

COMMONWEALTH OF PENNSYLVANIA



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March 17, 2026

Via Electronic Filing

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Petition of FirstEnergy Pennsylvania
Electric Company for Approval of Its
Default Service Program for the
Period June 1, 2027 to May 31, 2031,
Docket No. P-2026-3060298

Dear Secretary Homsher:

Attached for electronic filing, please find the Office of Consumer Advocate's Prehearing Memorandum in this proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Olivia M. Spergel
Olivia M. Spergel, Esq.
Assistant Consumer Advocate
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Enclosures

cc: Administrative Law Judge Mark A. Hoyer (Via Email Only: mhoyer@pa.gov)
Administrative Law Judge Erin L. Gannon (Via Email Only: egannon@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Petition of FirstEnergy Pennsylvania :
Electric Company for Approval of Its : Docket No. P-2026-3060298
Default Service Program for the Period June :
1, 2027 to May 31, 2031 :
:

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 17th day of March 2026.

SERVICE BY E-MAIL ONLY

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of FirstEnergy Pennsylvania :
Electric Company for Approval of Its : Docket No. P-2026-3060298
Default Service Program for the Period June :
1, 2027, to May 31, 2031 :

PREHEARING MEMORANDUM OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. Section 333, and in response to the February 19, 2026 Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On February 3, 2026, the FirstEnergy Pennsylvania Electric Company¹ (FirstEnergy, FE, FE PA, or Company) filed with the Commission a Petition for approval of its Default Service Plan for its generation customers (Petition). The Company's existing Default Service Plan (DSP) is set to expire on May 31, 2026. The proposed DSP is for the period of June 1, 2027, through May 31, 2031. This filing has been made pursuant to the requirements of Act 129 of 2008 (Act 129), the Commission's Default Service Regulations, the Commission's Policy Statement on Default Service, and related Commission Orders.

In its Petition, the Company proposes acquiring supply for residential customers through a series of load-following, full-requirements supply contracts in approximately 50 megawatt (MW)

¹ On or about January 1, 2024, Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), and West Penn Power Company (West Penn) (collectively, the Predecessor Companies), which were all affiliates and subsidiaries of FirstEnergy Corporation, merged into FE PA. See Petition ¶ 1.

tranches. Petition ¶ 10. For each residential tranche, 100% of the supply will be at a fixed price. Petition ¶ 13. New contracts include staggered 12- and 24-month terms, plus a new 60-month option covering about 10% of the load. *Id.* Per the Company's filing, residential default service supply will be procured through a portfolio of 12-, 24-, and 60-month fixed-price full-requirements tranches, with approximately 45% of load priced based on one-year purchases, another 45% based on two-year purchases, and the remaining roughly 10% supplied through 60-month purchases. FE PA St. 3 at 4. If a 60-month contract does not yield a successful bid, the Company will offer the remaining tranches in 12-month products in the remaining auctions. FE PA St. 2 at 19. FE PA proposes to continue utilizing the current Commission-approved DSP VI contingency plans. Petition ¶ 28.

The Company is proposing the following changes to its supplier master agreement (SMA): (1) modifications to reflect the changes in default service supplier responsibility for Alternative Energy Portfolio Standards (AEPS) Act compliance; (2) removal of PJM charges for Network Integration Transmission Service (NITS) from the pricing under SMA; (3) changes to add new PJM billing line items associated with emergency orders issued by the U.S. Department of Energy; and (4) revisions to clarify the true-up methodology for the capacity proxy price (CPP) used in FE PA's auctions in the event PJM does not conduct a base residual auction (BRA). Petition ¶ 22.

The Company plans to meet all its AEPS Act obligations through its default service supply auctions, with winning suppliers responsible for fulfilling all Tier I and Tier II requirements, including solar energy. Petition ¶ 24. The Company explained that it will identify any default service supplier that does not acquire the required Alternative Energy Credits during the compliance periods and may assess charges to cover any alternative compliance payments or

penalties imposed on the Company by the Commission for AEPS non-compliance. FE PA St. 2 at 13.

The Company is proposing to incorporate NITS as part of the price-to-compare (PTC) rider and to no longer include NITS in the auction product. FE PA St. 2 at 16. The Company seeks to remove the liability as to NITS from the responsibility of the supplier. FE PA St. 2 at 16. The Company is proposing that it will retain NITS responsibility and will recover NITS through a bypassable rider on default customer service bills, rather than keeping suppliers responsible for the cost. FE PA St. 3 at 15. The Company is also seeking to include, in the non-market-based charges to be charged to customers directly through a non-bypassable tariff rider (i.e. the Default Service Support Rider, DSSR), Department of Energy emergency order-related generation charges. *See* FE PA St. 4 at 8; FE PA St. 5 at 5 (internal citations omitted). The Company is also proposing to consolidate the Consumer Education Charges component of the DSS rider, which is currently set to zero for all Rate Districts. FE PA St. 4 at 8-9.

The filing also explains that DSP VII continues the use of a CPP as a forward estimate of future PJM BRA outcomes for later delivery years covered by the 24- and 60-month default service contracts. FE PA St. 3 at 5. The Company requests that the Commission allow it to continue reconciling rates twice a year for all customer classes during DSP VII, even though 52 Pa. Code Section 54.187(i) requires quarterly review, in order to reduce swings in default service rates that can happen because of delays between when bills are issued and when usage is recorded. Petition ¶ 40.

The Company is proposing to maintain the same rate design for their PTC Default Service Rate Rider used to recover the cost of default service for residential and commercial customers. *See* Petition ¶ 36. Consistent with FE PA's existing tariff, the Company proposes maintaining a

flat per kilowatt-hour (kWh) rate design for the residential and commercial customer classes and a demand-based rate design for the industrial customer class. *Id.* For the industrial customer class, demand will continue to be based on the single coincident peak kilowatt network service peak load, as calculated by FE PA in accordance with PJM rules and requirements. *Id.*

FE PA proposes that non-residential default service customers with a demand of 100 kW or greater, or a maximum registered peak load (MRPL) of 100 kW or greater, be served under the Hourly Pricing Default Service Rate Rider, while default service customers with a demand below 100 kW and an MRPL below 100 kW be served under the PTC Rider. FE PA St. 1 at 16. The Company wants to classify large net-metering customer-generators (for example, large solar projects) with other large customers when buying default electricity supply. FE PA St. 1 at 17. FE PA proposes to continue excluding residential customers enrolled in the Company’s Customer Assistance Program (CAP) from the Time of Use (TOU) Rider to avoid potential adverse impacts on those customers. Petition ¶ 42. For DSP VII, FE PA is proposing to shorten the on-peak pricing period from seven hours (2 p.m. to 9 p.m.) to four hours (3 p.m. to 7 p.m.) and is seeking to maintain the same super off-peak pricing usage period from DSP VI. Petition ¶ 45.

FE PA is also proposing consolidating the TOU rider multiplier for residential and commercial rate districts as such:

Table 4		On-Peak	Off-Peak	Super Off-Peak
Met-Ed	R & C Combined	2.2741	0.8593	0.6190
Penelec	R & C Combined	2.2281	0.8673	0.6484
Penn Power	R & C Combined	2.0620	0.8978	0.6498
West Penn	R & C Combined	2.0470	0.9074	0.6282

FE PA St. 1 at 13. TOU rates, as filed, will be adjusted on a semi-annual basis, synchronized with the PTC Rider adjustment periods for the residential and commercial classes. *Id.*

The Company proposes using a single E-Factor for each customer class in its reconciliation process, which is intended to reduce potential fluctuations in PTC Rider over- or under-collections that could result from customers switching between the standard default service and TOU default service rates. *Id.* Participating customers remain on the TOU rate unless they choose to return to FE PA's standard default service rate, switch to an Electric Generation Supplier (EGS), or otherwise become ineligible, and while they may leave the TOU rate at any time without penalty, they may not re-enroll for 12 billing months, a provision intended to limit short-term participation that could affect the operation of the rider. *Id.* at 9-10. TOU rates will be adjusted on a semi-annual basis, synchronized with the PTC Rider adjustment periods for the residential and commercial classes, using the Company's proposed pricing multipliers. Petition ¶ 46. Any mismatches between revenues from TOU rates and supply costs paid to default service suppliers will be recovered or refunded within the existing TOU Rider customer class reconciliation. *Id.*

The Company also proposes to eliminate the Solar Photovoltaic Requirements Charge Rider (SPVRC Rider) in DSP VII because all legacy solar contracts have expired and the rider is no longer active. Petition ¶ 38. Additionally, the Company is seeking to eliminate Midcontinent Independent System Operator (MISO) and MISO Transmission Expansion Plan (MTEP) exit fees for Penn Rate District, currently at zero, as the Company has identified that there are no remaining costs associated with Penn Power's move from MISO to PJM in 2011. FE PA St. 4 at 8.

The Company is not proposing a successor Customer Referral Program (CRP) for DSP VII. Petition ¶ 49. Under the Commission-approved DSP VI Settlement, the CRP in each of the Rate Districts will terminate on May 31, 2027, which the Company supports. Petition ¶ 49.

The Company is proposing two key modifications to its supplier coordination tariff and protocols regarding its customers' arrangements with EGSs. First, FE PA proposes a new provision

to require EGSs that enter into new contracts with residential customers after June 1, 2027, to return those residential customers to default service at the conclusion of their fixed duration contracts, absent an affirmative choice to remain with the EGS in response to the notices required by the Commission’s regulations at 52 Pa. Code Section 54.10. FE PA St. 1 at 20. The Company is also seeking to require the EGS to provide an attestation of affirmative customer consent on a quarterly basis for all residential customers on variable priced month-to-month products. *Id.*

Second, the Company is proposing a limitation on eligibility for its purchase of EGS receivables program (POR program or POR) to incentivize EGSs to consider the impact of their pricing on a customer’s ability to pay and affordability. *Id.* at 21. Starting June 1, 2027, the Company is requesting that EGSs using utility consolidated billing (UCB) will be required to use “rate-ready” billing and charge a rate that does not exceed the PTC at the time of the customer’s enrollment or any pricing change in order to be eligible for POR for that customer account. *Id.* The Company is proposing a supplier coordination tariff change to remove the language making POR mandatory for EGSs electing UCB, aligning with its current practice of offering UCB with or without POR. *Id.*

The Company is further proposing to modify the terms of the sale and purchase of EGS accounts receivable by updating the POR program to be available to an EGS only if the supplier’s rate is competitive with or lower than the standard default service rate to reduce administrative burden and reduce the risk of excessive EGS-driven write-offs up front at the time of customer enrollment. *Id.*

II. PROCEDURAL HISTORY

The Company’s Petition was assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judges Mark A. Hoyer and Erin L. Gannon (ALJs Hoyer and Gannon). On February 10, 2026, the Office of Administrative Law Judge issued a Notice

scheduling a Call-In Telephonic Prehearing Conference for March 19, 2026, at 10:00 a.m. and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed its Petition to Intervene and Answer. The Office of Small Business Advocate (OSBA) Attorneys Rebecca Lyttle and Steven C. Gray² filed their Joint Notice of Appearance on February 11, 2026. On February 12, 2026, OCA Attorneys Harrison W. Breitman, Katie Kennedy, and Olivia M. Spergel filed their Joint Notice of Entry of Appearance.

On February 19, 2026, ALJs Hoyer and Gannon issued a Prehearing Conference Order setting forth the parties' obligations with respect to the Prehearing Conference and directing the parties to prepare and distribute prehearing memorandums by March 17, 2026, at 3:30 p.m., and Penn Renewables LLC filed its Petition to Intervene. OSBA filed its Notice of Intervention and Public Statement on February 20, 2026. On February 23, 2026, Shipley Choice, LLC d/b/a Shipley Energy and Interstate Gas Supply, LLC d/b/a IGS Energy filed their Joint Petition to Intervene, and on February 24, 2026, Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, and the West Penn Power Industrial Intervenors filed their Joint Petition to Intervene. Dimension PA 1 LLC filed its Petition to Intervene on March 5, 2026.

On March 9, 2026, the OCA filed its Notice of Intervention and Public Statement, and Answer in response to the Company's Petition. Also on March 9, 2026, the following parties filed their Petitions to Intervene: WGL Energy Services, Inc.; jointly, Sunrise Airport Road LLC, Sunrise Forrester Road LLC, Sunrise Franklin Road LLC, Sunrise Harlansburg Road LLC, Sunrise Hendersonville Road LLC, Sunrise McCurdy Road LLC, Sunrise Perry Highway LLC, Sunrise Sandy Lake Greenville Road LLC, Sunrise Sandy Lake Polk Road LLC, and Sunrise Springfield Church Road LLC; and Town Square Energy East, LLC.

² OSBA Attorney Steven C. Gray later filed a Withdrawal of Appearance on February 18, 2026.

On March 13, 2026, the Solar Energy Industries Association and the Coalition for Community Solar Access filed their Joint Petition to Intervene. On March 16, 2026, ALJs Hoyer and Gannon issued two Interim Orders: the first, granting the Motion for Admission Pro Hac Vice of Mitchell H. Kinzer, Esquire; and the second, granting the Motion for Admissions Pro Hac Vice of Linda S. Kizuka, Esquire and Marsha D. Makel, Esquire. Also on March 16, 2026, Constellation Energy Generation, LLC and Constellation NewEnergy, Inc., together, filed their Petition to Intervene, and Duquesne Light Company filed its Petition to Intervene.

III. ISSUES

The OCA seeks to ensure that the DSPs and any rates approved as a result of this proceeding are reasonable and consistent with Pennsylvania law, the Commission's regulations, and related orders. Upon a preliminary analysis of the Company's Petition, the OCA identified several significant issues that require further review. These issues include the following:

- A. Procurement Methodology: The OCA will examine the type and variety of products that the Companies proposes to solicit to determine whether the proposal will provide the least cost over time for residential default service customers in accordance with the Commission's regulations and Act 129. The OCA will also examine the Company's procurement plan including the laddered fixed-price tranche structure, the mix of 12-, 24-, and 60-month contracts, and the continued use of contingency plans, to ensure compliance with Pennsylvania law and Commission regulations and to evaluate whether the structure appropriately balances cost, risk, price stability, and long-term customer impacts.
- B. Supplier Master Agreement Modifications: The OCA will review the proposed modifications to the Supplier Master Agreement, including changes related to AEPS compliance responsibility, the removal of NITS charges from the auction product, the proposed pass-through of certain Department of Energy emergency order costs, and revisions to the CPP true-up process, to ensure compliance with Commission regulations and to confirm that the changes do not harm default service customers or the competitive retail market.
- C. Rate Design: The OCA will review the Company's rate design practices, including the continued use of flat per-kWh rates for residential and commercial customers, demand-based rates for industrial customers, and revised non-residential customer classifications based on demand and MRPL thresholds, to ensure appropriate allocation of costs and risk, minimize cross-subsidization, maintain a reliable and

competitive default service structure, and for compliance with the Commission's regulations.

- D. TOU Rates: The OCA will review the proposed TOU Rates, including the shortened on-peak window, consolidated rider multipliers, synchronized semi-annualized adjustments, reconciliation methodology, and enrollment limitations, to ensure the program promotes fair pricing, effective load-shifting incentives, predictable cost recovery, and compliance with existing law and the Commission's regulations.
- E. Discontinuance of the SPVRC Rider: The OCA will review the proposed discontinuance of the SPVRC Rider to ensure that all legacy solar contract costs have been fully recovered, that no remaining obligations or liabilities remain, that eliminating the rider will not result in under-recovery or future surcharges to customers, and that removal is consistent with prior Commission approvals and Pennsylvania law.
- F. Elimination of MISO and MTEP Exit Fees: The OCA will review the proposed elimination of the MISO and MTEP exit fees for the Penn Rate District to confirm that all costs associated with Penn Power's transition from MISO to PJM have been fully recovered, that no residual liabilities remain, and that removing the fees will not result in under-recovery or future charges to customers.
- G. Customer Referral Program: The OCA will review the proposed discontinuance of the CRP to determine whether ending the program appropriately reflects declining participation and limited customer engagement, prevents unnecessary charges to default service customers, and ensures that any remaining costs or obligations are properly accounted for and aligned with cost-causation principles.
- H. Supplier Coordination Tariff Changes: The OCA will review the proposed supplier coordination tariff changes, including provisions affecting the return of customers to default service, modifications to POR eligibility, removal of mandatory POR for UCB, and updates to the POR Clawback Provision, to ensure the changes promote transparency, equitable risk allocation, strong consumer protections, and compliance with applicable law and Commission regulations.

The OCA anticipates other issues may arise and may be pursued once discovery has been conducted, and the OCA reserves the opportunity to present any new, unanticipated issues at that time. In addition, the OCA reserves the right to raise issues and respond to issues raised by other parties, as necessary to protect the interests of FirstEnergy's customers.

IV. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of its witnesses. To expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be e-mailed directly to OCA's counsel and witnesses at the following e-mail address: OCAFEPADSP26@paoca.org.

Retail Electric Default Service Procurement
Method, Rate Design, and Related Issues

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The OCA specifically reserves the right to call additional witnesses, as necessary. At the time at which the OCA determines that additional witnesses are necessary for any portion of its case, the OCA will promptly notify ALJs Hoyer and Gannon and all parties of record.

V. SERVICE ON THE OCA

The OCA will be represented in this matter by Senior Assistant Consumer Advocate Harrison W. Breitman and Assistant Consumer Advocates Katie Kennedy and Olivia M. Spergel.

The OCA only requires e-service at the following e-mail address:

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The OCA reserves the right to request paper copies if necessary. The OCA asks that the electronic service to the parties and ALJs Hoyer and Gannon meet all service requirements so that paper copies are not required.

VI. PUBLIC INPUT HEARINGS

The OCA is not aware of any specific consumer requests for public input hearings in this matter to date. If the OCA becomes aware of substantial consumer interest, the OCA will promptly notify ALJs Hoyer and Gannon and parties to request a public input hearing be scheduled.

VII. DISCOVERY

In order to effectively investigate and adequately develop a record on these issues, the OCA requests the following discovery modifications be approved for discovery from the date of this Prehearing Conference forward:

- A. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.
- B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.
- C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within five (5) business days of service of written objections.
- D. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) business days of service of such motions.
- E. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
- F. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.

- G. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.

After rebuttal is served, the OCA proposes that the deadlines should be reduced as follows:

- A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within five (5) calendar days of service of the interrogatories or requests for production.
- B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within two (2) calendar days of service; unresolved objections shall be served on the propounding party in writing within three (3) calendar days of service of the interrogatories and/or requests for production.
- C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) business days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) business days of service of such motions.
- E. Requests for admission shall be deemed admitted unless answered or objected to within three (3) calendar days of service.
- F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

VIII. SCHEDULE

The OCA proposes the following schedule:

Other Parties Direct Testimony	April 29, 2026
Rebuttal Testimony	May 28, 2026
Surrebuttal Testimony	June 11, 2026
Oral Rejoinder and Evidentiary Hearings	June 15, 2026
Main Briefs	July 10, 2026
Reply Briefs	July 22, 2026

IX. SETTLEMENT

The OCA will participate in settlement discussions with the parties.

Respectfully Submitted,

/s/ Olivia Spergel

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