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November 7, 2023

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

**Re: Utilization of Storage Assets as Electric Distribution Assets, Docket M-2020-3022877**

Dear Secretary Chiavetta:

Enclosed for electronic filing at the above-referenced docket, please find the reply comments of the Energy Association of Pennsylvania.

Sincerely,

A handwritten signature in blue ink that reads "Donna M.J. Clark".

Donna M.J. Clark  
Vice President & General Counsel

Enclosures

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Utilization of Storage Assets as :  
Electric Distribution Assets : M-2020-3022877

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**REPLY COMMENTS OF THE ENERGY ASSOCIATION OF PENNSYLVANIA TO  
THE PROPOSED POLICY STATEMENT ORDER**

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**I. INTRODUCTION**

On August 24, 2023, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) issued a Proposed Energy Storage Asset Policy Statement Order (“Proposed Policy Statement Order”) for consideration and input by stakeholders. The Proposed Policy Statement Order was a product of information and comment received via two previous PUC-issued Secretarial Letters<sup>1</sup> on electric storage resources and their utilization by electric distribution companies (“EDCs”). The Proposed Policy Statement Order was published in the *Pennsylvania Bulletin* on September 23, 2023; comments were due thirty (30) days thereafter, on October 23, with reply comments due on November 7, 2023.

The Energy Association of Pennsylvania (“EAP” or “Association”), a trade organization that represents and promotes the interests of regulated electric and natural gas distribution

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<sup>1</sup> An initial Secretarial Letter was issued on December 3, 2020. A follow-up Secretarial Letter under this docket seeking additional input was issued on August 12, 2021. EAP and member company utilities provided comment to both Letters. Comments filed by EAP to both Letters are incorporated herein by reference.

companies operating in the Commonwealth, respectfully submits these reply comments on behalf of its EDC members.<sup>2</sup>

In its comments filed on October 23, 2023, EAP proposed language changes to better align the wording in Annex A of the Proposed Policy Statement Order with the Commission’s intent as outlined in the Order itself. EAP suggested that the definition of “non-wires solution” set forth in § 69. XXX1. Definitions be modified to read “An Electric Distribution Company (EDC) investment and operating practice that acts as a distribution asset to: improve reliability, resilience, or service; reduce congestion or system constraints; or as otherwise operationally justified by the EDC at the time of implementation.” EAP also sought changes to § 69.XXX2. Electricity-Storage as a Distribution Asset such that the third sentence of the language set forth in Annex A would read: “The Commission encourages the consideration of such assets when reasonable and prudent, specifically as an alternative non-wires solution.” EAP and its members ask that the Commission adopt these changes to accurately reflect the intent expressed in the Proposed Policy Statement Order and for the reasons detailed in its initial comments filed at this docket.<sup>3</sup>

## **II. REPLY COMMENTS**

EAP appreciates the opportunity to provide reply comments, which address recommendations and issues raised by the comments of the Office of Consumer Advocate (“OCA”), the comments of the Pennsylvania Utility Law Project (“PULP”), the comments of the

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<sup>2</sup> Citizens’ Electric Company; Duquesne Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Pike County Light & Power Company; PPL Electric Utilities Corporation; UGI Utilities, Inc.-Electric Division; Wellsboro Electric Company; and West Penn Power Company.

<sup>3</sup> EAP’s initial comments filed on October 23, 2023 are incorporated herein by reference.

PJM Power Providers Group (“P3”), the comments of the Clean Energy Advocates (“CEA”), and the comments of Advanced Energy United (“United”).

Prior to addressing specific proposed modifications to the language in Annex A, EAP raises three points which generally address and dispose of themes raised in the comments of OCA, PULP, P3, CEA and United. First, the proposed Policy Statement sufficiently considers Pennsylvania’s competitive retail market in its decision to encourage EDCs to use energy storage resources as a tool to resolve, maintain, and improve distribution system reliability and resilience.<sup>4</sup> It is not necessary to include language specifically addressing the Electricity Generation Customer Choice and Competition Act, Act 138 of 1996, *as amended*, 66 Pa. C.S.A., §§ 2801 – 2812 (“Choice Act”) in this policy statement because the PUC determined that “EDCs are uniquely positioned to best ensure that the distribution grid is properly managed, and the Commission sees no reason to prohibit the EDCs from utilizing electricity-storage systems to continue to solve electric distribution system problems and provide grid resiliency”. Proposed Policy Statement Order at 12.

Additionally, the Commission clearly defines “electricity-storage asset” as a resource that stores electricity received from the grid for the purpose of injecting it back into the grid at a subsequent point in time.<sup>5</sup> In considering an EDC request to utilize and rate base energy storage assets, the Commission will make decisions consistent with the provisions of the Choice Act.

Second, this proceeding is not the appropriate forum to consider revisions to the current way in which the Commission reviews infrastructure planning. Infrastructure planning is governed in large part by 52 Pa. Code § 57.1, et al., for baseline projects and Act 11 of 2012, *as*

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<sup>4</sup> In fact, the PUC specifically considered these arguments in its Proposed Policy Statement Order and did not adopt them. *See* Proposed Policy Statement Order at 8-9.

<sup>5</sup> *See also discussion, infra.* at p. 8 wherein EAP suggests a modification to the definition of the term “electricity-storage asset” to address concerns voiced by P3.

*amended*, 66 Pa. C.S.A. §§ 1350 - 1360 for accelerated investments. Meeting the Commission's requirements entails a comprehensive planning and review process, allowing for consideration of reliability and capacity issues in the context of utility proposed solutions to address aging infrastructure. There is ample opportunity in that process for stakeholder input and no evidence exists to demonstrate that the process is flawed or insufficient. EAP contends that the instant rulemaking, with its intended scope narrowly tailored to address EDC opportunities to utilize storage as a distribution asset, is not the proceeding in which to consider revisions to the current robust planning process.<sup>6</sup>

Third, EAP contends that the Policy Statement as drafted appropriately acknowledges both the scope of the Commission's jurisdiction and the primary role of EDCs to provide "adequate, efficient, safe, and reasonable service and facilities" under section 1501 of the Public Utility Code, 66 Pa. C.S.A. § 1501. The proposed Policy Statement appropriately focuses on EDCs, as EDCs are the entity regulated by the Commission. In Section 69.XXX.2, the Commission, *inter alia*, "encourages EDCs to consider electricity-storage assets as part of their system planning." *See*, Annex A. Interconnecting energy storage to the EDC distribution system must be implemented within parameters established by the EDC as part of that planning process and as informed by the law and Commission regulation. It is within the EDC's responsibility and discretion because it is the electric utility which is solely and ultimately responsible for the operation of the distribution system and the delivery of safe and reliable service to its customers. Contrary to the suggestion of some commentators, the proposed Policy Statement does not preclude an EDC from utilizing energy storage that is owned and operated by a third party. It

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<sup>6</sup> EAP also rejects the suggestion by CEA for the initiation of proceedings to mandate an integrated planning process based on CEA's and OCA's prior recommendations at this docket. *See infra* at pp. 6-7 and 8-9. Procedures established in the implementation of Act 11 of 2012 already allow for such a planning process. *See, e.g.*, 52 Pa. Code §§ 121.1 -121.8. *See also*, 52 Pa. Code § 57.1, et al.

does acknowledge, however, that the terms of operating the storage facility connected to the distribution grid must be established by the EDC to ensure safe and reliable service to customers and to account for appropriate rate treatment.

**a. Reply to Comments of OCA**

While EAP is neutral with respect to OCA’s proposed change to the definition of “Electricity-storage asset,” EAP does not agree with OCA that the definition of “non-wires solution” should more closely track the definition established by NRRI in its publication *“Getting the Signals Straight: Modeling, Planning, and Implementing Non-Transmission Alternative Study, February 2015”*.<sup>7</sup> EAP contends that the NRRI definition does not align with the direction established by the Proposed Policy Statement Order in which “the Commission declines to adopt a specific cost-effectiveness test or methodology in this proceeding. EDCs may consider using electricity-storage and would need to justify the costs like any other traditional infrastructure upgrade.” Proposed Policy Statement Order at p. 14. NRRI’s use of the term “lower total resource cost” in its definition does not reflect the Commission’s decision and would not align with the Commission’s approach to distribution system planning and ratemaking as effectively as the EAP’s proposed language.

EAP also disagrees with OCA that the Commission’s proposed definition of “non-wires solution” forecloses an EDC from using a third-party owned and operated energy storage asset on its distribution system as a non-wires solution. EAP and its members’ comments readily acknowledge that a third party can own an energy storage asset connected to an EDC distribution system. The modifications proposed by EAP underscore that, even in a situation involving third-

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<sup>7</sup> See, EAP Comments at pp. 6-7 and fn. 7.

party owned and operated energy storage, it is the EDC's investment and "operating practice" that sets the interconnection parameters to reliably serve distribution customers. It is the EDC which must have "operationally justified" the decision to include energy storage as a non-wires solution at the time of implementation in order to obtain appropriate cost recovery. The EDC retains ultimate responsibility for the safe and reliable operation of its distribution system. *See discussion infra* at p. 2.

#### **b. Reply to Comments of PULP**

PULP's comments are aimed at ensuring the final Policy Statement includes explicit guidance regarding equity and affordability. PULP supports OCA's initial recommendation that EDCs be required to employ an Integrated Distribution Planning ("IDP") process to determine energy storage value across their distribution systems.<sup>8</sup> PULP asks the Commission to "expand its proposed Policy Statement to establish overarching policy guidance requiring utilities to be more intentional in their planned deployment of energy storage assets to ensure equity and affordability are appropriately considered." PULP Comments at p. 4.

EAP believes that the inclusion of this specific terminology overly complicates the proposed Policy Statement, which is aimed at encouraging the use of energy storage assets to engineer non-wires solutions for reliability and resiliency concerns applicable to the distribution system. Including an overly-broad standard that would require utilities to demonstrate that energy equity and affordability are enhanced by each storage project would block their deployment and dismiss their reliability and resiliency benefits.

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<sup>8</sup> PULP Comments at p.3.

It is not necessary to impose these additional overlapping requirements. EDCs have existing, metrics-based criteria that are used to inform the need for and placement of energy storage assets. Further, EDC planning and implementation must adhere to the dictates of Section 1501 of the Public Utility Code which requires the provision of “reasonably continuous service” across the entire distribution system “without unreasonable interruptions and delay.” 66 Pa. C. S. A. § 1501. As stated by the Commission in the Proposed Policy Statement Order, in considering the use of energy storage assets, EDCs will need to justify cost as they do in “any other traditional infrastructure upgrade.” Proposed Policy Statement Order at p. 14.

Further, PULP offers no evidence that current EDC reliability and resiliency maintenance and improvement planning is generally discriminatory, that it is inequitable, or that it negatively impacts affordability. EAP maintains that the current planning and review processes are adequate. They provide ample opportunity for input by interested parties. An additional layer of integrated distribution planning would be redundant and add cost. As discussed by the Commission, energy storage assets will be treated as another “tool-in-the-toolbox.” As such, they will be subject to the same metric-based criteria and analysis EDCs currently employ to maintain and improve facilities, and they will be subject to same cost justification analysis as with other traditional infrastructure upgrades. PULP’s contentions do not justify that the existing planning processes be augmented with a new and additional process for energy equity and affordability.

**c. Reply to Comments of P3**

P3’s predominant concern is that the proposed Policy Statement reflect the restructured electricity market in Pennsylvania which does not allow for EDC cost recovery and ownership of energy storage assets that provide generation service. EAP maintains that the Proposed Policy



Statement Order, the language in Annex A, and the modifications offered by EAP to Annex address those concerns. Section 69.XXX2. Electricity-Storage as a Distribution System Asset recognizes that such assets can be used by EDCs to create engineered solutions to maintain or increase the reliability or resilience of the electric distribution system. *See* Annex A. Section 69.XXX.2 further encourages EDC consideration of non-wires solutions involving energy storage assets as part of distribution system planning. *Id.* The Proposed Policy Statement Order clearly provides that EDCs will need to justify a request to rate base such assets in the same manner as currently used to obtain cost recovery for traditional infrastructure upgrades.<sup>9</sup> Such justification would necessarily encompass establishing that the energy storage asset is being used to maintain or improve distribution reliability and resiliency and not to generate electricity to sell into the wholesale market. Finally, EAP’s suggested modification to Section 69.XXX2, which replaces the phrase “cost effectiveness and proper” with the phrase “reasonable and prudent,” reinforces the intent of the Commission to require EDCs to justify cost recovery pursuant to traditional cost recovery standards.

To address its concern, P3 requests that the Commission include a separate definition of the term “Grid” in the final Policy Statement. Rather than a stand-alone definition, EAP suggests a modification to the term “Electricity-storage asset” which adds the word “distribution” before the term “grid” in the proposed definition in Section 69.XXX1. Definitions. The revised definition would read: “A resource capable of receiving electric energy from the distribution grid and storing it for later injection of electricity back to the distribution grid.”

#### **d. Reply to Comments of CEA**

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<sup>9</sup> See Proposed Policy Statement Order at p. 14.

As discussed above, EAP opposes a separate IDP process for the purpose of evaluating the appropriate use and deployment of energy storage assets on a distribution system. The Commission, EDCs, and all interested parties already have planning and review procedures available to analyze the necessity and reasonableness of a particular energy storage asset planned for the distribution system. Layering an additional IDP process on top of existing cost recovery review processes is duplicative, inefficient, and may result in additional cost without any additional benefit to ratepayers. It could also delay the deployment, use, and benefit of energy storage assets identified as solutions for reliability and resiliency concerns.

Similarly, EAP rejects the suggestion by CEA which echo concerns expressed by PULP that the proposed Policy Statement does not adequately address equity or affordability concerns of certain consumer groups. *See supra* at pp. 6-7. EAP further disagrees with CEA's blanket request to initiate "additional proceedings" to develop equity "requirements, metrics, and incentives" for use in approving the distribution grid location of and cost recovery for energy storage assets on EDC distribution systems. *Id.* Again, no specific evidence has been offered that would suggest that current EDC reliability and resiliency maintenance and improvement planning is generally discriminatory, that it is inequitable, or that it negatively impacts affordability.

**e. Reply to Comments of United**

As with P3, United is primarily concerned with the impact of EDC ownership of energy storage assets on the restructured market and suggests that the final Policy Statement contain language that the Commission and the EDCs will comply with the Choice Act. United further suggests modifications to the definition of "non-wires solution," looks for changes in Section 69.XXX2. Electricity-Storage as a Distribution Asset, and suggests the addition of a third section

entitled “Framework for Pursuing Electricity Storage Solutions” based on a California model. EAP believes that these suggestions overly complicate the guidance being offered to the regulated community in the policy statement and creates an unnecessary and duplicative planning process for Pennsylvania EDCs. The Commission should not alter the proposed Policy Statement based on United’s comments.

The language contained in the proposed Policy Statement is appropriately broad enough to allow for both EDCs and third-parties to own and operate energy storage assets connected to the distribution system. Further, the Commission in its Proposed Policy Statement Order determined that the process for EDCs to gain approval and cost recovery of energy storage as a distribution system asset would adhere to well-established Pennsylvania processes pursuant to Act 11 of 2012 and/or rate case proceedings under the Public Utility Code. As the PUC envisions, existing oversight processes will ensure that storage asset utilization occurs in a just and reasonable manner.

At the same time, the EDC has the ultimate responsibility that the asset, regardless of ownership, does not work to negatively impact reliability on the distribution system. It is of utmost importance that the final Policy Statement not dilute the ability of EDCs to determine which resources come online within their service territories. Third-parties cannot be allowed to prescribe interconnection points within an EDC distribution system or unilaterally dictate the location of a major facility. The terms of interconnection and how a storage asset operates in connection with the distribution system must be set by the EDC ultimately responsible for providing safe and reliable service. In seeking to issue a policy statement providing guidance to the regulated community on the ownership and use of energy storage assets, the Commission rightfully encourages the use of energy storage to maintain or improve reliability and resiliency

on the distribution system without making the process or procedure too involved or overly cumbersome as to ultimately preclude its use by EDCs or stymie innovation. United's comments could discourage innovation in the use of energy storage assets as an alternative way to maintain and improve reliability and resiliency on EDC distribution systems.

### III. CONCLUSION

For the reasons detailed above, EAP urges the Commission (1) to adopt its proposed modifications to the definitions of "Electricity-storage asset" and "Non-wires solution" in section 69.XXX1. Definitions of Annex A to the Proposed Statement Order; and (2) to adopt its modification to the third sentence of section 69.XXX2. Electricity-Storage as a Distribution System Asset.

EAP's changes would add the word "distribution" prior to the word "grid" in the definition of "Electricity-storage asset" in section 69.XXX1<sup>10</sup>; would alter the definition of "Non-wires solution" to read "An Electric Distribution Company (EDC) investment and operating practice that acts as a distribution asset to: improve reliability, resilience, or service; reduce congestion or system constraints; or as otherwise operationally justified by the EDC at the time of implementation"<sup>11</sup>; and would replace the phrase "cost effective and proper" in the third sentence of section 69.XXX2 with the phrase "reasonable and prudent."<sup>12</sup>

EAP further requests that the Commission not make the substantive modifications proposed by OCA, PULP, P3, CEA, and United, believing that the concerns raised are either

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<sup>10</sup> See, *supra*. at p. 8. To address the suggestion of P3 to add a definition of "grid" to section 69.XXX1, EAP would add the word "distribution" before the word "grid" in the Commission proposed definition of "Electricity-storage asset".

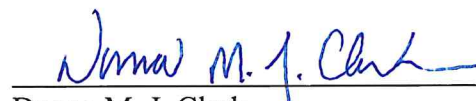
<sup>11</sup> See, EAP Comments filed on October 23 at this docket at pp. 4-6.

<sup>12</sup> See, EAP Comments filed on October 23 at this docket at p. 6.

beyond the scope of the instant proposed Policy Statement or were adequately addressed in the Proposed Policy Statement Order.

Respectfully submitted,

  
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Date: November 7, 2023

**CERTIFICATE OF SERVICE**

**UTILIZATION OF STORAGE** :  
**ASSETS AS ELECTRIC** : **Docket No. M-2020-3022877**  
**DISTRIBUTION ASSETS** :

I hereby certify that I have this day served true and correct copies of Reply Comments of the Energy Association of Pennsylvania upon the following individuals, in the manner specified, in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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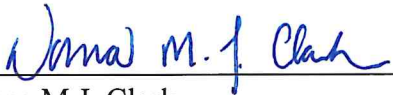
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DATE: November 7, 2023

  
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