



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

May 6, 2022

Via Electronic Filing

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

Re: Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company for Approval of Default Service Programs for the Period June 1, 2023 through May 31, 2027
Docket Nos.: P-2021-3030012, P-2021-3030013, P-2021-3030014 and P-2021-3030021
I&E Statement in Support of Joint Petition for Partial Settlement

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the **Bureau of Investigation and Enforcement's Statement in Support for Joint Petition for Partial Settlement** in the above-captioned proceedings.

Copies are being served on parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink that reads 'Allison C. Kaster'.

Allison C. Kaster
Deputy Chief Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 93176
(717) 783-7998
akaster@pa.gov

ACK/jfm
Enclosures

cc: Administrative Law Judge Jeffrey A. Watson (*via email only*)
Nick Miskanic, Legal Assistant – Office of Administrative Law Judge (*via email only*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**I&E STATEMENT IN SUPPORT OF
JOINT PETITION FOR PARTIAL SETTLEMENT**

TO THE HONORABLE JEFFREY A. WATSON, ADMINISTRATIVE LAW JUDGE:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecutor, Allison C. Kaster, hereby respectfully submits that the terms and conditions of the foregoing Joint Petition of Partial Settlement of Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power Company (“West Penn”) (individually, a “Company,” and collectively, the “Companies”) for approval of their default service programs for the period June 1, 2023 to May 31, 2027. In support of this Settlement, I&E offers the following:

I. INTRODUCTION

On December 14, 2021, the Companies filed the above-captioned Joint Petition (“DSP VI Petition”) requesting that the Commission approve their sixth default service programs (“DSP VI” or “Programs”) for the period June 1, 2023 through May 31, 2027 in accordance with the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. § 2801 et seq.

DSP VI was assigned to the Office of Administrative Law Judge (“OALJ”) for the development of an evidentiary record, including a Recommended Decision. The OALJ assigned the proceeding to Administrative Law Judge (“ALJ”) Jeffrey A. Watson for investigation and scheduling of hearings to consider whether the DSP VI will provide default service that is adequate, reliable, and result in the least cost to customers over time.¹

I&E filed a Notice of Appearance on January 19, 2022. The OCA filed a Notice of Intervention and Public Statement and Answer. The OSBA filed a Notice of Appearance, Notice of Intervention, Public Statement and Answer. Petitions to Intervene were filed by Calpine, CAUSE-PA, Constellation, Enerwise, the Industrials, PSU, RESA/NRG, Shipley and Sunrise.

ALJ Watson issued a Prehearing Conference Order scheduling a Prehearing Conference for January 21, 2022. At the Prehearing Conference, a procedural schedule and the procedures applicable to this proceeding were adopted and subsequently memorialized in a Prehearing Order issued on January 25, 2022.

In accordance with the procedural schedule, the parties exchanged written direct, rebuttal, surrebuttal and rejoinder testimony. I&E served the following statements of testimony and exhibits:

- I&E Statement No. 1, the Direct Testimony of Christopher Keller
- I&E Statement No. 1-SR, the Surrebuttal Testimony of Christopher Keller

After the submission of written testimony, the parties engaged in discussions to try to settle some or all of the issues in this case. As a result of those negotiations, the Joint Petitioners were able to achieve a partial settlement.

¹ 66 Pa. C.S. §2807(e).

A telephonic evidentiary hearing was held on April 13, 2022. At the hearing, the Companies presented rejoinder testimony, parties were permitted to cross-examine the witnesses, and the ALJ admitted into evidence, by stipulation, all previously served statements and exhibits.

The Joint Petition For Partial Settlement (“Joint Petition” or “Settlement”) was filed on April 20, 2022 and I&E hereby files its timely Statement in Support of the Settlement.

II. SUMMARY OF SETTLEMENT

The Companies filed the DSP VI Petition in accordance with their responsibilities as default service providers 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 and recover all associated costs on a full and current basis for the period from June 1, 2023 through May 31, 2027. The programs set forth in DSP VI were designed to satisfy the Companies’ obligations to furnish adequate and reliable service to default service customers at the least cost over time by procuring a prudent mix of long-term, short-term and spot market generation supplies. The Companies proposed to continue most of the existing programs in their fifth default service programs as approved by the Commission. The I&E review of DSP VI included a full analysis of the default service program and procurement plan. While I&E did not submit written testimony on any facets of the DSP VI other than the clawback clause, I&E conducted an extensive review of the entire default service program and procurement plan. I&E opines that DSP VI, as modified by this Settlement, should be approved without modification as the Programs are designed to produce the least cost over time by procuring a prudent mix of long-term, short-term, and spot-market generation supplies and are structured to satisfy the obligation to furnish adequate and reliable service to default service customers.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST AND FULLY SATISFIES THE REQUIREMENTS OF THE COMPETITION ACT AND THE COMMISSION'S DEFAULT SERVICE REGULATIONS SETTLEMENT

A. Procurement and Implementation Plans (Joint Petition, Paragraphs 15-42)

I&E reviewed and did not identify issues related to the procurement and implementation plans.

B. Rate Design and Cost Recovery (Joint Petition, Paragraphs 43-68)

I&E reviewed and did not identify issues related to rate design and cost recovery.

C. Customer Referral Program (Joint Petition, Paragraphs 69-79)

I&E reviewed and did not identify any issues with the Customer Referral Program.

D. POR Clawback Charge (Joint Petition, Paragraphs 80-81)

The Settlement provides that, as of June 1, 2023, the clawback charge will no longer be a pilot provision of the Companies' POR programs. The Settlement further explains that the Companies will continue to use a two-prong test to determine the clawback charge, which has previously been approved by the Commission. The first prong will identify those EGSs whose average percentage of write-offs as a percentage of revenues over the twelve-month period ending August 31 each year exceeds 200% of the average percentage of total EGS write-offs as a percentage of revenues per operating company. The second prong of the test will identify, of those EGSs identified in the first test, EGSs whose average price charged over the same twelve-month period exceeds 150% of the average price-to-compare for the period. For those EGSs identified by both prongs of the test, the annual clawback charge assessed each September would be the difference between that EGS's actual write-offs and 200% of the average percentage of write-offs per operating company.

I&E did not raise an issue with the continuation of the two-prong test; however, in testimony, I&E recommended that the clawback clause continue to be implemented as a pilot, rather than permanent, program. To be clear, I&E believes that that the clawback clause should continue as the record shows that EGS' have modified their pricing behaviors and the Companies' exposure to excessive EGS write-offs has been reduced over the past four years.² However, I&E expressed concern that the clawback clause does not recognize that all EGS uncollectibles burden the Companies and ratepayers. Under the current clawback and as proposed in Settlement, only EGS' over the 200% of average supplier write-offs threshold are charged while EGS' under the 200% threshold, even at a high rate such as 175%, continue to recoup the full amount of receivables without any discount even though not all customers will pay. As a result, a concern remains that suppliers under the 200% threshold may not have an incentive to maintain or reduce uncollectibles.³ For this reason, I&E recommended that the clawback clause continue on a pilot basis until the next DSP proceeding in order to allow parties the ability to further evaluate its effectiveness and possible need for modifications. Although the Settlement does not incorporate this recommendation, I&E believes that it and other parties have the ability to evaluate and propose modifications to the clawback in a future DSP proceeding if such recommendations are in the public interest. Accordingly, continuation of the clawback charge as proposed in Settlement is appropriate as it has reduced uncollectibles and potential modifications to the clawback, if any, can be proposed in a future proceeding.

² I&E Statement No. 1, p. 4.

³ I&E Statement No. 1, p. 5.

E. CAP Customer Shopping (Joint Petition, Paragraphs 82-88)

I&E reviewed and did not identify any issues related to CAP customer shopping.

F. Third-Party Data Access Tariff (Joint Petition, Paragraphs 89-93)

I&E reviewed and did not identify any issues related to the Third-Party Data Access Tariffs.

G. Additional Settlement Terms (Joint Petition, Paragraphs (94-95)

I&E reviewed and did not identify any issues related to the additional settlement terms.

IV. CONCLUSION

The Commission's Bureau of Investigation and Enforcement represents that it supports the *Joint* Petition For Partial Settlement as being in the public interest and respectfully requests that Administrative Law Judge Jeffrey A. Watson recommend, and the Commission subsequently approve, the foregoing Partial Settlement, including all terms and conditions contained therein, without modification.

Respectfully submitted,



Allison Curtin Kaster
Deputy Chief Prosecutor
PA Attorney ID No. 931767

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 783-7998
akaster@pa.gov

Dated: May 6, 2022

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Service Programs for the Period June 1, 2023	:	P-2021-3030021
through May 31, 2027	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Statement in Support** dated May 6, 2022, in the manner and upon the persons listed below:

Served via Electronic Mail Only

Administrative Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Piatt Place
301 Fifth Avenue, Suite 220
Pittsburgh, PA 15222
jeffwatson@pa.gov
nmisckanic@pa.gov

Darshana Singh, Esq.
Tori L. Giesler, Esq.
FirstEnergy Service Company
2800 Pottsville Pike
Reading, PA 19612-6001
singhd@firstenergycorp.com
tgiesler@firstenergycorp.com

Kenneth M. Kulak, Esq.
Catherine G. Vasudevan, Esq.
Brooke E. McGlinn, Esq.
Morgan Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
ken.kulak@morganlewis.com
catherine.vasudevan@morganlewis.com
brooke.mcglinn@morganlewis.com
Counsel for
Metropolitan Edison Company,
Pennsylvania Electric Company,
Pennsylvania Power Company, and
West Penn Power Company

Elizabeth R. Marx, Esq.
Ria Pereira, Esq.
Lauren Berman, Esq.
John Sweet, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org
Counsel for CAUSE-PA

Susan E. Bruce, Esq.
Charis Mincavage, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108
sbruce@mcneeslaw.com
cmincavage@mcneeslaw.com
*Counsel for Met-Ed Industrial Users
Group, the Penelec Industrial Customer
Alliance, and the West Penn Power
Industrial Intervenors*

Todd Stewart, Esq.
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tsstewart@hmslegal.com
*Counsel for Shipley Choice, LLC
d/b/a Shipley Energy*

Colleen Kartychak, Esq.
Exelon Corporation
1310 Point Street
Baltimore, MD 21231
colleen.kartychak@exeloncorp.com
*Counsel for Exelon Generation Company,
LLC and Constellation NewEnergy, Inc.*

Thomas J. Sniscak, Esq.
Whitney E. Snyder, Esq.
Phillip D. Demanchick, Jr., Esq.
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com
wesnyder@hmslegal.com
pddemanchick@hmslegal.com
Counsel for The Penn State University

A. Michael Gianantonio, Esq.
Robert Peirce & Associates, P.C.
707 Grant Street
Gulf Tower, Suite 125
Pittsburgh, PA 15219
mgianantonio@peircelaw.com
*Counsel for John Bevec and Sunrise
Energy, LLC*

John F. Lushis, Jr., Esq.
David Berger, Esq.
Norris McLaughlin, P.A.
515 W. Hamilton Street, Suite 502
Allentown, PA 1810
jlushis@norris-law.com
dberger@norris-law.com
Counsel for Calpine Retail Holdings, LLC

James Laskey, Esq.
Norris McLaughlin, P.A.
400 Crossing Blvd, 8th Floor
Bridgewater, NJ 08807
jlasky@norris-law.com
Counsel for Calpine Retail Holdings, LLC

Deanne M. O'Dell, Esq.
Karen O. Moury, Esq.
Eckert Seamans Cherin & Mellot LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
dodell@eckertseamans.com
kmoury@eckertseamans.com
*Counsel for Retail Energy Supply
Association and NRG Energy, Inc.*

Christopher O'Hara, Esq.
PJM Interconnection LLC
2750 Monroe Boulevard
Audubon, PA 19403
christopher.ohara@pjm.com

John M. White, Esq.
Exelon Corporation
101 Constitution Avenue NW
Washington DC, 20001
john.white@exeloncorp.com
*Counsel for Exelon Energy Generation
Company LLC and Constellation
NewEnergy Inc.*

Kenneth Schisler, VP
Chandra Colareise, Specialist
Regulatory Affairs
CPower Energy Management
1001 Fleet Street
Baltimore, MD 2120
kenneth.schisler@cpowerenergymanagement.com
chandra.colaresi@cpowerenergymanagement.com

Michael A. Gruin, Esq.
Stevens & Lee
17 North 2nd Street
Harrisburg, PA 17101
michael.gruin@stevenslee.com
*Counsel for Enerwise Global
Technologies, LLC d/b/a CPower Energy
Management*

Darryl A. Lawrence, Esq.
Christy M. Appleby, Esq.
Harrison W. Brietman, Esq.
Office of Consumer Advocate
555 Walnut Street
5th Floor Forum Place
Harrisburg, PA 17101-1923
dlawrence@paoca.org
cappleby@paoca.org
hbreitman@paoca.org

Erin K. Fure, Esq.
Office of Small Business Advocate
555 Walnut Street
1st Floor Forum Place
Harrisburg, PA 17101
efure@pa.gov



Allison C. Kaster
Deputy Chief Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 93176
(717) 783-7998
akaster@pa.gov