820
Proceedings and Approval of the Phase IV	:		M-2020-3020821
Energy Efficiency and Conservation Plan	:		M-2020-3020822
of Metropolitan Edison Company,	:		M-2020-3020823
Pennsylvania Electric Company,	:		
Pennsylvania Power Company, and West	:		
Penn Power Company	:		

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**PREHEARING CONFERENCE MEMORANDUM OF THE COALITION FOR  
AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY IN  
PENNSYLVANIA**

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**PENNSYLVANIA UTILITY LAW PROJECT**

*Counsel for CAUSE-PA*

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**January 4, 2021**

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## **I. INTRODUCTION**

On December 30, 2020, a Prehearing Conference Order was issued by Deputy Chief Administrative Law Judge Mark A. Hoyer, setting a call-in prehearing conference for Tuesday, January 5, 2021 at 10:00 a.m. and requiring the parties to file Prehearing Conference Memoranda no later than Monday, January 4, 2021 at 2:00 p.m. In response, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, hereby files this Prehearing Conference Memorandum in the above-captioned matters.

## **II. HISTORY OF PROCEEDING**

Act 129 of 2008 (Act 129) charged the Commission with the task of developing an energy efficiency and conservation program (EE&C Program). The Act also established energy efficiency (EE) and peak demand reduction (PDR or DR) targets that each electric distribution company (EDC) with at least 100,000 customers must meet. Pursuant to Section 2806.1(C)(3) of Act 129, the Commission was charged with evaluating the costs and benefits of the EE&C Program by November 30, 2013 and every five years thereafter.

On June 18, 2020, after receiving comments and reply comments from the Companies and other interested parties, the Commission issued its Energy Efficiency and Conservation Phase IV Implementation Order (Implementation Order), setting consumption reduction and demand reduction targets for each EDC with at least 100,000 customers.

On November 30, 2020, Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), and West Penn Power Company (West Penn) (collectively, FirstEnergy or the Companies) filed a Joint Petition for

Consolidation of Proceeding and Approval of the Phase IV Energy Efficiency and Conservation Plan in the above-captioned dockets.

On December 11, 2020, CAUSE-PA filed a Petition to Intervene and Answer in the above-captioned matters. In its Petition to Intervene and Answer, CAUSE-PA requested that it be granted full status as an intervener with active party status in the above-captioned matters and identified a number of issues present in FirstEnergy's filing that required further investigation and hearings. Such issues are discussed in further detail below.

On December 30, 2020, a Prehearing Conference Order was issued by Deputy Chief Administrative Law Judge (Deputy Chief ALJ) Mark A. Hoyer, setting a call-in prehearing conference for Tuesday, January 5, 2021 at 10:00 a.m. and requiring the parties to file Prehearing Conference Memorandum no later than January 4, 2021 at 2:00 p.m. CAUSE-PA submits the instant Prehearing Conference Memorandum in compliance with said Order.

### **III. REPRESENTATION OF CAUSE-PA AND SERVICE**

CAUSE-PA is represented in this proceeding by counsel at the Pennsylvania Utility Law Project, and requests consolidated service as follows:

John W. Sweet, Esq.  
Ria Pereira, Esq.  
Elizabeth R. Marx, Esq.  
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118 Locust Street  
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The primary speaker for the purposes of the Prehearing Conference in this matter will be John W. Sweet, Esq.

Pursuant to the Commission's Emergency Order issued on March 20, 2020, CAUSE-PA requests service by email during the pendency of the Proclamation of Disaster Emergency in Pennsylvania. After the Proclamation of Disaster Emergency is lifted, CAUSE-PA requests that parties serve both an electronic and a single hard copy of all documents served in this proceeding on the Pennsylvania Utility Law Project, as listed above.

#### **IV. ISSUES TO BE PRESENTED**

While additional issues may arise as a more comprehensive review of FirstEnergy's filing takes place, on preliminary review of FirstEnergy's filing, CAUSE-PA has identified the following issues present in FirstEnergy's filings that require further investigation and hearing:

- a. Whether the Companies' proposed programs and identified measures within those programs satisfy the requirements of Act 129 and Commission's Orders, including but not limited to the requirement that low-income households are provided with proportionate measures and low-income savings carve out;
- b. Whether the proposed programs and measures are appropriately designed to produce projected savings for participants in multifamily housing programs, and whether the Companies' multi-family housing programs are sufficiently designed to reach and impact low-income households regardless of whether they reside in multifamily buildings that are individually-metered/tenant paid or master-metered/owner-paid;
- c. Whether the proposed plan will achieve the most lifetime energy savings per expenditure;
- d. Whether the proposed plan properly focuses on direct-install measure for low-income customers;

- e. Whether the proposed plan adequately provides comprehensive measure for low-income households;
- f. Whether the delivery of measures to low-income households is appropriately coordinated with other low-income bill assistance and energy efficiency and conservation programs operating within the Companies' respective service territories; and
- g. Whether the delivery of plan measures is appropriately coordinated between Conservation Service Providers (CSPs) serving low-income populations.

CAUSE-PA asserts that the issues identified above, along with any future issues identified by interested parties, must be thoroughly reviewed to resolve potential negative aspects of the Companies' respective EE&C Plans and to ensure that the positive aspects of the Plans are not changed. Without investigation of the above-stated issues, the Companies' filing could result in unjust and unreasonable terms and conditions and impose inequitable measures and benefits to low-income customers in the Companies' service territories.

**V. EVIDENCE TO BE PRESENTED**

CAUSE-PA expects to present written direct and rebuttal testimony and accompanying exhibits at the evidentiary hearing. CAUSE-PA intends to rely on FirstEnergy's filings, testimony of FirstEnergy witnesses and the witnesses of other parties, exhibits, responses and answers to discovery, Commission orders and other filings from prior and/or ongoing proceedings before the Commission or other government bodies or courts, reports, and or/other documents related to the issues and sub-issues raised above. CAUSE-PA reserves the right to present evidence of any issues that arise through the course of the proceeding, including but not necessarily limited to the issues identified above or by the other parties to this proceeding. Any

and all evidence presented by CAUSE-PA will be directed to ensure that low-income customers are adequately and appropriately protected.

**VI. WITNESSES AND TESTIMONY**

CAUSE-PA intends to present the following witness to testify in this matter, and reserves the right to call additional witnesses as may be warranted upon proper notice to Your Honor and the parties:

Jim Grevatt  
Energy Futures Group, Inc.  
P.O. Box 587  
Hinesburg, VT 05461  
802-482-4086  
[jgrevatt@energyfuturesgroup.com](mailto:jgrevatt@energyfuturesgroup.com)

Mr. Grevatt will address the issues identified above, as well as other issues that may arise in the course of this proceeding.

**VII. DISCOVERY**

CAUSE-PA recommends a 5-day timeframe for formal discovery responses (in-hand), and specifically requests that, going forward, this timeframe apply to discovery served on the Companies and the parties prior to the Prehearing Conference. In other words, responses to previously served discovery should be due within 5 days of the Prehearing Conference Order. With respect to other discovery modifications, CAUSE-PA supports the proposed modifications requested by the Office of Consumer Advocate (OCA).

CAUSE-PA notes that, should the schedule in this proceeding be extended to account for the Commission-established timeframe for formal Answers in this proceeding, we believe a 7-day timeframe for discovery responses would be appropriate. See below. However, if the

timeframe for litigation remains on a compressed schedule, we believe a 5-day timeframe for initial discovery responses is critical.

### **VIII. LITIGATION SCHEDULE**

CAUSE-PA is actively engaged in discussions with the parties to arrive at a mutually agreeable schedule for litigation in this proceeding, consistent with the timeframe identified by ALJ Hoyer in his email to all active parties and intervenors on December 28, 2020. At the time this Prehearing Memorandum was filed, the parties had not yet reached a consensus agreement.

Nevertheless, CAUSE-PA asserts that litigation in this proceeding should not begin until after January 22, 2021, following the 20-day timeframe for formal Answers established by the Commission in its Implementation Order and published in the Pennsylvania Bulletin on January 2, 2021. See 51 Pa.B. 116, see also Implementation Order at 87-88). Starting litigation in this proceeding before the 20-day timeframe for formal Answers expires would be prejudicial to all parties, as well as potential additional litigants, and creates the distinct possibility for protracted appeal and substantial delays in approval of the Act 129 Plans. We recommend the following schedule be adopted in this proceeding to allow all interested parties to fully participate in the proceedings:

Direct Testimony (Non-Company Direct):	February 12, 2021
Rebuttal Testimony:	February 19, 2021
Hearing:	February 24, 2021
Main Brief:	March 5, 2021
Reply Comments / Revised Plan:	March 12, 2021
Record Certification:	March 19, 2021



We note that this timeframe would still allow the Commission to approve the Act 129 Plans well in advance of the start of Phase IV in June 2021. Given the Commission's delay in publication of the Act 129 Plans in the Pennsylvania Bulletin, we believe this slight extension of the timeframe for litigation of the Act 129 Plans is prudent, and will avoid potential complications should litigation conclude prior to the date for formal Answers in this proceeding.

**IX. SETTLEMENT**

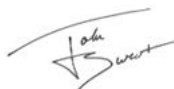
CAUSE-PA is willing and ready to engage in settlement discussions in an attempt to resolve or narrow the issues in this proceeding, with any and all parties, and encourages the parties to engage in settlement early in the process. We note that if this proceeding progresses on the compressed timeframe, it is less likely that the parties will be able to both represent their interests through litigation and engage in comprehensive settlement discussions.

**X. CONCLUSION**

CAUSE-PA respectfully submits this Prehearing Conference Memorandum and requests that it be entered into the record of this proceeding.

Respectfully submitted,

**PENNSYLVANIA UTILITY LAW PROJECT**  
*Counsel for CAUSE-PA*



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Dated: January 4, 2021

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of Metropolitan Edison Company,	:		M-2020-3020823
Pennsylvania Electric Company,	:		
Pennsylvania Power Company, and West	:		
Penn Power Company	:		

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**Certificate of Service**

I hereby certify that I have this day served copies of the **Prehearing Conference Memorandum of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54 and consistent with the Commission’s Emergency Order issued on March 20, 2020.

**VIA Email Only**

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Respectfully Submitted,  
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