

Robert N. Peirce, Jr.  
Robert N. Peirce, III (KY, OH, WV)  
Robert F. Daley (OH, WV)  
D. Aaron Rihn (WV)  
Elizabeth A. Chiappetta (WV)  
Scott M. Simon  
Mark D. Troyan (WV)  
Joseph Bellissimo  
A. Michael Gianantonio  
Adrian J. DeGori  
Katelyn Dornburg Edwards (WV)  
Margaret M. Cooney  
Allison H. Greene  
Adam P. Murdock  
Sara J. Watkins  
Zachary Carls  
David Martin

# Robert Peirce & Associates, P.C.

A T T O R N E Y S A T L A W

707 Grant Street • Suite 125 • Pittsburgh, PA 15219-1918  
Telephone: 412-281-7229 • Telefax: 412-281-4229 • Toll Free: 1-800-543-9859

January 17, 2022

## VIA ELECTRONIC FILING

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

Re: Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company, for Approval of Their Default Service Programs; Docket Nos. P-2021-3030012; P-2021-3030013; P-2021-3030014; and, P-2021-3030021

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is the Joint Petition to Intervene of John Bevec and Sunrise Energy, LLC in the above reference matter. As demonstrated by the attached Certificate of Service, all parties to these proceedings are being duly served via electronic mail with a copy of this filing.

Thank you for your attention to this matter.

Respectfully,

  
A. MICHAEL GIANANTONIO

/sjp  
Attachment

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>JOINT PETITION OF</b>	<b>:</b>	<b>DOCKET NOS. P-2021-3030012,</b>
<b>METROPOLITAN EDISON COMPANY,</b>	<b>:</b>	<b>3030013, 3030014 and 3030021</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, FOR APPROVAL OF</b>	<b>:</b>	
<b>THEIR DEFAULT SERVICE</b>	<b>:</b>	
<b>PROGRAMS</b>	<b>:</b>	

**PETITION TO INTERVENE OF JOHN BEVEC AND SUNRISE ENERGY, LLC**

AND NOW, come intervenors, John Bevec and Sunrise Energy, LLC, by and through their undersigned counsel, A. Michael Gianantonio, Esquire Robert F. Daley, Esquire and the law firm of Robert Peirce & Associates, and file the within Petition to Intervene, the following of which is a statement:

**I. PARTIES**

1. Intervenor John Bevec is an adult individual residing at 1110 Union Street, Canonsburg, PA 15317 Washington County, Pennsylvania.
2. The Electric Distribution Company (“EDC”) serving Mr. Bevec is West Penn Power Company (“West Penn”).
3. Sunrise Energy, LLC (“Sunrise”) is a Pennsylvania Limited Liability Company with a commercial solar facility located in Smith Township Industrial Park in Washington County, Pennsylvania.
4. The EDC serving Sunrise’s solar facility is also West Penn.
5. Petitioners are represented in this matter by:  
  
A. Michael Gianantonio, Esquire  
Pa. I.D. No.: 89120  
Robert F. Daley, Esquire  
Pa. I.D. No.: 81992

Robert Peirce & Associates, P.C.  
707 Grant Street  
Gulf Tower, Ste. 125  
Pittsburgh PA, 15219  
Telephone: 412-281-7229  
Facsimile: 412-281-4229

7. Petitioners' counsel consents to the service of documents by electric mail to [mgianantonio@peircelaw.com](mailto:mgianantonio@peircelaw.com), as provided by 52 Pa. Code § 1.54(b)(3).

## II. OPERATIVE FACTS WARRANTING INTERVENTION

8. On December 14, 2021 the EDCs filed with this Court a Petition for Joint Approval of Their Default Service Programs (the "Joint Petition") for the time period of January 1, 2023 through May 31, 2027.

9. The EDCs appear to be represented in this matter by First Energy Service Company ("FESC"), an organization that is not regulated by the Pennsylvania Public Utility Commission ("PUC" or "Commission").

10. FESC employees have submitted sworn testimony in this matter, despite having presented no evidence that they are in any way affiliated with the EDCs.

11. On January 1, 2022, in the Pennsylvania Bulletin, v. 52 No.1, the PUC published a deadline for filing of January 18, 2022 for, *inter alia*, petitions to intervene to the EDCs' Petition for Joint Approval.

12. One of the stated reasons for the EDCs' filing their petition is that they want to "satisfy requirements imposed" by the Pennsylvania Alternative Energy Portfolio Standards Act (the "AEPS act") 73 P.S. 1648.1, *et seq.* See, EDC's Pet. at pp. 1-2.

13. Likewise, the EDCs are seeking to ensure they "recover all associated costs on a full and current basis..." *Id.*

14. However, in discussing the AEPS act and the cost recovery associated with the same in their petition, the EDCs refer only to costs associated with solar photovoltaic alternative energy credits (“SPAECs”) and to energy purchased in relation to future Power Purchase Agreements (“PPAs”).

15. The Joint Petition is silent on the recovery of other costs associated with the implementation of the AEPS act. Specifically, it does not address the recovery of the cost of excess energy purchased from renewable energy systems pursuant to the AEPS act.

16. Moreover, the Joint Petition does not address how the regulated EDCs will carry out these proposed actions considering that most, if not all, of the EDCs managerial and administrative tasks are carried out by FESC, which is not a regulated utility.

### **III. RIGHT TO INTERVENE**

17. Eligibility to intervene in PUC proceedings is controlled by 52 Pa. Code § 5.72, which provides, in pertinent part, that “[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.” 52 Pa. Code § 5.72(a).

18. Section 5.72 continues by stating that the right or interest may be one “which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.” 52 Pa. Code. § 5.72(a)(2).

19. Mr. Bevec is an individual and a ratepayer in West Penn’s service territory. Likewise, Sunrise is a limited liability company also located in that territory. Both parties will be bound by the PUC’s decision in this matter.

20. Petitioners have a significant interest in the outcome of the Joint Petition as, at least with respect to West Penn, Petitioners believe there is a risk that West Penn may have been paid and continue to be paid twice for the same energy. Only by reviewing the proposed cost recovery calculations in detail may this question be answered. The Joint Petition and supporting testimony presented in this matter are silent on this important aspect of future PTC calculation.

21. Petitioners believe that the same double billing for energy may be occurring and/or may occur in the future among the remaining EDCs since they are also controlled and/or operated by FESC and/or First Energy Corporation (“FEC”).

22. Specifically, while the AEPS Act permits cost recovery under certain conditions, it does not entitle EDCs to require that ratepayers pay twice for the same energy. This is what can happen when an EDC distributes renewable energy for sale to ratepayers, and then also seeks cost recovery for the same energy.

23. Petitioners have standing to intervene because they have and will continue to suffer direct, immediate and substantial injury to their interest as a result of this proceeding.

24. Petitioners do not believe their interests are adequately represented by the existing participants, and Petitioners will be bound by the action of the Commission in this proceeding.

25. Petitioners believe further that the interests presented here are of such a nature that their involvement will be in the public interest.

WHEREFORE, Petitioners John Bevec and Sunrise Energy respectfully request that this Honorable Commission enter an order granting Petitioners full status as intervenors in this proceeding with active party status.

Respectfully submitted,

ROBERT PEIRCE & ASSOCIATES P.C.

By: 

A. MICHAEL GIANANTONIO, ESQUIRE  
Counsel for Petitioners John Bevec and Sunrise  
Energy, LLC

## VERIFICATION

I, **John Bevec**, individually and as a member of Sunrise Energy, LLC, hereby state that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 10 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: 1/17/2022

By:   
John Bevec

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the participants, listed below, in accordance with the requirements of Section 1.54 (relating to service by a participant).

### VIA EMAIL

The Honorable Jeffrey Watson  
Administrative Law Judge  
Piatt Place, Suite 220  
201 Fifth Avenue  
Pittsburgh, PA 15222  
[jeffwatson@pa.gov](mailto:jeffwatson@pa.gov)

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

Brooke E. McGlinn, Esq.  
Catherine G. Vasudevan, Esq.  
Kenneth M. Kulak, Esq.  
Morgan Lewis and Bockius LLP  
1701 Market Street  
Philadelphia, AP 19103  
[bmcglinn@morganlewis.com](mailto:bmcglinn@morganlewis.com)  
[cvasudevan@morganlewis.com](mailto:cvasudevan@morganlewis.com)  
[kkulak@morganlewis.com](mailto:kkulak@morganlewis.com)

Patrick M. Cicero, Esq.  
Christy Appleby, Esq.  
Darryl A. Lawrence, Esq.  
Harrison W. Breitman, Esq.  
Office of Consumer Advocate  
5th Floor Forum Place  
555 Walnut Street  
Harrisburg PA 17101-1923  
[pcicero@paoca.org](mailto:pcicero@paoca.org)  
[cappleby@paoca.org](mailto:cappleby@paoca.org)  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)  
[hbreitman@paoca.org](mailto:hbreitman@paoca.org)

Teresa Reed Wagner, Executive Director  
Steven C. Gray, Sr. Supervising Assistant  
Small Business Advocate  
Office of Small Business Advocate  
Forum Place – First Floor  
555 Walnut Street  
Harrisburg, PA 17101  
[teresawagne@pa.gov](mailto:teresawagne@pa.gov)  
[sgray@pa.gov](mailto:sgray@pa.gov)

Allison C. Kaster, Esq.  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street, 2nd Floor West  
Harrisburg, PA 17120  
[akaster@pa.gov](mailto:akaster@pa.gov)

Elizabeth R. Marx, Esq.  
John Sweet, Esq.  
Lauren Berman, Esq.  
Ria Pereira, Esq.  
PA Utility Law Project  
118 Locust Street  
Harrisburg, PA 1710  
[emarx@pautilitylawproject.org](mailto:emarx@pautilitylawproject.org)  
[jsweet@pautilitylawproject.org](mailto:jsweet@pautilitylawproject.org)  
[lberman@pautilitylawproject.org](mailto:lberman@pautilitylawproject.org)  
[rpereira@pautilitylawproject.org](mailto:rpereira@pautilitylawproject.org)

Christopher O'Hara  
Senior Vice President, General Counsel,  
Law  
& Chief Compliance Officer  
PJM Interconnection LLC  
2750 Monroe Boulevard  
Audubon, PA 19403-2497  
[christopher.ohara@pjm.com](mailto:christopher.ohara@pjm.com)



Deanne M. O'Dell  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Floor  
P.O. Box 1248  
Harrisburg, PA 17101  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)  
*Counsel for RESA*

Thomas J. Sniscak  
Hawke McKeon & Sniscak LLP  
100 North 10th Street  
P.O. Box 1778 Harrisburg, PA 17105  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)  
*Counsel for Penn State University*


Richard Karanskie, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120  
[rkranskie@pa.gov](mailto:rkranskie@pa.gov)

Steven C. Gray  
Senior Supervising Agent  
Small Business Advocate  
Office of Small Business Advocate  
Forum Place—First Floor  
555 Walnut Street  
Harrisburg, PA 17101  
[sgray@pa.gov](mailto:sgray@pa.gov)

Harrison Breitman, Esquire  
Darryl A. Lawrence, Esquire  
Christy M. Appleby, Esquire  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101  
[hbreitman@paoca.org](mailto:hbreitman@paoca.org)  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)  
[cappleby@paoca.org](mailto:cappleby@paoca.org)

Charis Mincavage, Esquire  
McKees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108  
[cmincavage@mcneeslaw.com](mailto:cmincavage@mcneeslaw.com)

Dated: 1/17/22

By:   
A. MICHAEL GIANANTONIO, ESQUIRE  
Counsel for Petitioners John Bevec and Sunrise  
Energy, LLC