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April 14, 2023

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

VIA ELECTRONIC FILING

RE: Joint Application of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, West Penn Power Company, Keystone Appalachian Transmission Company, Mid-Atlantic Interstate Transmission, LLC, and FirstEnergy Pennsylvania Electric Company for All of the Necessary Authority, Approvals, and Certificates of Public Convenience for (1) the Agreements and Plans of Merger; Docket Nos. A-2023-3038771, A-2023-3038792, A-2023-3038793, A-2023-3038794, A-2023-3038795, A-2023-3038807, A-2023-3038808, G-2023-3038818, G-2023-3038819, G-2023-3038820, G-2023-3038821, G-00020956

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is the Joint Petition to Intervene and Protest of the Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrial Customer Groups"), in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document. Thank you.

Sincerely,

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

Charis Mincavage
MCNEES WALLACE & NURICK LLC

c: Administrative Law Judge Conrad A. Johnson (via e-mail)
Administrative Law Judge Emily I. DeVoe (via e-mail)
Nicholas 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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Charis Mincavage

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Alliance, and the West Penn Power
Industrial Intervenors

Dated this 14th day of April, 2023, in Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, West Penn Power Company, Keystone Appalachian Transmission Company, Mid-Atlantic Interstate Transmission, LLC, and FirstEnergy Pennsylvania Electric Company for All of the Necessary Authority, Approvals, and Certificates of Public Convenience for (1) the Agreements and Plans of Merger	: Docket Nos. A-2023-3038771 : A-2023-3038792 : A-2023-3038793 : A-2023-3038794 : A-2023-3038795 : A-2023-3038807 : A-2023-3038808 : G-2023-3038818 : G-2023-3038819 : G-2023-3038820 : G-2023-3038821 : G-00020956
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**JOINT PETITION TO INTERVENE AND PROTEST
OF THE MET-ED INDUSTRIAL USERS GROUP,
THE PENELEC INDUSTRIAL CUSTOMER ALLIANCE,
AND
THE WEST PENN POWER INDUSTRIAL INTERVENORS**

TO THE HONORABLE, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to Sections 5.71 through 5.74 and Sections 5.51 through 5.53 of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Regulations, 52 Pa. Code §§ 5.71-5.74 and 52 Pa. Code §§ 5.51-5.53, the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), and the West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrial Customer Groups") hereby file this Joint Petition to Intervene and Protest in the above-captioned proceeding.

On March 6, 2023, the Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power"), West Penn Power Company ("West Penn"), Keystone Appalachian Transmission Company ("KATCo"), Mid-Atlantic Interstate Transmission, LLC ("MAIT"), and FirstEnergy Pennsylvania Electric

Company ("FE PA") (collectively, "Companies") filed a Joint Application ("Application") with the PUC for approval of several transactions that would, among other things, merge Met-Ed, Penelec, Penn Power, and West Penn into FE PA. *See* Application at ¶ 1. As part of this consolidation, Met-Ed, Penelec, Penn Power, and West Penn seek to abandon their right and obligation to provide electric service in their service territories, with the intention of FE PA being issued a Certificate of Public Convenience to serve those customers. *Id.* ¶ 75.

The Application also seeks to transfer, through a series of sales and contributions, all of the transmission assets owned by West Penn to KATCo, as well as the Class B membership interest in MAIT held by Met-Ed and Penelec to FirstEnergy Corp. *Id.* at ¶ 4. Per the Application, the end result of the transactions will be the separation of FirstEnergy's Pennsylvania distribution assets, which will be owned by FE PA, from FirstEnergy's Pennsylvania transmission assets, which will be owned by KATCo and MAIT.

In support of their Petition to Intervene and Protest, the Industrial Customer Groups assert the following:

I. PETITION TO INTERVENE

1. The Industrial Customer Groups are *ad hoc* associations of energy-intensive customers receiving electric service in the Companies' service territories. As some of the Companies' largest customers, whose manufacturing processes require significant amounts of electricity, any proposed modifications to the Companies' provision of service could significantly impact the Industrial Customer Groups' production costs.

2. The names and address of the Industrial Customer Groups' attorneys are:

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3. The Industrial Customer Groups are comprised of MEIUG, PICA, and WPPII. The compositions of MEIUG, PICA, and WPPII are attached hereto as Appendix A, Appendix B, and Appendix C, respectively. MEIUG, PICA, and WPPII reserve the right to modify these Appendices throughout the course of this proceeding, as necessary.

4. The Industrial Customer Groups are concerned with issues regarding the terms and conditions of their electricity service, and, as a result, have been actively involved in numerous proceedings of the Companies, including participation in the adjudication of the Companies' distribution rate cases, Energy Efficiency & Conservation Plan ("EEC") proceedings, and Default Service Plans ("DSP"). The Commission's final disposition of the transactions requested by the Companies in this Application may have a significant impact on the service provided by the Companies to the members of the Industrial Customer Groups, which, in turn could affect these members' production costs.

5. The Industrial Customer Groups thus have an interest in these proceedings that is not represented by any other party of record; consequently, the Industrial Customer Groups satisfy the standards for intervention under Section 5.72 of the Commission's Regulations, 52 Pa. Code § 5.72.

II. PROTEST

6. Pursuant to Section 1102 of the Public Utility Code, the PUC must issue a certificate of public convenience in order for a public utility to acquire from, or transfer to, any person or corporation, the title, possession, or use of any tangible or intangible property, by any device, including through a consolidation, merger, sale, or lease. *See* 66 Pa. C.S. § 1102(a)(3).

7. Section 1103(a) of the Public Utility Code requires that the PUC must find that the granting of a certificate of public convenience is necessary or proper for the service, accommodation, convenience, or safety of the public. *Id.* at § 1103(a). As part of this issuance, the PUC has the ability to impose conditions on the certificate in order to ensure that the public interest is met. *Id.*

8. With respect to mergers, the Supreme Court has determined that the PUC must find that a proposed merger will affirmatively benefit the public, and specifically, the merger will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way. *See City of York v. Pa. PUC*, 295 A. 825, 828 (Pa. 1972).

9. In this instance, the Industrial Customer Groups have reviewed the Application and have not been able to confirm whether the Companies have demonstrated that an affirmative benefit to the public will result upon approval of the Application. Moreover, the Industrial Customer Groups are not clear as to how the proposed transactions set forth in the Application will affirmatively promote the service, accommodation, convenience, or safety of the public in a substantial way.

10. Specifically, the Industrial Customer Groups submit that further review by the Commission is required to determine whether the benefits claimed by the Companies are substantive and result in an affirmative benefit to the public. For example:

- a. The Companies submit that consolidation of the Pennsylvania EDCs will provide benefits, including lowering the interest expense on FE PA's long-term debt, increasing efficiency for required filings and reports, and streamlining the number of filings required; however, the Industrial Customer Groups cannot confirm that these benefits are substantive, and if so, whether there is a quantifiable benefit that should be flowed through to ratepayers. *See Application*, ¶¶ 124-126.
- b. The Companies submit that the transactions contemplated in the Application will provide an additional level of assurance that customers and suppliers have nondiscriminatory access to the transmission system; however, the Industrial Customer Groups are not clear as to whether this claim actually results in a quantifiable benefit to customers and suppliers. *See Application* at ¶ 8(f).

11. Moreover, the PUC must ensure that any alleged benefits of the consolidation are not outweighed by the costs of the merger, which could create a burden upon ratepayers. To that same end, additional information may be required to confirm that the costs to achieve the merger are not only reasonable but are also properly allocated between ratepayers and shareholders.

12. In addition, for purposes of this proceeding, the Companies have indicated that they are not proposing consolidation of rates or riders, but, by seeking to merge the four Pennsylvania EDCs into a single EDC, consolidation of these rates and riders will most likely occur sometime in the future. Thus, the Commission must consider what impact the merger will have on both current and future rates, including the timing of future distribution rate cases, DSP proceedings, and EEC plans.

13. Accordingly, the depth and breadth of this transaction require substantial time and review. In addition to the issues identified above, the Industrial Customer Groups reserve the

right to raise and address additional issues of concern during the proceeding based on further review of the Application, as well as review of issues raised by other parties.

III. CONCLUSION

WHEREFORE, the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, and the West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission investigate and hold hearings regarding the above-captioned application, with the Commission not approving the Application unless it finds that: (1) the Application is in the public interest; (2) it provides substantial, affirmative benefits to the Companies' ratepayers; (3) it is in accordance with the requirements of the Public Utility Code; and (4) if necessary, impose such terms and conditions on the proposed consolidation as necessary to ensure the aforementioned requirements are met.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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the West Penn Power Industrial Intervenors

Dated: April 14, 2023

APPENDIX A

MET-ED INDUSTRIAL USERS GROUP

Carpenter Technology Corporation

Knouse Foods Cooperative, Inc.

Lebanon Valley College

Magnesita Refractories Co.

Royal Green LLC

Sweet Street Desserts, Inc.

APPENDIX B

PENELEC INDUSTRIAL CUSTOMER ALLIANCE

Electralloy, a G.O. Carlson, Inc., Co.
Ellwood National Steel
Indiana Regional Medical Center
Procter & Gamble Paper Products Company
Sheetz, Inc.
Standard Steel
Team Ten, LLC - American Eagle Paper Mills
The Plastek Group
U.S. Silica Company
Wegmans Food Markets, Inc.

APPENDIX C

WEST PENN POWER INDUSTRIAL INTERVENORS

Carpenter Technology Corporation
Cleveland-Cliffs Steel LLC
Ervin Industries

