



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

April 21, 2023

**Via Electronic Filing**

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

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 Approvals and Certificates of Public Convenience  
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-2023-303882, G-00020956

**I&E Prehearing Memorandum**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the **Prehearing Memorandum of the Bureau of the Investigation and Enforcement (I&E)** in the above-captioned proceeding.

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

Sincerely,

Scott B. Granger  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 63641  
(717) 425-7593  
[sgranger@pa.gov](mailto:sgranger@pa.gov)

cc: Administrative Law Judge Conrad A. Johnson (*via email*)  
Administrative Law Judge Emily I. DeVoe (*via email*)  
Nicholas Miskanic, Legal Assistant (*via email*)  
Per Certificate of Service (*via email*)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**PREHEARING MEMORANDUM  
OF THE  
BUREAU OF INVESTIGATION AND ENFORCEMENT**

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**TO: ADMINISTRATIVE LAW JUDGES CONRAD A. JOHNSON  
AND EMILY I. DEVOE:**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits the following Prehearing Memorandum in the above-captioned consolidated proceedings.

The Bureau of Investigation and Enforcement Prosecutor in these proceedings will be Scott B. Granger. Contact information is as follows:

By mail: Scott B. Granger  
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Commonwealth Keystone Building  
400 North Street  
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By e-mail: [sgranger@pa.gov](mailto:sgranger@pa.gov)

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## I. INTRODUCTION

On March 6, 2023 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”) (hereinafter, collectively, the “Joint Applicants”) hereby request all necessary authority, approvals and certificates of public convenience from the Commission pursuant to Sections 1101, 1102(a)(1)-(3), 2102(a), and 2811(e) of the Public Utility Code (“Code”), 66 Pa. C.S. §§ 1101, 1102(a)(1)-(3), 2102(a), and 2811(e), authorizing: (1) the Agreements and Plans of Merger; (2) the establishment of FirstEnergy Pennsylvania Holding Company LLC (“FE PA HoldCo”) as an intermediate holding company in the chain of ownership of FE PA; (3) the merger of Met-Ed, Penelec, Penn Power, and West Penn Power with and into FE PA; ; (4) the initiation by FE PA of electric service in all territories in this Commonwealth where Met-Ed, Penelec, Penn Power, and West Penn do or may provide electric service; (5) the abandonment by Met-Ed, Penelec, Penn Power, and West Penn of all electric service in this Commonwealth; (6) the adoption by FE PA of Met-Ed, Penelec, Penn Power, and West Penn’s existing tariffs and their application within new service and rate districts of FE PA corresponding to their existing service territories as Met-Ed (“ME”) Rate District, Penelec (“PN”) Rate District, Penn Power (“PP”) Rate District, West Penn (“WP”) Rate District, and The Pennsylvania State University (“PSU”) Rate District, respectively; (7) the sale of the Class B membership interests in MAIT held by Met-Ed and Penelec to FirstEnergy Corp. (“FirstEnergy”); (8) the contribution of West Penn’s transmission assets to KATCo (“Transmission Assets”); (9) a certificate of public convenience conferring upon KATCo public utility status; and (10) to the extent necessary, associated affiliated interest agreements. Further, the Joint Applicants are

seeking all other approvals and certificates appropriate, customary, or necessary under the Code to carry out the transactions contemplated in this Joint Application in a lawful manner.

Additionally, the Joint Application seeks certain approvals from the Commission associated with: (1) the proposed merger of Met-Ed, Penelec, Penn Power, and West Penn with and into FE PA (“Proposed Consolidation”); (2) the proposed sale of Class B membership interests in MAIT held by Met-Ed and Penelec to FirstEnergy Corp. (“Proposed Sale of MAIT Class B Interests”); and (3) the proposed contribution of West Penn’s Transmission Assets to KATCo (“Proposed Transmission Contribution”). These three items are collectively referred to as the “Transaction.” The proposed Transaction, if approved, will be effectuated pursuant to various effectuating documents, including Agreements and Plans of Merger.

The Coalition for Affordable and Energy Efficiency in Pennsylvania (“CAUSE-PA”) filed a Petition to Intervene and Answer on March 16, 2023.

The Office of Small Business Advocate (“OSBA”) filed a Protest and Notice of Intervention as well as a Notice of Appearance on March 23, 2023.

I&E filed its Notice of Appearance on March 29, 2023.

The Office of Consumer Advocate (“OCA”) filed a Protest and Public Statement on April 4, 2023.

The Industrial Energy Consumers of Pennsylvania (“IECPA”) filed a Petition to Intervene on April 5, 2023.

The Met-Ed Industrial Users Group (“MEIUG”), the Penelec Industrial Customers Alliance (“PICA”), and the West Penn Power Industrial Intervenors (“WPPII”), collectively referred to as the Industrial Users Group (“Industrial Users Group”) filed a Petition to Intervene on April 14, 2023.

Calpine Retail Holdings, LLC (“Calpine”) filed a Petition to Intervene on April 17, 2023.

The Retail Energy Supply Association (“RESA”) filed a Petition to Intervene on April 17, 2023.

The Pennsylvania State University (“PSU” or “Penn State”) filed a Petition to Intervene on April 17, 2023.

The consolidated Applications were assigned to the Office of Administrative Law Judge for the scheduling of such evidentiary hearings as may be necessary culminating in the issuance of a Recommended Decision.

A telephonic Prehearing Conference is scheduled for Tuesday, April 25, 2023, beginning at 1:30 pm before Administrative Law Judges Conrad A. Johnson and Emily I. DeVoe.

## **II. ISSUES**

The following list represents I&E’s preliminary determination of the potential issues in these proceedings. The listing is as complete as can be made at this time. I&E specifically reserves the right to address other issues, as it deems appropriate if any such relevant issues arise.

The I&E identified issues are as follows:

- Claimed Affirmative Public Benefits
- Claimed Increases in Uniformity of Systems Operations and Processes
- Claimed Increases in Administrative, Managerial and Operational Efficiencies
- Claimed Financial Benefits
- Claimed Nondiscriminatory Access to the Transmission System
- Potential Impact on Quality of Service
- Potential Impact of the Cost of the Merger
- Potential Impact on Rates
- Potential Impact on Low / Moderate Income Customers
- Potential Impact on Paying Ratepayers (Section 1402)
- West Penn’s Transmission Assets to be Contributed to KATCo
- Met-Ed and Penelec’s Class B Interests in MAIT
- FE PA’s Purchase of Penn Power from Ohio Edison

- Immediate and Near-term Impact on Current Employees as Well as Impacts to O&M Expenses Following the Merger
- FE PA’s Intention to Become an SEC Registrant
- Potential Impact on Energy Efficiency & Conservation (“EE&C”) Plans
- Potential Impact on Default Service Plans (“DSP”)
- Potential Impact on the Ability of Retail Energy Service Providers to Provide Electric Supply Services in First Energy’s Service Territory
- Potential Impacts on Service to First Energy’s Large Industrial Users.

### **III. WITNESSES**

It is currently expected that I&E may call the following expert witnesses without being limited thereto:

Anthony Spadaccio, Fixed Utility Financial Analyst  
Esysan Sakaya, Fixed Utility Valuation Engineer  
Joseph Kubas, Fixed Utility Valuation Engineer Supervisor  
Christine Wilson, Fixed Utility Financial Analyst Supervisor

The I&E witnesses may be contacted through the information listed above for Prosecutor Granger. The witness list is provided without the benefit of complete discovery or analysis of the positions of potential other parties to this proceeding. Accordingly, I&E reserves the right to call additional witnesses or withdraw the name of the witnesses listed above.

### **IV. EVIDENCE**

I&E expects to present all written direct, rebuttal and surrebuttal testimony and accompanying exhibits at the evidentiary hearing. Moreover, I&E intends to rely on the Company’s filing, supplemental testimony, answers to data requests and interrogatories, annual reports and other documents submitted to the Commission, other relevant Commission filings, any other relevant Commonwealth agency letters or reports, general financial market information sources and other public documents and reports.

## V. DISCOVERY

Discovery in these proceedings will be conducted according to 52 Pa. Code §§5.321 et. seq. No modifications to the rules of discovery have been proposed by I&E. I&E will give due consideration to any discovery modifications proposed by any other party. Also, pursuant to 52 Pa. Code §§5.322 and 5.331(b), discovery has begun and is ongoing.

## VI. SCHEDULE

I&E is working with the parties to develop a schedule in this proceeding. As of this date, it appears that the parties have agreed on the following schedule to be confirmed at the Prehearing Conference:

Filing of Application w/Company Direct	March 6, 2023
Non-Company Direct	June 15, 2023
Rebuttal Testimony	July 14, 2023
Surrebuttal Testimony	August 1, 2023
Oral Rejoinder & Hearings <sup>1</sup>	August 8-9, 2023
Main Brief	August 30, 2023
Reply Brief	September 15, 2023

## VII. PUBLIC INPUT HEARINGS

I&E does not oppose holding public input hearings in this proceeding. Should public input hearings be deemed necessary, I&E recommends the Commission consider the use of smart hearings or telephonic hearings to encourage increased participation by the ratepayers.

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<sup>1</sup> Upon the rescinding of Governor Tom Wolf's Proclamation of Disaster Emergency; the re-opening of the Keystone Commonwealth Building; and the return to in-person hearings; I&E requests that Hearings be held in Harrisburg, PA.

## VIII. SERVICE OF DOCUMENTS

The Commission's March 20, 2020 Emergency Order,<sup>2</sup> which was controlling regarding electronic service of documents, expired on September 30, 2021. In anticipation of the expiration of the March 20 Order, the Commission issued a new Order on September 15, 2021 regarding the regulations controlling service requirements.<sup>3</sup> Pursuant to the September 15 Order, the Commission recognized, for purposes of satisfying service of documents requirements:

... that some of the measures we implemented significantly benefitted the operational needs of the Commission, the public and the regulated community. Specifically, the electronic service requirements we adopted were essential to ensuring continued, uninterrupted operations, providing needed flexibility. Therefore, in order to maintain that flexibility to respond to operational demands, we will waive certain regulatory service provisions, consistent with our previous actions.<sup>4</sup>

Further, the Commission stated:

... some of the operational restraints occasioned by the pandemic remain. ... Toward this end, we will continue to permit electronic service *by* the Commission on all parties, regardless of whether a particular party has agreed to electronic service. ... Additionally, service *on* Commission staff in proceedings pending before it, whether staff is a party or otherwise, shall be exclusively electronic unless the parties agree otherwise.<sup>5</sup>

Therefore, for purposes of satisfying in-hand service requirements for discovery responses, prepared testimony, briefs and other documents; while operational restraints continue during this proceeding, and consistent with the Commission's September 15 Order, I&E requests that electronic delivery of documents continue to satisfy the service requirements.

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<sup>2</sup> Docket No. M-2020-3019262, *Re: Suspension of Regulatory and Statutory Deadlines, Modification to Filing and Service Requirements* ("March 20 Order").

<sup>3</sup> Docket No. M-2021-3028321, *Re: Waiver of Regulations Regarding Service Requirements* ("September 15 Order").

<sup>4</sup> September 15 Order, p. 3.

<sup>5</sup> *Id.*, p. 6.



## **IX. SETTLEMENT**

I&E will maintain an open dialogue and is willing to make good faith efforts to successfully resolve this matter through settlement. In the event settlement discussions fail to result in a full and complete resolution of the matter, I&E is prepared to fully or partially litigate this proceeding.

Respectfully Submitted,



Scott B. Granger  
Prosecutor  
PA Attorney ID No. 63641

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, Pennsylvania 17120  
(717) 425-7593

Dated: April 21, 2023

**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 Approvals and Certificates of Public Convenience	:	Docket Nos. A-2023-3038771, A-2023-3038792, A-2023-3038793, A-2023-3038794, A-2023-3038795, A-2023-3038807, A-2023-3038808, A-2023-3038818, G-2023-3038819, G-2023-3038820, G-2023-3038821, G-00020956
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**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated April 21, 2023, in the manner and upon the persons listed below:

**Served via Electronic Mail Only**

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