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January 18, 2022

Via Electronic Filing

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

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 for the Period From June 1, 2023 through May 31, 2027; Docket Nos. P-2021-3030012, P-2021-3030013; P-2021-3030014; P-2021-3030021

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Retail Energy Supply Association (“RESA”) and NRG Energy, Inc.’s (“NRG”) Petition to Intervene in the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Karen O. Moury

KOM/lww

Enclosure

cc: Hon. Jeffrey A. Watson w/enc. (via email only)
Cert. of Service w/enc. (via email only)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of RESA and NRG Energy'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 Email Only

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/s/ Karen O. Moury

Karen O. Moury, Esq.

Dated: January 18, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Metropolitan Edison Company,	:	
Pennsylvania Electric Company,	:	Docket Nos. P-2021-3030012
Pennsylvania Power Company and West	:	P-2021-3030013
Penn Power Company for Approval of	:	P-2021-3030014
Their Default Service Programs for the	:	P-2021-3030021
Period From June 1, 2023 Through May	:	
31, 2027	:	

**PETITION TO INTERVENE OF THE RETAIL ENERGY SUPPLY
ASSOCIATION AND NRG ENERGY, INC.**

Pursuant to 52 Pa. Code §§ 5.72-5.75 and the notice published in the *Pennsylvania Bulletin* on January 1, 2022, the Retail Energy Supply Association (“RESA”)¹ and NRG Energy, Inc. (“NRG”) petition to intervene in the proceeding initiated by the filing of the Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, the “Companies”) for Approval of Their Default Service Programs for the period from June 1, 2023 through May 31, 2027 (“DSP VI Petition”). In support of their intervention, RESA and NRG state as follows:

¹ 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 at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

I. BACKGROUND

1. On December 14, 2021, the Companies filed the DSP VI Petition proposing to establish the terms and conditions under which they will procure default service supplies, provide default service to non-shopping customers, satisfy requirements imposed by the Alternative Energy Portfolio Standards Act ("AEPS Act")² and recover all associated costs on a full and current basis for the period from June 1, 2023 through May 31, 2027.

2. By notice published in the *Pennsylvania Bulletin* on January 1, 2022, the Commission established a deadline of January 18, 2022 for the filing formal protests, petitions to intervene and answers. The notice also advised of the scheduling of a telephonic prehearing conference on January 21, 2022 before Administrative Law Judge ("ALJ") Jeffrey Watson. Per the Prehearing Order of ALJ Watson dated January 3, 2022, prehearing conference memoranda are due on January 20, 2022 by Noon.

3. RESA is a trade association of energy companies including Pennsylvania licensed electric generation suppliers ("EGSs") that supply electric generation service to retail customers in the Companies' distribution service territories and throughout the Commonwealth.

4. NRG is a leading integrated power company built on dynamic retail brands and diverse generation assets. NRG is the leading integrated energy and home services company powered by its customer-focused strategy, strong balance sheet, and comprehensive sustainability framework. A Fortune 500 company, NRG brings the power of energy to millions of North American customers. Our family of brands help people, organizations and businesses achieve their goals by leveraging decades of market expertise to deliver tailored solutions. Working in concert, its dynamic multi-brand retail strategy coupled with supply risk-

² 73 P. S. §§ 1648.1 - 1648.8 and related provisions of 66 Pa. C. S § § 2813-2814.

management forms a uniquely positioned, integrated competitive energy provider. Its retail brands serve more than six million customers across North America, including a significant share in Pennsylvania, so significant, in fact, that NRG's northeast retail business is headquartered in Philadelphia. NRG's subsidiaries include several EGSs that are actively serving residential, commercial, industrial and institutional customers in the Companies' service territories and throughout Pennsylvania.³

5. The attorneys for RESA and NRG in this matter are:

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II. APPLICABLE LEGAL STANDARDS

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

³ As EGSs in Pennsylvania, NRG subsidiaries hold licenses as follows: Direct Energy Business, LLC – Docket No. A-11025; Direct Energy Business Marketing, LLC – Docket No. A-2013-2368464; Direct Energy Services, LLC – Docket No. A-110164; Energy Plus Holdings LLC – Docket No. A-2009-2139745; Gateway Energy Services Corporation – Docket No. A-200902137275; Independence Energy Group LLC d/b/a Cirro Energy – Docket No. A-2011-2262337; Reliant Energy Northeast LLC d/b/a NRG Home/NRG Business/NRG Retail Solutions – Docket No. A-2010-2192350; Green Mountain Energy Company – Docket No. A-2009-2139745; Stream Energy Pennsylvania, LLC – Docket No. A-2010-2181867; and XOOM Energy Pennsylvania, LLC – Docket No. A-2012-2283821.

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. The eligibility requirements for an interested party to intervene in an action before the Commission are less strict and easier to satisfy than the common law standard for intervention. *See Application of Metropolitan Edison Co. for Approval to Construct an Electric Generating Unit Fueled by Natural Gas*, Docket No. A-110300, 1994 Pa. PUC LEXIS 52 (Order entered February 25, 1994) (citing *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975)).

III. RESA AND NRG MEET THE STANDARDS FOR INTERVENTION

8. RESA and NRG meet the standards for intervention set forth in 52 Pa. Code § 5.72(a). As RESA members and NRG subsidiaries actively serve retail electric consumers in the Companies’ service territories, their interests will be directly affected by this proceeding, which will establish the framework for the Companies’ provision of default service from June 1, 2023 through May 31, 2027. The way that default service is structured and priced has a significant effect on the ability of RESA members and NRG subsidiaries to provide competitive electric generation supply to retail customers in the Companies’ service territories since they must compete against this model in selling electricity to retail customers.

9. In addition, the Joint Petition addresses various specific issues directly related to the ability of EGSs to provide competitive service to retail customers. These include the proposals to: (i) shift from quarterly to semi-annual changes in the price to compare; (ii) implement a time-of-use (“TOU”) rate option; (iii) continue existing Customer Referral Programs; (iv) continue rules and procedures for shopping by low income customers; and (v) conduct long-term solar procurement. The resolution of these matters will directly affect the

ability of RESA members and NRG subsidiaries to offer competitive generation supply to customers in the Companies' service territories.

10. The interests of RESA and NRG in this proceeding are unique from and not adequately represented by other parties that may seek to intervene, including individual EGSs or other organizations interested in electric competition in Pennsylvania in general and in the Companies' service territories in particular. RESA offers the views of the association as an organization but does not advocate individual views of its members. In addition, each NRG subsidiary has its own business model and priorities for the development of the competitive market that will help to inform the positions that are taken. As EGSs actively participating in Pennsylvania's retail electric market, RESA members and NRG subsidiaries are well aware of the challenges presented by default service that should be addressed to ensure that consumers have access to a wide array of products and services from which to choose. Further, RESA and NRG are in a position to evaluate the Companies' proposals, as well as those submitted by other parties, from the standpoint of whether they will interfere with functioning of the competitive market.

11. RESA members and NRG subsidiaries will be bound by the action of the Commission in this proceeding, which will determine the Companies' default service rates, terms and conditions beginning June 1, 2023, as well as the framework for many of the Companies' programs that are related to the overall functioning of the competitive market. Since this decision will affect the continued development of Pennsylvania's retail electric market, it is necessary for RESA and NRG to have an opportunity to raise issues arising from their review of the Companies' filing. *See Respond Power, LLC v. Pa. PUC*, 2021 Pa. Commw. Unpub. LEXIS

93, *19 and *26-27, 250 A.3d 547 (2021) (suppliers are expected to raise their objections to proposals in an electric utility's default service plan through intervention in the proceeding).

12. Intervention by RESA and NRG is in the public interest because their participation will enable them to contribute their unique perspectives and offer a complete presentation of the issues to be addressed in this proceeding. Through exploration of the issues that have been preliminarily identified by RESA and NRG, as well as others that it addresses as additional information is reviewed in this proceeding, the Commission can best serve the public interest through the development of a more complete record.

13. Although RESA and NRG are in the early stages of reviewing and analyzing the Companies' filing, it has identified specific issues related to the structure and pricing of default service, as described in Paragraphs 8 and 9 of this Petition to Intervene. RESA and NRG reserve the right to raise and address issues identified through its continued review and analysis of the Companies' filing (and related information), or other issues raised by other parties.

WHEREFORE, the Retail Energy Supply Association and NRG Energy, Inc. respectfully request that the Commission grant their Petition to Intervene.

Respectfully submitted,

/s/ Karen O. Moury

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