

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held December 18, 2025

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Revised Amended Petition for Declaratory Order
Seeking Determination that an Option to Lease
Agreement Satisfies the Site Control Requirement
for Interconnection.

P-2025-3054496

ORDER

BY THE COMMISSION:

BACKGROUND

On April 9, 2025, CH Renewables Acquisitions, LLC¹ (CH Renewables or Petitioner), filed a Petition for Declaratory Order (Petition), at Docket No. P-2025-3054496, requesting that the Pennsylvania Public Utility Commission (Commission) issue a declaratory order finding that Option to Lease Agreements (Agreements) are “other legally binding contracts” that provide sufficient evidence of site control necessary to meet the interconnection requirements located at 52 Pa. Code § 75.36(7).² On July 21, 2025, Petitioner filed an Amended Petition for Declaratory Order and subsequently submitted a Revised Amended Petition for Declaratory Order (Revised Petition) on July 24, 2025.

¹ CH Renewables Acquisitions, LLC is collectively made up of its subsidiaries: REPA Clement Run Solar, LLC; REPA Wayside Church Solar, LLC; REPA Brook Hollow Solar, LLC; REPA Townline Solar, LLC; REPA Crooked Creek Solar, LLC; REPA Kreutz Creek Solar, LLC; REPA Kiester Road Solar, LLC; REPA Breezewood Hills Solar, LLC; REPA Five Points Solar, LLC; REPA Huckleberry Ridge Solar, LLC; and REPA New Derry Solar, LLC. *Petition* at 1, 2 fn. 5-8; *Revised Petition* at 1.

² *Revised Amended Petition* at ¶¶ 1, 11.

CH Renewables' Petition

CH Renewables is a developer of solar and other renewable energy projects across the United States. Inside the Commonwealth, CH Renewables has either developed or is in the process of developing several solar projects, particularly within the FirstEnergy Pennsylvania Electric Company's (FirstEnergy) service territory.³ Petitioner identifies seven specific Commonwealth solar projects in its Petition: (1) REPA Townline Road Solar, LLC (Townline Rd); (2) REPA Crooked Creek Solar, LLC (Crooked Creek); (3) REPA Kreutz Creek Solar, LLC (Kreutz Creek); (4) REPA Kiester Road Solar, LLC (Kiester Rd); (5) REPA Clement Run Solar, LLC (Clement Run); (6) REPA Wayside Church, LLC (Wayside Church); and (7) REPA Brook Hollow Solar, LLC (Brook Hollow).⁴ The development of these solar projects, among other things, requires interconnection to FirstEnergy's electrical grid. As such, CH Renewables has filed with FirstEnergy the necessary interconnection applications for the aforementioned solar projects. CH Renewables asserts that the development of these solar projects required CH Renewables to execute several Exclusive Option to Lease Agreements with the respective property owners of land within the Commonwealth.⁵ CH Renewables further asserts that these Agreements establish a binding contract between CH Renewables and the property owners that grant CH Renewables, for the duration of the contracted term, an exclusive right to create a Lease Agreement with the property owner upon CH Renewables exercising its contracted lease option.

³ Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), Metropolitan Edison Company (Met-Ed), and West Penn Power Company (West Penn) have consolidated into a single entity known as FirstEnergy Pennsylvania Electric Company (FirstEnergy). *See, 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, et al.*, Docket No. A-2023-3038771, *et al.* (Final Order entered December 7, 2023) (*FirstEnergy PA Merger Proceeding*). The Commission will refer to all entities as FirstEnergy for the purposes of this Order.

⁴ *Petition* at ¶¶ 3-4.

⁵ *Id.* at ¶ 2.

Commission Regulation 52 Pa. Code § 75.36(7) provides that “[w]hen an interconnection customer is not currently a customer of the EDC, upon request from the EDC, the interconnection customer shall provide proof of site control evidenced by a property tax bill, deed, lease agreement or other legally binding contract.” In compliance with this regulation, CH Renewables has provided its Agreements to FirstEnergy as proof that CH Renewables has the necessary site control over the identified properties. CH Renewables acknowledges that FirstEnergy has accepted these Agreements as sufficient proof of the necessary site control required by Section 75.36(7) for Townline Rd, Crooked Creek, Kreutz Creek, and Keister Rd.⁶ However, CH Renewables avers that FirstEnergy has since changed its policy regarding these types of agreements and has conversely denied its interconnection applications for Clement Run, Wayside Church, and Brook Hollow.⁷

In its communications with CH Renewables, FirstEnergy admits that it has received updated guidance from legal counsel and based upon that guidance, changed its internal policies.⁸ Specifically, FirstEnergy’s new policy no longer recognizes either an option to lease agreement or a letter of intent as proof of site control.⁹ CH Renewables claims that this new policy will prevent its timely completion of interconnection to the grid, which will negatively affect its projects, creating the potential loss of business opportunities. Furthermore, CH Renewables argues that this new policy constitutes unfair competition which not only damages their reputation but also increases the overall cost of the projects, and that the damage resulting as a direct result of this new policy is not capable of being fully remedied by way of monetary compensation.¹⁰

⁶ *Petition* at ¶ 3.

⁷ *Id.* at ¶ 4.

⁸ *Petition Attachment D* at 2; *Petition Attachment E* at 1.

⁹ *Petition* at ¶ 14; *Petition Attachment C* at 3; *Petition Attachment D* at 2,4; *Petition Attachment E* at 1.

¹⁰ *Id.* at ¶ 29.; *Revised Petition* at ¶ 14.

Specifically, CH Renewables is requesting that the Commission terminate this controversy and remove the uncertainty of the site-control requirement by issuing a Declaratory Order confirming that option-to-lease agreements qualify as “other legally binding contracts” as announced in Section 75.36(7).¹¹

CH Renewables’ Revised Petition

On July 24, 2025, CH Renewables filed with the Commission a Revised Amended Petition for Declaratory Order (Revised Petition) in which CH Renewables acknowledges that two of the previously rejected interconnection applications cited in the Petition have been resolved and no controversy remains regarding either Clement Run or Wayside Church.¹² However, CH Renewables avers FirstEnergy has not reversed its decision regarding Brook Hollow, and has since additionally rejected the interconnection applications for four new solar projects: (1) REPA New Derry Solar, LLC (New Derry); (2) REPA Huckleberry Ridge Solar, LLC (Huckleberry Ridge); REPA Five Points Solar, LLC (Five Points); and (4) REPA Breezewood Hills Solar, LLC (Breezewood).¹³ CH Renewables maintains its stance that FirstEnergy’s continued rejection of Petitioner’s Agreements, as adequate proof of site control, creates both uncertainty and an active controversy requiring termination by the Commission via the issuance of a declaratory order.¹⁴

Through its Revised Petition, CH Renewables renews its request that the Commission terminate this controversy and remove uncertainty by issuing a declaratory order confirming that option-to-lease agreements are, in fact, “other legally binding contracts” that provide sufficient evidence of site control and satisfy the requirement of Section 75.36(7).¹⁵

¹¹ *Petition* at ¶ 6.

¹² *Revised Amended Petition* at ¶ 8, 10.

¹³ *Id.* at ¶ 7.

¹⁴ *Id.* at ¶ 6, 11, 21.

¹⁵ *Id.* at ¶ 15.

Data Requests

The Commission sought additional information from FirstEnergy regarding the status of the Petitioner’s interconnection applications with FirstEnergy. Accordingly, two sets of data requests were issued, one to CH Renewables and a separate one to FirstEnergy, as follows.

1. Data Request Set I

On September 15, 2025, the Commission requested CH Renewables provide the status of the interconnection applications cited in its Revised Petition. Specifically, the Commission sought to identify (1) whether FirstEnergy’s position denying Petitioner’s Exclusive Option to Lease Contracts had changed, and (2) if FirstEnergy’s position had changed, when the Petitioner’s interconnection applications were approved. On September 17, 2025, CH Renewables filed its response to Data Request Set I (DR Set I Response).

2. Data Request Set II

On October 6, 2025, the Commission requested that FirstEnergy identify (1) whether FirstEnergy had changed its position denying the Petitioner’s Clement Run, Wayside Church, Brook Hollow, New Derry, Five Points, Breezewood or Huckleberry interconnection applications, and (2) if FirstEnergy had changed its position on these interconnection applications, when the change occurred. On October 20, 2025, FirstEnergy filed with the Commission its responses to Data Request Set II (DR Set II Response).

DISCUSSION

Legal Standards

Section 331(f) of the Public Utility Code provides that the Commission “in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty.” 66 Pa. C.S. § 331(f). The Commission is not required to issue a

declaratory order because such a decision is discretionary. *Prof'l Paramedical Services, Inc. v. Pa. Pub. Util. Comm'n*, 525 A.2d 1274, 1277 (Pa. Cmwlth. 1987), *pet. For appeal den.*, 538 A.2d 879 (Pa. 1988). Moreover, the Commission retains discretion regarding whether to issue a declaratory order even when such an order would terminate a controversy or remove uncertainty. *Germantown Cab Co. v. Pa. Pub. Util. Comm'n*, 97 A.3d 410, 414 n.7 (Pa. Cmwlth. 2017). Pursuant to 52 Pa. Code § 5.42, a party may seek a Declaratory Order from the Commission to terminate a controversy or remove uncertainty. To determine whether we should issue a declaratory order, we must first take a closer look at the Revised Petition to assess whether there is a controversy or uncertainty that has been presented to us to resolve.

CH Renewables' Revised Petition

In its Revised Petition, CH Renewables requests that the Commission issue a declaratory order finding that option agreements—including the “Option to Lease Agreements” at issue in its Revised Petition—are actually “other legally binding contracts” that provide sufficient evidence of site control necessary to meet the interconnection requirements of 52 Pa. Code § 75.36(7).¹⁶ CH Renewables avers that FirstEnergy has not reversed its denial of its interconnection application for Brook Hollow, and has rejected four additional applications for its New Derry, Huckleberry, Five Points, and Breezewood solar projects.¹⁷ The Revised Petition further acknowledges that applications for its Clement Run and Wayside Church projects have been resolved and that no controversy or uncertainty remains for these projects.¹⁸

CH Renewables asserts that this continued application of FirstEnergy’s improper interpretation of Section 75.36(7) demonstrates the existence of an ongoing controversy with regards to no less than five interconnection applications, and CH Renewables

¹⁶ *Revised Amended Petition* at ¶ 1.

¹⁷ *Id.* at ¶ 7.

¹⁸ *Id.* at ¶¶ 8, 10.

requires the Commission’s assistance to terminate these specific disputes by issuing a declaratory order removing the existing controversy and uncertainty regarding the requirement of site control.¹⁹ Accordingly, CH Renewables requests that the Commission make a determination that an exclusive option to lease agreement is within the intended scope of the phrase “other legally binding contract” under the Commission’s regulations.²⁰

Disposition

Upon review, as discussed more fully, *infra.*, we find that the matters underlying Petitioner’s Revised Petition have been resolved with FirstEnergy, thereby removing any existing controversy or uncertainty with regard to these interconnection applications. Therefore, the Commission shall deny this Revised Amended Petition for Declaratory Order as moot.

First, in the Revised Petition CH Renewables acknowledges that its claims regarding Clement Run and Wayside Church have been subsequently approved by FirstEnergy, and that any controversy or uncertainty relating to the interconnection applications has been terminated.²¹ Specifically, the application for Wayside Church was approved on June 4, 2025, and Clement Run was approved on June 13, 2025.²² Additionally, in its Data Request Set I Response the Petitioner further acknowledges that the interconnection application for Brook Hollow was approved on July 25, 2025.²³ In its Data Request Set II Response, FirstEnergy indicates that all three of these projects have received the approval of the Commission in accordance with 52 Pa. Code § 75.17, in addition to approval of FirstEnergy.²⁴ Therefore, no controversy or uncertainty remains

¹⁹ *Id.* at ¶ 10.

²⁰ *Id.* at ¶ 11.

²¹ *Id.* at ¶ 10.

²² *DR Set I Response* at ¶ 1-2.

²³ *DR Set I Response* at ¶ 3.

²⁴ *DR Set II Response* at ¶¶ 2-4.

for the Commission to address with regards to the Clement Run, Wayside Church or Brook Hollow solar projects.

Next, as of September 16, 2025, Petitioner avers that FirstEnergy is still denying interconnection applications for its New Derry, Five Points, Breezewood, and Huckleberry solar projects.²⁵ On October 6, 2025, the Commission served FirstEnergy with Data Request Set II seeking answers regarding the status of all seven of the interconnection applications identified in the Revised Petition. Subsequently on October 20, 2025, FirstEnergy filed its Data Request Set II Response, which indicated that none of the seven interconnection applications addressed by the Revised Petition are currently being denied by FirstEnergy. More importantly, FirstEnergy indicates that the remaining four projects — New Derry, Five Points, Breezewood, and Huckleberry— have been resolved as of time it filed its Data Request Set II Response on October 20, 2025.

Specifically, FirstEnergy provides that: (1) the Breezewood application was deemed clerically complete on October 17, 2025 and will be filed with the Commission for approval; (2) the Five Points application has been deemed clerically complete;²⁶ (3) the Huckleberry application has been deemed clerically complete on October 16, 2025 and will be filed with the Commission for approval; and (4) the New Derry application was deemed clerically complete on October 15, 2025, and will be filed with the Commission for approval.²⁷ Moreover, the Commission has issued Secretarial Letters approving the Breezewood, Huckleberry, Five Points and New Derry applications.²⁸

²⁵ *DR Set I Response* at ¶¶ 4-7.

²⁶ The Commission received a request for net metering for the Five Points solar project on 11/13/25.

²⁷ *DR Set II Response* at ¶¶ 5-8.

²⁸ The Commission issued a Secretarial Letter approving the Breezewood net metering application on 11/14/25. The Commission issued a Secretarial Letter approving the New Derry net metering application of 11/14/25. The Commission issued a Secretarial Letter approving the Huckleberry net metering application on 11/24/25. The Commission issued a Secretarial Letter approving the Five Points net metering on 11/14/25.

Therefore, with regard to the interconnection applications for the New Derry, Five Points, Breezewood, and Huckleberry solar projects, no controversy or uncertainty remains.

The Commission is empowered by Section 331(f) of the Public Utility Code with the discretionary power to issue a declaratory order where that order would terminate a controversy or remove uncertainty. 66 Pa.C.S. § 331(f). In the Revised Petition, Petitioner concedes that approval of its interconnection applications by FirstEnergy terminates any controversy and uncertainty as required by Section 331(f).²⁹ In the Data Request Set II Response, FirstEnergy states that all seven of the interconnection applications cited in Petitioner's Revised Petition have been approved which is action that terminates any controversy and uncertainty for the remaining projects, as required by Section 331(f).³⁰

Based upon the Commission's review of the Revised Petition, responses to data requests, and the applicable regulation, we find that no controversy or uncertainty currently exists to compel the Commission, in its sound discretion, to issue a Declaratory Order. As such, the Commission shall deny Petitioner's Revised Petition for Declaratory Order as moot; **THEREFORE,**

IT IS ORDERED:

1. That the Revised Amended Declaratory Order filed on July 24, 2025, by CH Renewables Acquisitions, LLC is denied as moot.
2. That Docket No. P-2025-3054496 shall be marked closed.

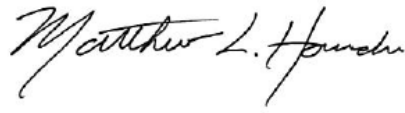
²⁹ *Revised Petition* at ¶ 10.

³⁰ *DR Set II Response* at 2-8.

3. That the Secretary shall serve a copy of this Order on CH Renewables Acquisitions, LLC.

4. That the Secretary shall serve a copy of this Order on FirstEnergy Pennsylvania Electric Company.

BY THE COMMISSION

A handwritten signature in black ink, reading "Matthew L. Homsher". The signature is written in a cursive style with a large initial "M".

Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: December 18, 2025

ORDER ENTERED: December 18, 2025