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May 6, 2022

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

**VIA ELECTRONIC FILING**

**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 Statement in Support of the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), and the West Penn Power Industrial Intervenors ("WPPII"), in the above-referenced proceedings.

As shown by the attached Certificate of Service, all parties to these proceedings are being duly served with a copy of this filing. If you have any questions regarding the documents, please feel free to contact the undersigned. Thank you.

Sincerely,

A handwritten signature in black ink that reads 'Charis Mincavage'.

Charis Mincavage  
MCNEES WALLACE & NURICK LLC

Counsel to the Met-Ed Industrial Users Group,  
the Penelec Industrial Customer Alliance, and  
the West Penn Power Industrial Intervenors

c: Administrative Law Judge Jeffrey A. Watson (via E-Mail)  
Nick Miskanic, Legal Assistant (via E-Mail)  
Certificate of Service

## **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).

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Intervenors

Dated this 6<sup>th</sup> day of May, 2022, in Harrisburg, Pennsylvania

**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	:	P-2021-3030013
Penn Power Company for Approval of	:	P-2021-3030014
Their Default Service Programs	:	P-2021-3030021

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**STATEMENT IN SUPPORT OF  
THE MET-ED INDUSTRIAL USERS GROUP,  
THE PENELEC INDUSTRIAL CUSTOMER ALLIANCE, AND  
THE WEST PENN POWER INDUSTRIAL INTERVENORS**

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**I. INTRODUCTION**

1. The Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, and the West Penn Power Industrial Intervenors (“Industrials”), by and through their counsel, submit that the terms of the Joint Petition for Partial Settlement (“Joint Petition” or “Settlement”) concurrently filed with the Pennsylvania Public Utility Commission (“PUC” or “Commission”) in the above-captioned proceedings reflect a Settlement with respect to Metropolitan Edison Company’s (“Met-Ed”), Pennsylvania Electric Company’s (“Penelec”), Pennsylvania Power Company’s (“Penn Power”), and West Penn Power Company’s (“West Penn”) (collectively, “Companies”) sixth Default Service Plan (“DSP VI”).

2. As a result of settlement discussions, the Companies; the Industrials; the Office of Consumer Advocate (“OCA”); the Office of Small Business Advocate (“OSBA”); the Bureau of Investigation and Enforcement (“I&E”); Enerwise Global Technologies, d/b/a CPower Energy Management (“Enerwise”); Constellation Energy Corporation (“Constellation”); Shipley Choice, LLC d/b/a Shipley Energy (“Shipley”); the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”); and The Pennsylvania State University (“PSU”)

(collectively, “Parties” or “Joint Petitioners”) have agreed upon the terms embodied in the foregoing Joint Petition. The Industrials offer this Statement in Support to further demonstrate that the Settlement is in the public interest and should be approved without modification.

3. On December 14, 2021, the Companies petitioned the Commission for approval of a proposed plan for the terms and conditions under which the Companies would supply default service from June 1, 2023, through May 31, 2027.

4. On January 14, 2022, the Industrials submitted a Joint Petition to Intervene in the above-captioned proceedings. As noted in their intervention, the Industrials consume substantial amounts of electricity on an annual basis. MEIUG members receive service under Met-Ed’s GS-Large, GP and TP rate schedules; PICA members receive service under Penelec’s GS-Large, GP and LP rate schedules; and WPPII members receive service primarily under West Penn’s Rate Schedule 40. As a result, the Industrials were concerned about changes that could occur in this proceeding that would impact the Companies’ rates, terms, and conditions of service applied to a customer regardless of whether the customer receives default service.

5. On January 21, 2022, Administrative Law Judge (“ALJ”) Jeffrey A. Watson convened a Prehearing Conference, in which the procedural schedule for these proceedings was developed.

6. Pursuant to the procedural schedule, various parties submitted Direct, Rebuttal, Surrebuttal, and Rejoinder Testimony. An evidentiary hearing was held on April 13, 2022, for the purposes of presenting testimony and performing cross-examination.

7. On April 20, 2022, the Companies filed the Joint Petition, with Statements in Support due on May 6, 2022.

## **II. SUMMARY OF SETTLEMENT**

8. The Commission has a strong policy favoring settlements. As set forth in the Commission's regulations, "[t]he Commission encourages parties to seek negotiated settlements of contested proceedings in lieu of incurring the time, expense and uncertainty of litigation." 52 Pa. Code § 69.391; *see also* 52 Pa. Code § 5.231. In accordance with the Commission's policy encouraging negotiated settlements of contested proceedings, the Joint Petitioners engaged in discussions to resolve the issues raised by various parties. These negotiations resulted in the instant Settlement, which proposes a partial resolution of the issues between the Joint Petitioners in this proceeding, as set forth below.

## **III. THE SETTLEMENT IS IN THE PUBLIC INTEREST AND FULLY SATISFIES THE REQUIREMENTS OF THE COMPETITION ACT AND THE COMMISSION'S DEFAULT SERVICE REGULATIONS<sup>1</sup>**

9. As set forth above, the Industrials submit that the Settlement is in the public interest and adheres to Commission policies promoting negotiated settlements. The Settlement was achieved after numerous negotiations. Although Joint Petitioners have invested time and resources in the negotiation of the Joint Petition, this process has allowed the parties, as well as the Commission, to avoid expending the substantial resources that would have been required to fully litigate this proceeding while still reaching a just, reasonable and non-discriminatory result. Joint Petitioners have thus reached an amicable resolution to this dispute as embodied in the Settlement. Approval of the Settlement will permit the Commission and Joint Petitioners to avoid incurring the additional time, expense, and uncertainty of further current litigation in this proceeding. *See* 52 Pa. Code § 69.391.

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<sup>1</sup> For purposes of Statements in Support, the parties agreed to a common outline, which includes several sections and sub-sections. Because the Industrials did not take a position on several of the sub-issues noted in the common outline, the Industrials will not be addressing these issues as part of their Statement in Support.

**A. Procurement and Implementation Plans**

10. The Industrials did not take a position on these issues during the course of these proceedings. As a result, the Industrials will not be addressing these issues as part of their Statement in Support.

**B. Rate Design and Cost Recovery**

11. The Industrials did not take a position on these issues during the course of these proceedings. As a result, the Industrials will not be addressing these issues as part of their Statement in Support.

**C. Customer Referral Program**

12. The Industrials did not take a position on this issue during the course of these proceedings. As a result, the Industrials will not be addressing this issue as part of their Statement in Support.

**D. POR Clawback Charge**

13. The Industrials did not take a position on this issue during the course of these proceedings. As a result, the Industrials will not be addressing this issue as part of their Statement in Support.

**E. CAP Customer Shopping**

14. The Industrials did not take a position on this issue during the course of these proceedings. As a result, the Industrials will not be addressing this issue as part of their Statement in Support.

**F. Third-Party Data Access Tariff**

15. The Settlement provides that, beginning June 1, 2022, the Companies will implement a standard authorization form to be used for all new requests from third parties



seeking access to customer data through the terms of the Companies' Third-Party Data Access Tariffs. Joint Petition, ¶ 89. Upon expiration of any other standard authorization form dated prior to June 1, 2022, the Companies will require the use of their standard authorization form. *Id.*

16. Additionally, the Settlement provides that third-party data access will be limited to Conservation Service Providers registered with the Commission and Curtailment Service Providers that are PJM Interconnection, L.L.C. ("PJM"), members and identified on PJM's list of Demand Response ("DR") providers available on PJM's website. *Id.*, ¶ 90.

17. Moreover, the Companies agree to conduct semi-annual, randomized internal audits of the participants under their new Third-Party Data Access Tariffs to ensure that letters of authorization are being properly obtained by third parties when seeking access to customer data. *Id.*, ¶ 91. The audits will include at least 10% of active third parties governed by the Tariffs. *Id.* All parties found to be noncompliant will be permanently restricted from further access to customer data. *Id.*

18. Furthermore, the Settlement does not create a precedent for third-party utility data sharing practices in Pennsylvania, and all parties reserve the right to take a different position on the issues addressed in this Settlement from the generic statewide proceeding at Docket No. M-2021-3029018. *Id.*, ¶ 92. Upon conclusion of the generic statewide proceeding, the Companies will assess whether their current practices are consistent with any final Commission orders and will make subsequent filings to amend their Tariffs, if required. *Id.*, ¶ 93. All parties to these proceedings will be served with a copy of any such filings. *Id.* For these reasons, the Industrials submit that the terms of the Third-Party Data Access Tariffs are reasonable and in the public interest.

**G. Additional Settlement Terms**

19. The Industrials will not be addressing any additional Settlement terms as part of their Statement in Support.

**IV. CONCLUSION**

**WHEREFORE**, the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, and the West Penn Power Industrial Intervenors respectfully request that the Administrative Law Judge and the Pennsylvania Public Utility Commission approve the foregoing Joint Petition for Partial Settlement without modification.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Dated: May 6, 2022