

Tori L. Giesler, Esq.
(610) 921-6658
(330) 315-9263 (Fax)

February 18, 2022

VIA ELECTRONIC FILING

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

Re: Petition of Pennsylvania Electric Company for Approval To Distribute The Amortized Amount of Excess Accumulated Deferred Income Taxes; Docket No. P-2022-

Dear Secretary Chiavetta:

Transmitted herewith for filing is the Petition of Pennsylvania Electric Company (individually referred to as "Penelec" or the "Company") For Approval To Distribute The Amortized Amount of Excess Accumulated Deferred Income Taxes in response to the Commission's Order at Docket P-2021-3025906.

Copies have been served on the parties in the manner indicated, as shown on the attached Certificate of Service.

Please feel free to contact me if you have any questions.

Sincerely,



Tori L. Giesler

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Pennsylvania Electric Company :
for Approval To Distribute The Amortized : **Docket No. P-2022-**
Amount of Excess Accumulated Deferred :
Income Taxes :

PETITION OF PENNSYLVANIA ELECTRIC COMPANY

I. INTRODUCTION

Pennsylvania Electric Company (“Penelec” or the “Company”) hereby files this Petition with the Pennsylvania Public Utility Commission (“Commission”) pursuant to 52 Pa. Code § 5.541, and the Commission's directive in the Order entered on November 18, 2021, at Docket No. P-2021-3025906 (the "November 18 Order") to approve the distribution of the amortized amount of excess accumulated deferred income taxes (“EADIT”) associated with the Tax Cuts and Jobs Act of 2017 ("TCJA") for the period of January 1, 2018 through December 31, 2021.

Consistent with the Penelec November 18 Order, Penelec is required to file a petition to distribute the EADIT-related tax savings to customers associated with the TCJA on or before March 3, 2022.¹ As explained further in this filing, Penelec is proposing to distribute the amortized amount of EADIT-related tax savings to customers beginning on the first day of the month after receiving Commission approval, provided Penelec is able to provide 10 days’ notice, consistent with the interim revision provision contained in the tariff, through December 31, 2022.

¹ The original deadline of January 18, 2022 was extended via Secretarial Letter dated January 6, 2022 at Docket No. P-2021-3025906.

In order to facilitate this distribution, Penelec proposes to file an interim rate change to include the tax savings associated with amortization of EADIT in its existing TCJA surcharge mechanism, the Tax Cuts and Jobs Act Voluntary Surcharge Rider (“TCJA Rider”). The distribution of the EADIT-related tax savings in the TCJA Rider would result in those tax savings flowing to customers by December 31, 2022.

In support of this Joint Petition, the Company states as follows:

II. BACKGROUND

1. Penelec is a wholly owned subsidiary of FirstEnergy Corp. that provides service to approximately 600,000 electric utility customers in Pennsylvania. Penelec has its principal place of business at 5404 Evans Road, Erie, PA 16509. Penelec is a “public utility” as defined in Section 102 of the Pennsylvania Public Utility Code (“Code”). Penelec is an “electric distribution company” and a “default service provider” as defined in Section 2803 of the Code.

2. Penelec’s attorney authorized to receive service in this matter is:

Tori L. Giesler
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001

3. By Secretarial Letter dated February 12, 2018, at Docket Number M-2018-2641242, the Commission directed Penelec and other major jurisdictional utilities to file certain data concerning the effects of the TCJA (“February 2018 Secretarial Letter”).

4. On March 9, 2018, Penelec filed the required information and completed Attachment C of the Secretarial Letter, reflecting a calculation of a negative surcharge to be applied to customer bills in accordance with the formula set forth therein. The Company refiled the

required information on March 12, 2018 correcting the previously submitted filing. This filing by Penelec indicated a negative surcharge of 8.50%.

5. On March 15, 2018, the Commission issued a Temporary Rates Order at Docket No. M-2018-2641242, directing Penelec and other public utilities to file their current base rates and riders as temporary rates, pursuant to Section 1310(d) of the Code.

6. Based on the data submitted by the Company, the Commission issued the Penelec Compliance Order on May 17, 2018 at Docket R-2018-3000599.

7. With regard to the information supporting the -8.50% surcharge, Penelec notes that the data used to calculate the surcharge was for the period ending December 31, 2017. The Penelec Compliance Order further noted that "the tax savings from TCJA commenced on January 1, 2018" and directed Penelec "to record on its books the tax savings associated with the TCJA for the January 1, 2018 through June 30, 2018 time period."² The Commission further explained that this account shall also accrue interest at the residential mortgage lending rate specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law.³

8. In addition, the Penelec Compliance Order stated that:

The rate treatment of this amount plus accrued interest shall be addressed in the Respondent's next base rate case. In that future proceeding, the Respondent and parties can address the appropriate negative surcharge, amortization or other disposition of this deferred regulatory liability, including any legal issues. If Respondent is required to establish deferred regulatory liability and has not filed, within three (3) years of the date this order is entered, a Section 1308(d) general base rate case, Respondent must file a petition to propose how to distribute the funds in the regulatory liability account.

² Penelec Compliance Order, p. 4.

³ *Id.*

9. Penelec On June 1, 2018, Metropolitan Edison Company, Pennsylvania Power Company, and West Penn Power Company (collectively, the “Companies”) filed jointly a Petition for Reconsideration at Docket Number R-2018-3000597, et al. The Commission issued its Reconsideration Order on June 14, 2018 allowing the Companies to “record the tax saving associated with the TCJA for the period of January 1, 2018 to March 15, 2018, as well as the interest accrued, in a separate memorandum account.”⁴ Separation of the pre-March 15 balance is based on the Companies’ argument that requiring a refund of the tax savings accrued prior to the Commission’s March 15, 2018 Temporary Rates Order violates the prohibition against retroactive ratemaking. This memorandum account as well as the deferred regulatory liability account for the period between March 16 and June 30 will be addressed “in each Company’s next base rate proceeding or in an independent filing.”⁵

10. Consistent with the Reconsideration Order, Penelec recorded in a separate “memorandum account” rather than a “deferred regulatory liability account” the tax savings associated with the TCJA for the January 1, 2018 to March 15, 2018 time period in the amount of \$8,814,276 and in a “deferred regulatory liability account” the tax savings associated with the March 16, 2018 to June 30, 2018 period in the amount of \$6,672,639. The total amount of the tax savings associated with the TCJA for the combined January 1, 2018 through June 30, 2018 time period was \$15,486,915.

11. Cognizant of the economic strain that has been placed on customers over the course of the global COVID-19 pandemic and despite its prior position with respect to the tax savings realized for the January 1, 2018 through March 15, 2018 period, Penelec filed a petition on May

⁴ Reconsideration Order, p. 7.

⁵ *Id.*

17, 2021 proposing to refund all amounts for the period January 1, 2018 through June 30, 2018 to customers beginning January 1, 2022 (“May 17 Petition”).

12. On November 18, 2021, the Commission entered an Opinion and Order approving Penelec’s proposed return of tax savings for the period January 1, 2018 through June 30, 2018 as outlined in its May 17 Petition. Within the same order, however, the Commission identified that, through the course of data responses, Penelec had failed to recognize the amounts associated with the amortization of EADIT-related savings it had realized as a result of the passage of the TCJA. As a result, the November 18 Order directed the Company to file a petition within sixty days, or January 18, 2022, outlining a proposal as to how it would return the additional EADIT-related tax savings to customers.

13. On December 17, 2021, Penelec filed a petition seeking a forty-five-day extension to file its petition, citing various impediments to its ability to meet the original sixty-day deadline.

14. On January 6, 2022, the Commission, via Secretarial Letter, granted the Company’s extension request, making Met-Ed’s petition due on or before March 3, 2022.

III. PROPOSAL TO DISTRIBUTE THE AMORTIZED AMOUNT OF EXCESS ACCUMULATED DEFERRED INCOME TAXES

15. Penelec’s proposed refund of calculated tax savings as outlined by its May 17 Petition met the requirements of the calculation directed by the Commission in its February 2018 Secretarial Letter; however, as noted by the November 18 Order, the calculation failed to account for the additional savings that would be related to amortization of EADIT.

16. Penelec completed a comprehensive analysis of the annual TCJA surcharge calculation along with reviewing other utilities’ calculations and determined that the Company’s original calculations from January 1, 2018 through December 31, 2021 included an annual rate base offset rather than a cumulative rate base offset. The rate base offset used in the TCJA

calculation should be cumulative in order to reflect the growth in the Company's rate base over time.⁶ Therefore, the Company modified the calculation to include a cumulative rate base offset by calculating the difference between the cumulative rate base offset amount and the annual rate base offset amount included in the original TCJA surcharge calculations.

17. Penelec recorded tax savings of \$22.9 million comprised of the amortization of EADIT and a cumulative rate base offset, and an additional \$3.9 million for regulatory interest calculated at the residential mortgage lending rate as reflected in Appendix A.

18. Accordingly, Penelec proposes to refund the amortization of EADIT-related tax savings and a cumulative rate base offset, including accrued interest, upon Commission approval through December 31, 2022 through its existing TCJA Rider. Currently, the TCJA Temporary Surcharge for 2022 provides for a negative surcharge of 11.05%, which applies as a credit for intrastate service on all customer bills. The amount refunded through this mechanism would be an additional \$26.8 million, which reflects the additional tax savings associated with the amortization of EADIT and a cumulative rate base offset plus applicable interest accrued as shown in Appendix A. Assuming timely approval of this change to allow for a July 1, 2022 implementation of the new TCJA tariff supplement, a negative surcharge of 23.77% would be implemented through December 31, 2022.

19. Penelec will calculate its TCJA surcharge for period January 1, 2022 forward to include the amortization of EADIT and a cumulative rate base offset in accordance with IRS normalization rules.⁷

⁶ As noted in Penelec's petition for request of extension of time to file this petition, Penelec believes the cumulative rate base adjustment is consistent with the IRS normalization rules and the conclusions reached in PLR-101961-21 (Oct. 22, 2021).

⁷ In computing amortization of EADIT using the average rate assumption method, Penelec intends to segregate cost-of-removal from book depreciation expense consistent with IRS normalization rules and guidance set forth in PLR-101169-21 (Oct. 15, 2021).

20. In order to implement the distribution of the amortization of EADIT and a cumulative rate base offset in a timely manner to customers, the Company requests Commission approval of this Petition no later than June 16, 2022.

IV. CONCLUSION

WHEREFORE, Penelec respectfully requests that, on or before June 16, 2022, the Commission approve the distribution of the amortization of EADIT and a cumulative rate base offset associated with the Tax Cuts and Jobs Act for the time period of January 1, 2018 through December 31, 2021.

Respectfully submitted,



Tori L. Giesler
Attorney No.
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
(610) 921-6658 – Telephone

Dated: February 18, 2022

Counsel for:
Pennsylvania Electric Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Pennsylvania Electric Company	:	
For Approval To Distribute The Amortized	:	Docket No. P-2022-
Amount of Excess Accumulated Deferred	:	
Income Taxes	:	

VERIFICATION

I, Patricia Larkin, Analyst, hereby state that the facts above set forth in the Report of Compliance are true and correct to the best of my knowledge, information, and belief and that I expect that Pennsylvania Electric Company will 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 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Dated: February 18, 2022


Patricia Larkin

Pennsylvania Electric Company
TCJA Temporary Surcharge ("TCJA") Calculation
For the Period January 1, 2018 through December 31, 2021
Calculation of Liability Associated with Excess Accumulated Deferred Income Taxes and Rate Base Offset

Line No.			
1	EADIT	\$ (23,253,394)	EADIT Amortization with non-jurisdictional amount removed
2	Rate Base Offset	<u>6,933,603</u>	Cumulative Rate Base Offset Less Rate Base Offset Included in Original TCJA Calculation
3	Total	\$ (16,319,791)	Calculation = Line 1 + Line 2
4	Complement Tax Rate	0.711079	
5	Total	\$ (22,950,742)	Calculation = Line 3 / Line 4
6	Interest	<u>(3,856,983)</u>	Regulatory Interest
7	Total to be Refunded	\$ (26,807,725)	Calculation = Line 5 + Line 6

Pennsylvania Electric Company
TCJA Temporary Surcharge ("TCJA") Calculation
For the Period January 1, 2018 through December 31, 2021
Interest Calculation

Month	Additional Refund Amount	Annual Interest Rate	Monthly Interest Rate	Months to the Midpoint	Interest
	(1)	(2)	(3)= (2) / 12	(4)	(5)=(1)*(3)*(4)
Jan-18	\$ (855,109)	5.00%	0.42%	57	\$ (203,088)
Feb-18	(854,783)	5.00%	0.42%	56	(199,449)
Mar-18	(854,463)	5.25%	0.44%	55	(205,605)
Apr-18	(829,553)	5.50%	0.46%	54	(205,314)
May-18	(820,342)	5.50%	0.46%	53	(199,275)
Jun-18	(811,079)	5.50%	0.46%	52	(193,307)
Jul-18					
Aug-18	(694,741)	5.50%	0.46%	50	(159,211)
Sep-18	(680,839)	5.50%	0.46%	49	(152,905)
Oct-18	(668,829)	5.50%	0.46%	48	(147,142)
Nov-18	(728,646)	5.50%	0.46%	47	(156,962)
Dec-18	(716,653)	5.75%	0.48%	46	(157,962)
Jan-19	(702,954)	5.75%	0.48%	45	(151,574)
Feb-19	(718,626)	5.50%	0.46%	44	(144,923)
Mar-19	(718,675)	5.25%	0.44%	43	(135,201)
Apr-19	(693,982)	5.25%	0.44%	42	(127,519)
May-19	(681,670)	5.25%	0.44%	41	(122,275)
Jun-19	(671,851)	5.25%	0.44%	40	(117,574)
Jul-19	(663,302)	5.00%	0.42%	39	(107,787)
Aug-19	(652,740)	4.75%	0.40%	38	(98,183)
Sep-19	(641,957)	4.75%	0.40%	37	(94,020)
Oct-19	(628,884)	4.50%	0.38%	36	(84,899)
Nov-19	(695,308)	4.50%	0.38%	35	(91,259)
Dec-19	(680,204)	4.50%	0.38%	34	(86,726)
Jan-20	(606,303)	4.50%	0.38%	33	(75,030)
Feb-20	(388,895)	4.50%	0.38%	32	(46,667)
Mar-20	(389,685)	4.50%	0.38%	31	(45,301)
Apr-20	(367,636)	4.25%	0.35%	30	(39,061)
May-20	(361,743)	3.75%	0.31%	29	(32,783)
Jun-20	(350,053)	3.50%	0.29%	28	(28,588)
Jul-20	(336,846)	3.50%	0.29%	27	(26,527)
Aug-20	(326,290)	3.75%	0.31%	26	(26,511)
Sep-20	(315,362)	3.50%	0.29%	25	(22,995)
Oct-20	(302,813)	3.50%	0.29%	24	(21,197)
Nov-20	(284,333)	3.50%	0.29%	23	(19,074)
Dec-20	(272,434)	3.75%	0.31%	22	(18,730)
Jan-21	(264,883)	3.75%	0.31%	21	(17,383)
Feb-21	(212,957)	3.75%	0.31%	20	(13,310)
Mar-21	(211,431)	4.00%	0.33%	19	(13,391)
Apr-21	(187,155)	4.25%	0.35%	18	(11,931)
May-21	(175,982)	4.50%	0.38%	17	(11,219)
Jun-21	(162,682)	4.50%	0.38%	16	(9,761)
Jul-21	(148,976)	4.50%	0.38%	15	(8,380)
Aug-21	(137,637)	4.50%	0.38%	14	(7,226)
Sep-21	(135,263)	4.25%	0.35%	13	(6,228)
Oct-21	(118,980)	4.25%	0.35%	12	(5,057)
Nov-21	(120,330)	4.25%	0.35%	11	(4,688)
Dec-21	(106,884)	4.25%	0.35%	10	(3,785)
	(22,950,743)				(3,856,983)

Notes:

Beginning in July 2018, with the implementation of the TCJA Temporary Surcharge, the Company books actual TCJA savings on a one-month lag.

Pennsylvania Electric Company
TCJA Temporary Surcharge ("TCJA") Calculation
For the Period January 1, 2018 through December 31, 2021
Calculation of Interim Rate Effective July 1, 2022 ^A

Line No.		
1	2022 TCJA Negative Surcharge	-11.05%
2	Additional Refund with Interest (Page 1, Line 7)	\$ (26,807,725)
3	Gross-up for GRT	<u>1.063</u>
4	Refund Revenue (Line 2 x Line 3)	\$ (28,488,549)
5	Budgeted Revenue (July-Dec 2022)	\$ 223,997,451
6	Additional 2022 Negative Surcharge (Line 4 / Line 5)	-12.72%
7	Interim 2022 TCJA Negative Surcharge (Line 1 + Line 6)	-23.77%

Notes:

- A For illustration only. The Company will update rate if implementation occurs prior to or after July 1, 2022.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Pennsylvania Electric Company :
To Distribute The Amortized Amount of : **Docket No. P-2022-**
Excess Accumulated Deferred Income :
Taxes :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document 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 mail, as follows:

Richard Kanaskie
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
rkanaskie@pa.gov

Darryl A. Lawrence
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
dlawrence@paoca.org

Steven Gray
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101
Sgray@pa.gov

Dated: February 18, 2022



Tori L. Giesler
Attorney No. 207742
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
(610) 921-6658
Counsel for Pennsylvania Electric Company