BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOINT PETITION OF METROPOLITAN	:		
EDISON COMPANY, PENNSYLVANIA	:	**Docket Nos.**	**P-2021-3030012**
ELECTRIC COMPANY, PENNSYLVANIA	:		**P-2021-3030013**
POWER COMPANY AND WEST PENN	:		**P-2021-3030014**
POWER COMPANY FOR APPROVAL OF	:		**P-2021-3030021**
THEIR DEFAULT SERVICE PROGRAMS	:		

REPLY BRIEF OF JOHN BEVEC AND SUNRISE ENERGY

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I. ARGUMENT

A. Excess energy from net-metered customers is utilized by Joint Petitioners' customers.

Intervenors write briefly in response to the arguments raised by Joint Petitioners in their Initial Brief. In responding to the Initial Brief, it is equally important to examine what is not said by Joint Petitioners as what they expressly state.

For instance, Joint Petitioners claim that excess generation is not sold to other customers. *See*, Joint Petitioners' Initial Brief at p. 13. This belies the laws of physics and betrays Joint Petitioners' discovery responses. Intervenors do not believe that Joint Petitioners dispute the fact that excess energy from a customer-generator is placed back on the grid, and that excess energy will go to where it is needed. In fact, in Answer to Intervenors Interrogatory, Set I, No. 7, when asked whether or not excess energy is utilized by Joint Petitioners' customers, they respond by stating only "[Joint Petitioners] do not track who actually "consumes" excess generation from customer-generators." *See*, Answer to Intervenors Interrogatory, Set I, No. 7. Clearly Joint Petitioners acknowledge that customers are receiving the excess energy produced by customer-generators, even if they are unable to say for certain which customer it is.

What is telling about this response is that Joint Petitioners do not deny the excess energy is used by their customers. If Joint Petitioners' customers utilize this energy, which is a logical deduction, it must follow that Joint Petitioners would bill these customers for their use of the same. This, in turn, reduces the amount of power that must be purchased to satisfy the energy demands of the areas where there is excess energy produced by customer-generators. The next logical conclusion is that if the customer is billed for the energy, then Joint Petitioners received payment for the same.

While Joint Petitioners state they cannot track whose energy is used when there is excess energy put into the grid (which is something that Intervenors cannot dispute), Joint Petitioners can certainly track load reductions by areas where excess generation is placed onto the system. In fact, it would be irresponsible for them not to as it would result in purchasing unnecessary energy. Thus, while Joint Petitioners continue to deny the use of excess generation to supply non-shopping customers' needs, it is only because Joint Petitioners choose to recognize excess generation theoretically through a "financial netting process" rather than acknowledging the reduction in load that actually occurs.

What occurs is that the excess energy produced by customer-generators is used by default service (non-shopping) customers who are billed for the same at the "full retail value." Once per year, Joint Petitioners pay "full retail value" to customer-generators who produce excess energy. *See*, Joint Petitioners' Initial Brief at p. 13. Default service customers then, through EDC cost recovery, "pay the costs to compensate customer-generators for their excess energy." *Id.* What this ignores is that default service customers are paying for the same energy twice, once when they consume the excess generation, and again when they pay via cost recovery the costs associated with compensating customer-generators for excess energy. Clearly Joint Petitioners achieve an impermissible wind fall when this occurs.

B. Use of loss factors and gross receipts taxes for AEPS Act costs is inappropriate.

Joint Petitioners cannot argue that line loss associated with distributed generation is significantly lower than that which occurs in a centralized generation system. Nevertheless, AEPS Act expenses are still grossed up for this expense because Joint Petitioners are "simply treating the AEPS compliance costs" in a "manner consistent with all of the other components of default service. *Id.* at 19. That is the problem.

Expenses under the AEPS Act are clearly not like "other components" of default services. It is abundantly clear that the Courts of this Commonwealth have recognized that an EDC's obligations under the AEPS Act are different than business as usual. When there are not any line losses associated with the distributed generation provided by a customer-generator, it makes no sense that Joint Petitioners are then able to gross up the expenses paid for compensating customer-generators for the excess energy provided.

Similarly, an AEC is defined as 1,000 kWh produced by an approved technology under the AEPS Act. That credit is created at the source when the power is generated. The AEC does not "travel" along wires and there is no line loss. The AEC simply comes into existence when the requisite number of kWh are created. To apply a loss factor to an AEC is simply wrong. AECs do not lose their "potency" like electricity does when it is moved from a generating station to a customer's meter. Again, this is a cost that gets passed on to the default customers that does not actually exist.

However, it is with Joint Petitioners' final argument that it is acceptable to apply a gross receipts tax to AEPS Act costs that their position falls apart. Joint Petitioners claim that under Pennsylvania law, they must pay gross receipts tax on all energy sold. However, according the Joint Petitioners, they do not sell energy produced by customer-generators. Therefore, there should be no gross receipts tax to collect on energy that is not sold. If Joint Petitioners are seeking cost recovery on expenses paid to customer-generators for excess energy, and that energy is not sold, then there should be no tax to recover. Accordingly, both cannot be true. Either the energy is not sold and there is no tax to recover or, alternatively, the energy is sold, and the tax, at least according to Joint Petitioners, is applicable.

II. CONCLUSION

For the reasons stated in Intervenors' Initial Brief, and those set forth above, Intervenors respectfully request this Honorable Court to conclude that AEPS Act expenses should not be grossed up for line losses and/or be subject to the gross receipts tax.

Respectfully submitted,

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By: _____
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APPENDIX[1]

Exhibit 1 Answer to Intervenors Interrogatory, Set I, No. 7

[1] Only those cited portions of the statement have been attached to the Appendix.

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

SUNRISE ENERGY, LLC AND JOHN BEVEC Set I, No. 7

"When excess energy generated by customer-generators enters the JPs distribution systems, is the excess energy consumed by JP customers? If the answer is no, explain what happens to the excess energy."

RESPONSE:

The Companies do not track who actually "consumes" excess generation from customer-generators.

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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