



Eagleview Corporate Center
747 Constitution Drive, Suite 100
P.O. Box 673
Exton, PA 19341
☎ 610.458.7500 📠 610.458.7337

ASHLEY L. BEACH
Direct No: 610.458.2997
Email: abeach@foxrothschild.com

July 10, 2026

VIA ELECTRONIC FILING

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

**Re: Joint Solar Advocates' Main Brief with Proposed Findings of Facts, Conclusions of Law, and Ordering Paragraphs
PA PUC - Docket Number: P-2026-3060298**

Dear Secretary Homsher:

Please be advised that this office represents the Joint Solar Advocates in the above-referenced action. Enclosed for electronic filing is the Joint Solar Advocates' Main Brief with Proposed Findings of Facts, Conclusions of Law, and Ordering Paragraphs.

A Pennsylvania Limited Liability Partnership

California Nevada Colorado New Jersey Delaware New York District of Columbia North Carolina Florida Oklahoma Georgia **Pennsylvania** Illinois Massachusetts South Carolina Minnesota Texas Missouri Washington

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July 10, 2026

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If you have any questions with regard to this filing, please do not hesitate to contact me. Thank you.

Respectfully,

A handwritten signature in black ink that reads "Ashley L. Beach". The signature is written in a cursive, flowing style.

Ashley L. Beach

ALB:tla

Enclosure

cc: Per Attached Certificate of Service (w/enclosures)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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
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**MAIN BRIEF OF
THE COALITION FOR COMMUNITY SOLAR ACCESS AND
SOLAR ENERGY INDUSTRIES ASSOCIATION
“JOINT SOLAR ADVOCATES”**

Date Served: July 10, 2026

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ATTACHMENT

Proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs

I. INTRODUCTION

One of the most controversial provisions in FirstEnergy Pennsylvania Electric Company's ("FE PA" or the "Company") seventh default service program ("DSP VII") is FE PA's proposed reclassification of net-metered customer-generators. That classification change is particularly concerning because FE PA does not provide adequate protections to net-metered customer-generators that made substantial investments in reliance upon the current rules that FE PA proposes to change, nor does it result in the proper allocation of cost savings derived from net-metered excess generation to the commercial default service customer class. The issue is that FE PA seeks to use a new criterion—Maximum Registered Peak Load ("MRPL")—to classify customer-generators and move a large number of them from the Commercial default service class to the Industrial default service class. Simply put, FE PA's reclassification of customer-generators will result in stranded investments made in reliance upon the current rules.¹ Further, FE PA's current practices improperly allocate the benefits derived from customer-generators across a broad group of customers, meaning that net metering expenses are being entirely recovered from default service customers but those customers are deprived of the full benefits associated with net-metered generation. This is a ratepayer affordability issue for default service customers that requires reform to ensure proper cost allocation across customer classes. The Solar Energy Industries Association and the Coalition for Community Solar Access (together, "JSA") intervened in this proceeding to help find reasonable solutions that would be equitable to both Commercial default service customers and the investments of the customer-generators that are at risk with the reclassification. The JSA is particularly concerned that FE PA is unwilling to offer a fair and prudent grandfathering period to protect the already-incurred investments in operational and near-operational net metering projects.

To mitigate the harm to customer-generators and ensure proper benefit allocation for Commercial default service customers, the JSA proposed two solutions. First, a

¹ Walmart St. 1, p. 8.

reasonable legacy rights status or “grandfathering” period that balances the interests of both Commercial default service customers and customer-generators. Recognizing the importance of mitigating potential upward pressure on the Commercial Price to Compare (“PTC”) Rider rate over time due to an increase in the number of net-metered projects in the Commercial default service class, the JSA did not object to FE PA’s proposal to reclassify customer-generators based upon MRPL. Instead, the JSA proposed a prudent grandfathering structure that would accomplish FE PA’s plan to transition net-metered customer-generators to the Industrial default service class, but would provide a more reasonable transition period than the short period proposed by FE PA.² The JSA’s grandfathering proposal, coupled with the cost-accounting mechanism (discussed below) that properly assigns the costs and benefits of net-metered excess generation to Commercial default service customers, will mitigate any impact to the Commercial customers from the excess generation costs. Despite the clear benefits that the JSA’s proposal will provide to the Commercial and Industrial default service customers in the form of avoided energy, capacity, and transmission costs, FE PA is only willing to consider a short, two-year grandfathering period that will not protect investments made by operational and near-operational projects in reliance upon the current rules.

FE PA’s insistence upon the short grandfathering period is particularly concerning since it is inconsistent with the Pennsylvania Public Utility Commission’s (“Commission”) recent approval of a 10-year grandfathering period in the PPL Electric Utilities Corporation (“PPL”) rate case proceeding on June 11, 2026. Chairman De Frank expressly supported the settlement as “prudent” and would “work to quell [the] affordability concern in PPL’s service territory” resulting from a potential influx of customer generators.³ Moreover the Commission recognized that the settlement

² JSA St. 1, p. 62.

³ *See Opinion and Order, PA Public Utility Commission, et al. v. PPL Electric Utilities Corporation*, Docket No. R-2025-3057164 (June 11, 2026).

“preserves reasonable transition protections for customer generators.”⁴ Since FE PA presented a grandfathering period that is not reasonable for to customer-generators, JSA came forward with a more equitable framework that balances the interests of all affected customers.

In addition, in order to benefit the entirety of the Commercial and Industrial default service classes, the JSA proposed a cost-accounting mechanism to measure customer-generators’ negative Peak Load Contributions (“PLCs”) and negative Network Service Peak Load contributions (“NSPLs”) (together referred to as “PLCs”). This mechanism will help keep rates affordable for the Commercial and Industrial default service customers by ensuring that the avoided PJM capacity and transmission costs derived from net-metered excess generation are allocated back to the appropriate customer class. Despite FE PA’s claim that a purpose of its DSP VII is to keep rates affordable, FE PA has chosen to pass up this opportunity to provide long-term cost savings to the Commercial and Industrial default service customers. FE PA is inexplicably leaving future cost savings for Commercial and Industrial default service customers on the table. FE PA claims that allowing for negative PLCs would constitute an additional subsidy to the default service class. In fact, it is the exact opposite. Default service customers are currently subsidizing non-default service customers through their compensation of customer-generators while seeing only a fraction of the benefits. Correcting this imbalance remedies the existing market distortion or subsidy that FE PA is allowing to be spread across all its customers within a PJM load zone as opposed to just the default service customers bearing the costs of compensating customer-generators. If FE PA is truly concerned with default service customer rate impacts from customer-generators, it should embrace negative PLCs as a reform that helps address cost impacts. To provide these cost savings, FE PA should be required to leverage customer-generators’ existing advanced metering infrastructure (“AMI”) to measure the negative PLCs of net-metered customer-generators. It is axiomatic that the Commercial and

⁴ *Id.* at 194, 202.

Industrial default service customers that pay for all of the customer-generators' excess generation should be able to receive 100% of the benefits of the excess generation. Because FE PA is unwilling to recognize negative PLCs in its accounting of net-metered expenses, the benefits of the excess generation will continue to flow to all customers within a given PJM load zone, including default service customers that do not pay for the excess generation.

A. Procedural History

On February 3, 2026, FE PA filed a Petition for Approval of its Default Service Program for the Period June 1, 2027 to May 31, 2031 ("Petition") requesting that the Commission approve its DSP VII. FE PA currently provides default service pursuant to the current Commission-approved default service program ("DSP VI") that will expire on May 31, 2027.⁵

On February 10, 2026, Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Erin L. Gannon ("ALJs") issued a Call-In Telephonic Prehearing Conference Notice. On February 19, 2026, the ALJs issued a Prehearing Conference Order scheduling a prehearing conference for March 19, 2026 and setting forth the parties' obligations with respect to the Prehearing Conference. The prehearing conference was conducted as scheduled on March 19, 2026.

On February 10, 2026, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") filed a Petition to Intervene and an Answer.

On February 19, 2026, Penn Renewables, LLC ("Penn Renewables") filed a Petition to Intervene.

⁵ See *Joint Petition of Metro. Edison Co., Pa. Elec. Co., Pennsylvania Power Co., and West Penn Power Co. for Approval of their Default Serv. Programs for the Period Beginning June 1, 2023 through May 31, 2027*, Docket No. P-2021-3030012 (Recommended Decision dated June 29, 2022 ("DSP VI RD")). The DSP VI RD was adopted without modification by the Commission in its Order entered August 4, 2022.

On February 20, 2026, the Office of Small Business Advocate (“OSBA”) filed a Notice of Intervention and a Notice of Appearance.

Notice of the DSP VII filing and the scheduled Prehearing Conference was published in the Pennsylvania Bulletin at 56 Pa.B. 1085 on February 21, 2026.

On February 24, 2026, Petitions to Intervene were filed by Shipley Choice, LLC d/b/a Shipley Energy and Interstate Gas Supply, LLC d/b/a IGS Energy (“EGS Parties”), and the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance and the West Penn Power Industrial Intervenors (“Industrial Customer Groups”).

On March 5, 2026, Dimension PA 1, LLC (“Dimension”) filed a Petition to Intervene.

On March 9, 2026, the Pennsylvania Office of Consumer Advocate (“OCA”) filed an Answer, Notice of Appearance, and Notice of Intervention and Public Statement.

On March 9, 2026, Petitions to Intervene were filed by WGL Energy Services, Inc. (“WGL”); and Town Square Energy East, LLC, 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 (“CGC”).

On March 10, 2026, The Pennsylvania State University (“PSU”) filed a Petition to Intervene.

On March 13, 2026, the JSA filed a Petition to Intervene that was updated on March 16, 2026.

On March 16, 2026, Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. (“Constellation”) filed a Petition to Intervene and a Prehearing Conference Memorandum.

On March 16, 2026, two interim orders were issued by the ALJs granting the Motion for Admission Pro Hac Vice of Mitchell H. Kinzer, Esquire filed by Dimension and the Motion for Admissions Pro Hac Vice of Linda S. Kizuka, Esquire and Marsha D. Makel, Esquire filed by Constellation.

On March 17, 2026, Duquesne Light Company (“DLC”) filed a Petition to Intervene.

On March 17, 2026, Walmart Inc. (“Walmart”) filed a Petition to Intervene and a Prehearing Conference Memorandum.

On March 17, 2026, FE PA filed a Prehearing Conference Memorandum in which FE PA requested the issuance of Protective Order in the form attached as Appendix A to its Prehearing Memorandum.

Also on March 17, 2026, Prehearing Conference Memorandums were also filed by OSBA, the Industrial Customer Groups, OCA, Walmart, PSU, the Retail Energy Supply Association (“RESA”), Town Square, CGC, EGS Parties, WGL, CAUSE-PA, Penn Renewables, JSA, Dimension, and DLC.

On March 18, 2026, the Motion for Admission Pro Hac Vice of R. Taylor Speer and Karen M. Kemerait was filed by the JSA.

On March 23, 2026, the ALJs issued an In-Person Evidentiary Hearings Notice scheduling the evidentiary hearings for June 15 and 16, 2026, and addressing evidentiary matters. Also on March 23, 2026, the ALJs issued a Prehearing Order that provided a litigation schedule and addressed procedural matters. The Prehearing Order stated that during the Prehearing Conference the ALJs granted the Motion for Admission Pro Hac Vice of R. Taylor Speer and Karen M. Kemerait filed by the JSA; granted the 14 Petitions to Intervene filed in the docket; and granted FE PA’s request for a Protective Order.

On May 6, 2026, Infinity Capital, LLC filed a Protest to the Petition.

The ALJs excused witnesses from appearing in the proceedings by Interim Orders issued on April 16 and June 16, 2026.

The In-Person Evidentiary Hearing was conducted as scheduled before the ALJs on June 15, 2026. On June 16, 2026, the ALJs issued a Hearing Cancellation Notice cancelling the evidentiary hearing for June 16, 2026.

On June 24, 2026, the ALJs issued an Interim Order Setting Additional Requirement for Briefs and Settlement.

On July 2, 2026, FE PA filed a Joint Petition For Non-Unanimous Settlement (“Joint Petition”).

B. Non-Unanimous Settlement

The JSA opposes a limited section of the Joint Petition. The JSA opposes Section II. F (“Classification of Non-Residential Default Service Customers”) of the Non-Unanimous Settlement⁶ because it is unfair to both net-metered customer-generators and all Commercial and Industrial default service customers and therefore not in the public interest. The section treats customer-generators unjustly because FE PA failed to provide a fair and adequate grandfathering period to protect investments already made by net-metered customer-generators. The section also treats all Commercial and Industrial default service customers unjustly because FE PA left cost savings for those customers on the table by not implementing a simple accounting adjustment to measure the negative PLCs of customer-generators. JSA will detail its objections to these aspects of the Joint Petition in Section III, below.

The JSA also opposes the Net Metering/Maximum Registered Peak Load section of the Joint Petition because it introduced for the first time a proposal that would require FE PA to keep the capacity and line loss portions of the HP Rider intact through May 31, 2041. That provision states:

For purposes of determining compensation for net excess generation for customer-generators taking service under the Hourly Pricing (“HP”) Rider, the compensation shall include capacity and line loss portions of the HP Rider until May 31, 2041, absent a material change in the capacity markets operated by PJM. In the event of such an occurrence, FE PA will notify and meet with parties to the Settlement, including Walmart, to discuss the proposed changes and their impact on customer-generator compensation at least 30 days in advance of such a PUC filing being made.

Problematically, FE PA did not propose or explain this proposal at any time during the proceeding and only provided notice of this provision to the JSA (and possibly other parties as well) when it filed the Joint Petition. Moreover, the provision appears to seek

⁶ See Joint Petition ¶¶ 36-38.

resolution of an issue which was not before the Commission as part of FE PA's Petition. As a result, the provision was not properly vetted by the parties. Indeed, the provision's sole purpose appears to be a means to obtain Walmart's agreement to the Joint Petition as the provision resolves differences only with Walmart. FE PA makes clear:

To address Walmart's concerns about transition protections for projects in development in the Company's service area under the Settlement, excess generation compensation under the HP Rider will include capacity and line losses until May 31, 2041, absent a material change in PJM capacity markets. as described in Paragraph 38 of the Joint Petition.⁷

Walmart's entire rationale for agreeing to the provision, and thus the Joint Petition, consists of the following:

Because Walmart intends to develop solar generation projects in FE PA's service territory, the Settlement term providing the Company's commitment not to change certain structural components of the HP Rider for a period of fifteen years provides some stability for prospective customer-generators like Walmart to move forward with solar projects. As such, Walmart believes that the MRPL provision set forth in the Settlement, while not perfect and not without risk to future planned developments, is a reasonable compromise that may encourage solar generation in the Commonwealth.⁸

But the stability which Walmart seeks through this provision will not occur. In fact, the opposite is true.

State regulations require that unused or excess net metering credits that have not been applied to a customer's electric bill by the end of a year be compensated at the applicable default service provider's PTC rate.⁹ As defined, the PTC is "[a] line item that appears on a retail customer's monthly bill for default service ... [that] is equal to the sum of all unbundled generation and transmission related charges to a default service customer for that month of service."¹⁰ As the Commission has recognized in its approval

⁷ Joint Petition, Statement A, p. 18

⁸ Joint Petition, Statement E, p. 3.

⁹ 52 Pa. Code § 75.13(e).

¹⁰ 52 Pa. Code § 54.182.

of UGI Utilities, Inc.’s (“UGI”) GSR-2 rate¹¹ and PPL’s GSC-2 rate,¹² the generation portion of a default service rate is comprised of both energy and capacity components. Paragraph 38 of the Joint Petition is not in the public interest because, for the first time in this proceeding, it implies that the generation capacity component of the HP Rider rate may not be provided in future compensation rates applicable to net-metered excess generation, thereby increasing market uncertainty and project financing costs. Importantly, any increase in financing costs or risk presents additional barriers to project development and investment in FE PA’s service territory.

In addition, Paragraph 38 includes a provision that would permit FE PA to make changes to the HP Rider’s capacity and line loss components if there is a “material change in the capacity markets operated by PJM.”¹³ This exemption is vague, provides unrestricted latitude to FE PA to determine what constitutes a “material change” in PJM’s capacity market that would trigger the exemption, and ties an outcome of the Joint Petition to wholesale market actions not within FE PA’s or the Commission’s control. Recent actions from both PJM and the Federal Energy Regulatory Commission (“FERC”) indicate that the PJM capacity market is highly likely to experience changes in the near future. In May 2026, PJM released a white paper¹⁴ directly alluding to the need to reform its capacity market framework to better address reliability, load, and generation needs. Additionally, FERC announced that it will be convening a technical workshop on July 23, 2026 focused on “identifying and evaluating actionable reforms to improve PJM’s ability to address system needs in a timely and efficient manner.”¹⁵ Simply put,

¹¹ See generally, P-2024-3049343, *Opinion and Order* (February 20, 2025).

¹² See generally, R-2025-3057164 *et al.*, *Opinion and Order* (June 11, 2026).

¹³ Joint Petition, p. 11.

¹⁴ PJM, Powering Reliability Through Market Design (May 6, 2026). Available at: <https://www.pjm.com/-/media/DotCom/library/reports-notice/special-reports/2026/20260506-powering-reliability-through-market-design.pdf>.

¹⁵ Federal Energy Regulatory Commission, Docket No. AD26-7-000, *Notice of Commission-Led Technical Conference* (May 12, 2026).

PJM's capacity market will almost certainly experience changes in the coming years that render Paragraph 38 of the Joint Petition moot and only increase the market uncertainty for net-metered customer-generators and HP Rider default service customers.

Lastly, in the event of a "material change" in PJM's capacity market, Paragraph 38 only establishes a meet and confer process between FE PA and parties to the Joint Petition "to discuss the proposed changes and their impact on customer-generator compensation at least 30 days in advance of any Commission filing."¹⁶ This provision is not in the public interest because it fails to recognize that a number of other parties in this case, including the JSA, have a demonstrated interest in changes to the HP Rider rate, not to mention default service customers that would similarly be affected by any changes to the rate components of the HP Rider.

When taken together, the numerous issues presented in Paragraph 38 of the Joint Petition demonstrate that it is not in the public interest and should not be adopted by the Commission.

C. Legal Standards

FE PA requests that the Commission approve its proposed DSP VII, including the changes to the manner in which net-metered customer-generators are compensated under the requirements of the Alternative Energy Portfolio Standards ("AEPS") Act.¹⁷

FE PA has the burden of proof to establish that it is entitled to the relief it is seeking. *See* 66 Pa.C.S. § 332(a). FE PA must establish its case with both substantial evidence and a preponderance of the evidence in the record.¹⁸ Substantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a

¹⁶ Joint Petition, p. 11.

¹⁷ *See* 73 P.S. §§ 1648.1 – 1648.8 and related provisions of 66 Pa.C.S §§ 2813-2814.

¹⁸ *See* 66 Pa.C.S. § 332(a); *see also Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

conclusion. More evidence is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.¹⁹

D. Summary of Argument

FE PA's reclassification of certain customer-generators to the HP Rider rate will harm those customer-generators that developed their projects in reliance upon the current Commission-approved rules and tariffs. FE PA recognized the harm to customer-generators from the reclassification but failed to provide any appropriate mitigation. FE PA's two-year grandfathering proposal simply will not protect the investments that customer-generators made based upon the understanding that they would be compensated by the PTC Rider rate rather than the HP Rider rate. Due to FE PA's inadequate grandfathering period, the JSA proposed a reasonable legacy framework that takes into account both the interests of Commercial default service customers and customer-generators. The JSA believes that its grandfathering proposal or, in the alternative, a 10-year grandfathering period consistent with the adopted provision in the recent PPL rate case is appropriate and prudent and should be approved.

Moreover, FE PA's proposals leave cost savings for Commercial and Industrial default service customers on the table. To capture untapped cost savings for the Commercial and Industrial customers, FE PA should leverage customer-generators' existing AMI meters to measure the negative PLCs of net-metered customer-generators. FE PA would then be able to ensure that the default service Commercial and Industrial customers that pay for the excess generation would also receive the benefits of that excess generation. Considering that keeping default service rates affordable is a primary goal not only for FE PA but the entire state of Pennsylvania, the Commission should not allow FE PA to forego allocating these savings to default service customers.

¹⁹ *Norfolk & W. Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); and *Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

II. DEFAULT SERVICE PROCUREMENT AND IMPLEMENTATION PLANS

A. Residential Class Default Service Products

JSA takes no position on this issue.

B. Responsibility for PJM Charges (including NITS) Under the Supplier Master Agreement

JSA takes no position on this issue.

C. Capacity Proxy Price

JSA takes no position on this issue.

III. CLASSIFICATION OF NON-RESIDENTIAL DEFAULT SERVICE CUSTOMERS

A. Classification of Customers Based on Maximum Registered Peak Load

As noted above, the JSA recognizes that the Commercial default service class is limited in its ability to absorb additional net-metered excess generation due to the size of its load requirements,²⁰ and has therefore been more than reasonable in not objecting to FE PA's request to reclassify customer-generators based on MRPL.

FE PA currently recovers the cost of default service for the Commercial default service customer class through its PTC Rider and the cost of default service for the Industrial default service customer class through the Industrial Hourly Pricing Rider ("HP Rider").²¹ Under the current Commission-approved DSP VI, FE PA assigns a customer-generator to a default service class based upon the customer's peak load consumption. Since June 1, 2019, FE PA has been classifying default service customers with a demand less than 100 kilowatts ("kW") as Commercial customers to receive default service under the PTC Rider, and default service customers with a demand of 100 kilowatts ("kW") or greater as Industrial customers to receive hourly-priced default service under the HP Rider.²² The default service rates under the PTC Rider are determined semi-annually,

²⁰ JSA St. 1, p. 63.

²¹ Petition, pp. 8, 13.

²² FE PA St. 1, p. 15.

whereas the default service rates under the HP Rider are calculated on an hourly-priced service (“HPS”) based upon the PJM real-time zonal hourly market price updated on a 15-minute interval.²³

FE PA seeks to change the classification criteria for net-metered customer-generators from the historical practice of considering the generator’s peak load consumption to considering both peak load consumption and MRPL. FE PA requests that the reclassification be imposed on new net-metered projects in 2027 and in 2029 for net-metered projects that are operational on or before June 1, 2027.²⁴

The Commission defines MRPL as “[t]he highest level of demand for a particular customer, based on the PJM Interconnection, LLC, ‘Peak Load Contribution Standard,’ or its equivalent, and as may be further defined by the EDC tariff in a particular service territory.”²⁵ This term is currently not defined in FE PA’s tariff, but FE PA is now proposing to define MRPL as: “A customer’s net demand contribution impact to the Company’s default service procurement activity, as determined upon the net power flow from or into the Company’s distribution or transmission system. As related to customer-generators, this shall also be inclusive of the nameplate capacity of the generation system.”²⁶ FE PA has set the delineation point at 100 kW of load for all non-residential default service customers.²⁷ This means that only net-metered customer-generators with a peak load demand or MRPL of less than 100 kW are eligible to remain in the Commercial class and all other generators will be moved to the Industrial class.²⁸ The customer-generators moved into the Industrial rate class will be compensated for their

²³ *Id.* at 13-14.

²⁴ *Id.* at 19.

²⁵ *See* 52 Pa. Code § 54.182.

²⁶ FE PA St. 1, p. 16.

²⁷ *Id.* at 15.

²⁸ *Id.* at 16.

excess generation with rates that are significantly less and vastly different from what they are currently being paid or would be paid absent the reclassification.²⁹

FE PA justifies this proposed change by arguing that it does not use the excess energy from net-metered customer-generators as supply to serve default service load; instead, the excess energy is recognized financially as an aggregate reduction of the load served by winning bidders in FE PA's default service auctions.³⁰ FE PA witness Young noted that the excess generation from net-metered projects decreases the load provided by default service suppliers, but then argued that the risk premiums included in bids to supply the Commercial default service class are then increased.³¹ FE PA recognizes that the excess generation reduces the default service suppliers' cost to serve the Commercial default service class because the default service suppliers are able to procure less energy, but FE PA fails to recognize that the excess generation also reduces the capacity and transmission services for the Commercial class, as discussed in Section III.C.3 below.

FE PA also claims that the new classification criteria is necessary because there has been an increase in one to three-megawatt ("MW") solar projects applying for interconnection with the intent to become net-metered customer-generators.³² FE PA witness Young alleges that the growth of net-metered customer-generators served by the PTC Rider will cause upward pressure on Commercial PTC Rider rates. Even though FE PA is concerned about the Commercial PTC Rider rates, FE PA is forgoing an opportunity to mitigate any impact to the Commercial customers with cost savings from measuring negative PLCs.

If this classification change is approved by the Commission, it is undisputed that operational and near-operational customer-generators will be harmed.³³ These mature-

²⁹ FE PA St. 1-R, pp. 16-17.

³⁰ FE PA St. 1-R, p. 17.

³¹ *Id.*

³² *Id.*

³³ CGC St. 1, p. 18.

stage projects that will be impacted by the new MRPL definition have already incurred significant upfront capital investment and have spent years in the development process in reliance upon the status quo.³⁴ After the reclassification, the excess generation from customer-generators will no longer be compensated under the PTC Rider rate and will receive less compensation under the more volatile HP Rider rate.³⁵ The only equitable solution to this problem—that considers the interests of both the Commercial customers and the mature-stage customer-generators—is to provide the mature-stage customer-generators an appropriate legacy status.

B. Projections of Customer-Generator Growth

FE PA's justification for moving customer-generators into the Industrial rate class—where they will receive less compensation and be subjected to more volatile hourly rates—is based on FE PA's estimates of the future growth of customer-generators. FE PA's estimates are overstated and not supported by any data or analysis about the number of projects in the interconnection queue that might actually be constructed. Rather than showing the number of customer-generators in operation by 2029, as predicted by FE PA, the evidence demonstrates that FE PA's estimates are inflated numbers that overstate the impacts of the customer-generators to the Commercial rate class. Specifically, the projects in the interconnection queue counted by Mr. Young are at the earliest stage of the interconnection process—they have only submitted interconnection applications. These projects are nowhere near commencing construction. FE PA seems to not understand that the majority of the net-metering projects in the interconnection queue will not be constructed or reach commercial operation.³⁶

Both JSA witness Michelman and CGC witness Heidell testified that Mr. Young's estimates of the potential growth of net-metered customer-generators coming on-line by 2029 is overstated. They noted that Mr. Young relied upon the 3,932 MW of capacity of

³⁴ JSA St. 1, p. 67.

³⁵ Tr., pp. 101-103.

³⁶ CGC St. 1, pp. 7-8.

net-metering applications in the interconnection queue, and then used those projects that are at the earliest stage in the process (the vast majority of which will never be constructed) to speculate about three possibilities (a high estimate, a medium estimate, and a low estimate) for the growth of customer-generators by 2029. Mr. Young's high estimate assumes that 50% of the customer-generator applications totaling 1.65 GW will be in operation in 2029; his mid-estimate assumes that 25% of the applications totaling 827 MW will be in operation in 2029; and his low estimate assumes that 10% of the applications totaling 305 MW will be in operation in 2029.³⁷ However, there are mistakes in Mr. Young's growth predictions evidenced by Mr. Young's own data showing that a large majority of customer-generators have not progressed beyond the point of filing initial applications. Mr. Heidell testified that only 18% (627 MW) of the potential projects have progressed to the milestone of paying for Study Agreements and less than 15% (573 MW) of those projects have signed Construction Services Agreements. Once the interconnection customer signs a Construction Services Agreement, the customer must review the cost estimate to determine if it is economical to proceed with the project and then pay for the actual construction costs. In addition to paying for the construction costs, the customer will likely have to secure financing for the project. Mr. Heidell stated that the costs, construction timeline, along with regulatory uncertainty can make pursuing net metering projects uneconomic. There is no guarantee that even customers that have signed interconnection agreements or Construction Services Agreements will reach commercial operation. It is therefore clear that the costs and extended timelines will prevent projects with submitted applications from ever being constructed.³⁸

Mr. Young apparently agrees that the number of net-metered projects that will become operational is uncertain. Mr. Young acknowledged that his prediction about the amount of net-metering capacity that will be on-line by 2029 is just an "educated guess"

³⁷ See FE PA Ex. DMY-7.

³⁸ CGC St. 1, p. 8.

and a “wide-ranging estimate, using hypotheticals.”³⁹ When asked about how sure he is about his predictions, Mr. Young agreed that “you certainly can’t say with any certainty what the penetration rate [of customer-generators in operation] would be next year or 25 years from now.”⁴⁰

Further, Walmart witness Chriss testified that there is no evidence suggesting that Pennsylvania has an over-supply of generation that would justify disincentivizing on-site solar development in FE PA’s territory. To the contrary, market and monitor reports show tightening trends and localized risks, not broad oversupply. More particularly, Monitoring Analytics and PJM Interconnection, L.L.C. (“PJM”) analyses have documented tightening fundamentals, price signals of scarcity in recent capacity auctions, and scenarios where local constraints or retirements could cause shortfalls, especially if demand grows faster than expected.⁴¹

FE PA’s misleading predictions of customer-generators coming online by 2029 have tremendous consequences in this proceeding. They result in inflated estimates of rate impacts to the Commercial class not indicative of any actual impacts. For that reason, the Commission should place no weight in FE PA’s estimates as they are both unreliable and unsupported by the evidence.

C. Costs and Benefits of Customer-Generators

1. PTC Rider vs. HP Rider

FE PA is seeking to move customer-generators from the PTC Rider to the HP Rider to solve a problem that is exaggerated and based solely on hypothetical scenarios. FE PA’s solution to this overstated problem—reclassifying customer-generators—comes with significant consequences to customer-generators that have already invested in their projects. CGC witness Heidell testified that this change will make it uneconomic for solar developers to develop and operate PV distributed generation projects in Pennsylvania,

³⁹ Tr., p. 81.

⁴⁰ *Id.*

⁴¹ Walmart St. 1, p. 7.

which will in turn result in developers and investors pursuing development in other states where the investment risk is lower.⁴² According to Mr. Heidell, this uncertainty, coupled with the significant rate reduction and hourly rate volatility of the HP Rider rate, will harm investment confidence in the state.⁴³

To justify FE PA's plan to reclassify net-metered projects, FE PA witness Young presented a wide range of hypothetical scenarios in FE PA Exhibit DMY-7 and Exhibit DMY-7 Revised. Those exhibits show the net-metering expense impacts from customer-generators coming online by 2029. Specifically, Mr. Young's exhibits show that from June 1, 2024 to May 31, 2025, the true-up amount paid by the Commercial PTC Rider customers for excess generation totaled about \$4.4 million. Mr. Young then forecasted a wide range of net metering projects coming online by 2029 with costs from \$82 million to \$750 million by 2029.⁴⁴

Problematically, as discussed above, FE PA's inaccurate predictions of customers-generations coming online by 2029 results in misleading rate impacts to the Commercial class.

JSA witness Michelman testified that Mr. Young's analysis of the costs to the Commercial class is faulty. Mr. Michelman pointed out that FE PA failed to account for the cost reduction benefits that flow to Commercial default service customers from the growth in net-metered excess generation.⁴⁵ Mr. Michelman explained that net-metered excess generation benefits the Commercial PTC customers by lowering the net energy component of the Commercial PTC Rider rate.⁴⁶ In short, Mr. Young's original Exhibit DMY-7 failed to account for any of the avoided energy, capacity, and transmission costs

⁴² *Id.* at 5.

⁴³ *Id.* at 5.

⁴⁴ FE PA St. 2, p. 17; *see* FE PA Ex. DMY-7 Revised.

⁴⁵ JSA St. 1, p. 7.

⁴⁶ JSA St. 1, pp. 9, 10-12.

resulting from net-metered excess generation.⁴⁷ Mr. Michelman corrected FE PA's analysis by calculating the accurate impact to Commercial customers by including the energy benefits, capacity share-of-cost benefits, and transmission share-of-costs benefits in JSA Exhibit TM-10.⁴⁸ Mr. Young apparently agreed with Mr. Michelman's calculation with respect to the need to account for the benefits that customer-generators provide in the form of avoided energy costs because Mr. Young prepared Exhibit DMY-7 Revised to account for that load reduction benefit.⁴⁹ But even FE PA Exhibit DMY-7 Revised remains inaccurate because FE PA did not account for the cost reduction benefits of avoided capacity and transmission costs.⁵⁰ Simply stated, FE PA's calculations should not only show the benefit of excess generation in avoided energy costs, but should also show that capacity and transmission costs will be avoided, thereby lowering the PTC Rider rate.⁵¹

Mr. Heidell found Mr. Young's cost predictions to be "both misleading and unreliable."⁵² Mr. Heidell concluded that Mr. Young's cost projections are incorrect because Mr. Young failed to evaluate the net cost impact on customers of the same rate class.⁵³ Mr. Heidell testified that the impact to Commercial customers is much smaller than the impact predicted by Mr. Young because the excess generation results in FE PA either not needing to purchase energy from the default service supplier or receiving a financial credit based upon the value of the energy delivered to PJM. In addition, the

⁴⁷ JSA St. 1-S, p. 14.

⁴⁸ JSA St. 1, pp. 56-57; JSA Ex. TM-10; JSA St. 1-S, p. 14.

⁴⁹ JSA St. 1-S, p. 15; *see* FE PA St. 1-R, p. 2; *see also* FE Ex. DMY-7 Revised.

⁵⁰ JSA St. 1-S, p. 16.

⁵¹ JSA St. 1, p. 7.

⁵² CGC St. 1, p. 9.

⁵³ *Id.* at 6.

excess generation enables FE PA to avoid some capacity purchases and transmission services that FE PA fails to account for.⁵⁴

Support for FE PA's MRPL proposal from OSBA witness Malukoff and OCA witness Ogur should be disregarded as without merit. Both Mr. Malukoff and Dr. Ogur admitted that they did not fully investigate FE PA's projections and did not independently verify FE PA's projections.⁵⁵ Specifically, Mr. Malukoff was asked in discovery to "[i]dentify, describe, and explain and provide all studies, analyses, reports, and data that Witness Malukoff has conducted, reviewed, and/or prepared in connection with his support of FirstEnergy's proposed changes to its definition of Maximum Registered Peak Load." Mr. Malukoff's response simply referred to his review of FE PA's testimony and supporting exhibits, responses to data requests, and UGI's and PPL's use of MRPL. In regard to Mr. Malukoff's statement that FE PA's "[c]urrent classification results in small business default service customers disproportionately subsidizing customer-generators that, based on their size and outputs should be classified as Industrial customers under the HP Rider," Mr. Malukoff admitted in discovery that his testimony was based on testimony and responses to data requests as well as "his understanding of how default service procurement and compensation for excess net-metered generation function under Pennsylvania's regulatory framework."⁵⁶ Similarly, with respect to his understanding about compensation for net-metered excess generation, he acknowledged that he had "relie[d] on FirstEnergy's estimate of the potential costs to PTC Rider customers" and had not done any independent analysis to verify such costs.⁵⁷ Consequently, none of the information cited by Mr. Malukoff would constitute an

⁵⁴ *Id.* at 6.

⁵⁵ JSA St. 2, pp. 2-3.

⁵⁶ *Id.* at 7; *see* JSA Ex. TM-12.

⁵⁷ JSA St. 2, pp. 7-8; *see* JSA Ex. TM-12.

independent analysis or verification of the impact of the MRPL proposal in FE PA's service territory.⁵⁸

The testimony of OCA witness Dr. Ogur is equally lacking. While testifying that the switching risk of customer generators will have the likely effect of higher PTC rates and more volatile rates for small commercial customers, in response to discovery asking that he "identify, describe, explain and provide all studies, analyses, reports, data that he conducted, reviewed, and/or prepared to support his assertions[,]” he provided no analyses, reports, or data.⁵⁹ Rather he relied on statements made by the Commission in its order on UGI's default service plan and the general assessment presented in his testimony that larger customer size is associated with the propensity to shop,⁶⁰ neither of which is relevant. With respect to the former, the Commission's decision in this matter will not be based on findings in the UGI order since the record in this proceeding will not be same as the record in the UGI proceeding. The Commission will make its decision in this proceeding based on the evidence presented in this proceeding. With respect to Dr. Ogur's reliance on his analysis showing that larger customers have a propensity to shop, this analysis did not illustrate the actual impact of that switching on the Commercial PTC Rider rate.⁶¹

2. Risk Premiums

FE PA also defends the reclassification of customer-generators to move them into the Industrial class due to increased risk premiums.⁶² Specifically, FE PA witness Young alleges that the projected increase in excess generation from customer-generators will result in higher "switching risk" for the Fixed Price Full Requirements ("FPFR") default service suppliers. (Switching risk is the risk of default service customers changing

⁵⁸ JSA St. 2, pp. 6-7.

⁵⁹ JSA St. 2, pp. 8-9; *see* JSA Ex. TM-13.

⁶⁰ JSA St. 2, pp. 9-10; *see* JSA Ex. TM-13.

⁶¹ JSA St. 2., p. 10

⁶² FE PA St. 1, p. 17.

suppliers either between default and competitive supply or between default service and competitive suppliers.)⁶³ According to FE PA, the higher bids due to the alleged switching risk will increase the costs to Commercial default service customers.⁶⁴ FE PA claims that due to this switching risk, suppliers would either build larger risk premiums into their FPFR contract bids or “shy away” from participating in the FPFR auctions.⁶⁵ As discussed above, this justification was mimicked by OCA.

Theoretically, default service bidders may evaluate the volumetric risk associated with switching and then incorporate that risk into their default bids. But there is no evidence of that occurring in this case.⁶⁶ In fact, this alleged switching risk is nothing more than unsubstantiated conjecture. FE PA presented no evidence that default service bidders have, or will, include a risk premium in their bids.⁶⁷ Indeed on cross examination, FE PA witness Young confirmed that FE PA had not affirmatively asked any wholesale bidders whether they are including risk premiums related to customer generation in their default service bids.⁶⁸ OCA witness Ogur acknowledged that he too had not quantified the alleged switching risk or asked bidders whether they included risk premiums in their bids.⁶⁹

FE PA witness Powers provided only estimates of the alleged risk premium range. Dr. Powers estimated the total risk premium range to be from \$6.46 to \$10.24 per MWh (depending upon the FE PA rate district) in the 2018-2025 auctions.⁷⁰ But he conceded that his calculated risk premium may be greater than the actual risk premium due to his

⁶³ CGC St. 1-R, p. 3-4.

⁶⁴ *Id.*

⁶⁵ *Id.*; *see also* OCA St. 1, p. 38.

⁶⁶ CGC St. 1-R, pp. 3-4.

⁶⁷ *Id.*; *see also* CGC St. 1, p. 11.

⁶⁸ Tr., pp. 86-87.

⁶⁹ *Id.* at 168-69.

⁷⁰ FE PA St. 3, p. 15; *see also* CGC St. 1, p. 11.

calculation methodology.⁷¹ Further, CGC witness Heidell pointed out that FE PA's risk premium calculation is inaccurate because it includes the variability in the load shape caused by weather, the risk of committing to a fixed bid price for energy cost in a market with uncertain fuel and electricity costs (*i.e.*, implicit or explicit hedging costs), as well as the uncertainty of the number of Commercial customers receiving default service supply.⁷² Significantly, Dr. Powers did not even mention customer-generators in his list of supplier-assumed risks.⁷³

3. Negative Peak Load Contribution and Negative Network Service Peak Load Contribution

It is hard to understand why FE PA is refusing to adjust the customer-generators AMI meters to measure negative PLCs to allow the cost savings from the excess generation to flow to the Commercial and Industrial customers. Measuring negative PLCs is a straightforward accounting mechanism that allows the default service customers that pay for net-metered excess generation to realize all of the capacity and transmission savings benefits derived by net-metered projects. Currently, those capacity and transmission benefits are spread more broadly across customers outside of the customer-generator's default service rate class. Stated simply, the Commercial and Industrial default service customers that pay for 100% of the net-metered excess generation should be allowed to keep 100% of the benefits. That is currently not permitted by FE PA due to its arbitrary floor on the measurement of customer load.

JSA witness Michelman explained that there are three types of avoided costs (energy, capacity, and transmission) associated with net-metered excess generation. Currently, the energy benefit is the only benefit that is being distributed solely to the default service customers that are bearing the costs of compensating customer-generators

⁷¹ FE PA St. 3, p. 14; *see also* CGC St. 1, p. 11.

⁷² CGC St. 1, p. 11.

⁷³ *Id.* at 11.

for their excess generation.⁷⁴ But net-metered excess generation produced during PJM's five coincident peak ("5CP") hours also lowers the overall peak load and thus the capacity obligations of the PJM capacity zone in which the customer-generators are located.⁷⁵ In simple terms, net-metered excess generation reduces energy, capacity, and transmission obligations for default service suppliers and therefore provides cost savings to default service customers. However, unlike the energy savings from the excess generation, the capacity and transmission benefits currently accrue more broadly across customers outside of the customer-generators' default service rate class. In other words, the default service customers that pay for the excess generation do not get to keep all of the benefits of the excess generation.⁷⁶

Measuring negative PLCs is an effective and proven cost-allocation methodology that is being used by UGI and Commonwealth Edison Company ("ComEd") to provide savings to their default service customers. In approving the settlement agreement in UGI's default service plan for the period June 1, 2025 through May 31, 2029 in Docket No. P-2024-3049343, the Commission approved new language in UGI's Rider B Generation Supply Service Surcharge that permits customer-generators to have negative PLCs.⁷⁷ Likewise, FERC has explicitly approved the use of negative NSPLs for ComEd, an Illinois utility located in PJM. ComEd has implemented a tariff under which load

⁷⁴ JSA St. 1, pp. 14, 15.

⁷⁵ *Id.* at 19.

⁷⁶ *Id.* at 22.

⁷⁷ *Id.* at 28; *see also* Joint Petition for Approval of Non-Unanimous Settlement, Appendix A (ProForma Tariff Supplement), Docket No. P-2024-3049343, p. 41 ("Any expense/credit line items added by PJM related to these services shall be allocated by dividing the total charges by the total net GSR-2 PLC and NSPL values in order to determine the per unit of PLC rate and per unit of NSPL rates that will be assessed. Customer-generators may have PLC and NSPL negative values related to PLC and NSPL hours indicating net generation to which rates shall be assessed.").

attributable to net-metered and community solar projects may reflect both consumption and generation in the NSPL calculation and therefore can result in a positive or negative value for any individual customer. Importantly, ComEd’s FERC-approved tariff specifies that in no instance can a load serving entity’s (“LSE”) total transmission costs be allowed to go negative—meaning the negative NSPL benefit is bounded at the LSE level. Individual customer NSPLs may go negative, reducing that customer class’s aggregate share of zone transmission costs, but the zone itself cannot receive a net credit.⁷⁸ The same structure would apply to FE PA if it adopted negative PLCs for net-metered customer-generators.⁷⁹

FE PA witness Hussing agreed that the use of negative PLCs is not “novel” and that the JSA is requesting that FE PA use negative PLCs to address affordability issues.⁸⁰ Specifically, Mr. Hussing testified:

Q. Are you aware that the negative PLC accounting mechanism is being used by other utilities? That this is not a novel recommendation or proposal by the Joint Solar Advocates.

A. (Hussing) I’m aware.

Q. And again, I just – are you aware that the Joint Solar Advocates has made this recommendation to try to address affordability in the commercial class, the default service?

A. (Hussing) That would be for, you know, Mr. – Mr. Young, but the answer at a high level is yes.⁸¹

It appears that FE PA’s refusal to measure negative PLCs might be rooted in a lack of understanding of negative PLCs and negative NSPLs. FE PA was apparently under the mistaken belief that the use of negative PLCs would involve cost shifting that

⁷⁸ JSA Ex. TM-4, at 3.

⁷⁹ JSA St. 1, pp. 32-33.

⁸⁰ Tr., pp. 145-46.

⁸¹ *Id.*

would provide additional compensation to customer-generators.⁸² That is unequivocally not the case. During the evidentiary hearing, FE PA Witness Hussing acknowledged that the customer-generators are not asking to use negative PLCs so that customer-generators could receive more compensation.⁸³

During the evidentiary hearing, FE PA witness Hussing also testified that a possible effect of the use of negative PLCs “would be less cost, you know, in the commercial class allocation and more classes [sic] [costs] move[d] to other classes.”⁸⁴

Mr. Hussing responded to questions as follows:

Q. So there would be less cost to the commercial default service class, but those that [sic] default service class is paying for the cost of the customer generator? Is that correct?

A. (Mr. Hussing) Yes.⁸⁵

Mr. Hussing also acknowledged that he was not aware that the JSA had stated that the industry would be willing to pay for the reasonable costs to implement the use of negative PLCs.⁸⁶ Because the customer-generator owners would pay for the reasonable implementation costs to measure negative PLCs, there would be no costs imposed on non-generating customers of any rate class.

Despite evidence unequivocally demonstrating that customer-generators would not be compensating for negative PLCs, OCA remains mistaken that customer-generators would receive additional compensation if negative PLCs are measured. It appears that OCA’s objection to measuring negative PLCs is due to its fundamental misunderstanding of negative PLCs. OCA expressed its continued misunderstanding in its statement of support of the Joint Petition, stating that “compensating customer-generators for a value

⁸² FE PA St. 6-R, pp. 5, 6, 7, 9.

⁸³ Tr., p. 141.

⁸⁴ Tr., pp. 143-44.

⁸⁵ *Id.* at 144.

⁸⁶ *Id.* at 149.

they did not create, such as a negative PLC, would result in an inequitable cost shift, effectively requiring other customers in the zone to subsidize customer-generators.”⁸⁷ Intervenor’s steadfast misunderstanding of a proposal is not a basis for its rejection.

4. Other Costs and Benefits

Net-metered generation helps meet load growth demand and helps maintain resource adequacy in FE PA’s territory and in PJM. FE PA witness Young acknowledged that Pennsylvania is facing a potential resource adequacy crisis, and that the combination of less new generation being constructed with the increased load may result in a capacity shortfall.⁸⁸ He testified that electricity demand is increasing at an unprecedented pace and that supply is not able to keep pace with the increase in demand.⁸⁹ When asked about the need to construct new customer-generators to help meet the resource adequacy crisis facing Pennsylvania, Mr. Young responded:

Q. Would you agree that if more customer generation is built up, that ultimately there would be more electricity, everything else being equal?

A. (Young) Everything else being equal.

Q. And would you agree that if net meter generation is prematurely retired, deactivated, abandoned, whether it's existing or in the queue would be either the same amount of electricity or less electricity available to consumers?

A. (Young) All else being equal, yes.⁹⁰

CGC witness Heidell testified that with the large load additions (*i.e.*, data centers) seeking service in Pennsylvania as well as the new load from the electrification of transportation, FE PA should not be disincentivizing new or operational distributed electricity generation.⁹¹

⁸⁷ Joint Petition, St. 1, p. 43.

⁸⁸ Tr., p. 89.

⁸⁹ *Id.*

⁹⁰ *Id.* at 90.

⁹¹ CGC St. 1, p. 5.

In addition to benefits that the net-metered generation provides for resource adequacy, customer-generators ultimately reduce health care costs. Air pollution is reduced when solar PV generators displace natural gas and coal generation. There are economic benefits associated with net metering projects from job creation, increased tax revenue, income generation for landowners, and production of more local goods.⁹²

FE Witness Young testified that there are benefits from the continued development of solar generation resources.⁹³

D. Compliance with Applicable Laws and Regulations

Default service is not immune or insulated from other statutory requirements that apply to the provision of default service. Of particular importance in this proceeding is the AEPS Act.⁹⁴ The AEPS Act introduced several new terms into the lexicon, including “full retail value.” “Full retail value” is undefined in the statute, but by common usage means the complete sum of all costs that a retail customer pays for electricity procured through default service. It is the interplay of Act 129’s condition that default service be provided at least cost over time while complying with the AEPS Act’s requirement that customer-generators be compensated at full retail value for all of their excess generation that is at issue here. The effect of FE PA’s position in this case is that it can disregard both the intent and clear direction of the AEPS Act by retroactively reducing compensation for customer-generators without providing adequate legacy status.

E. Grandfathering Proposals

A fair grandfathering period is critical in this proceeding. FE PA seeks sweeping changes to the current classification of projects. It is undisputed that the reclassification will harm operational and near-operational customer-generators that have already invested substantial sums in reliance upon the current classification of their projects in the PTC Rider rate class. FE PA witness Young agreed that moving the customer-

⁹² Tr. pp. 93-94.

⁹³ *Id.* at 94.

⁹⁴ 73 P.S. 1648.1, *et seq.*

generators to the HP Rider will change the economics of the projects.⁹⁵ Specifically, Mr. Young acknowledged that moving customer-generators to the HP Rider rate class will have two significant impacts: (1) the customer-generators will be paid less for their excess generation when they are moved to the HP Rider; and (2) the customer-generators will be subject to greater pricing volatility under the HP Rider rate since that rate is based on a 15-minute pricing interval (rather than every six months under the PTC Rider rate).⁹⁶ Even though all parties agree that the reclassification of customer-generators will harm the economics of the projects, FE PA did not provide any advance notice that it was planning to change the classification criteria.⁹⁷ Therefore, customer-generators that made, and continued to make, investments in their projects did not know that the compensation that they were relying upon to pay for the investments and financing would be significantly reduced.

Granting grandfathering status for projects is an important regulatory protection as recently recognized by the Commission in the PPL rate case proceeding. Legacy rights or grandfathering refers to the provision of certain protections or exemptions in a utility electric tariff or other authority that allows a customer to continue receiving utility service under the pre-existing terms of a tariff following a material change to the rate schedule, such as the addition or modification of rules applicable to a certain rate schedule or the closure of a rate schedule or rate option. Legacy rights are based upon principles of fairness and regulatory gradualism, as well as a recognition of investment-backed expectations made by customers given the information then-available.⁹⁸

i. Substantial Capital Investment for Customer-Generators

JSA witness Michelman explained that the projects that will be impacted by FE PA's revised MRPL framework (primarily solar PV generators) require significant

⁹⁵ Tr., p. 109.

⁹⁶ *Id.* at 101-03.

⁹⁷ *Id.* at 106.

⁹⁸ JSA St. 1, pp. 60-61.

upfront capital investment and take years to develop.⁹⁹ For example, during the development of a net metering project, project owners incur significant pre-installation costs associated with site control, interconnection studies, and the construction of grid system upgrades needed to interconnect the project.¹⁰⁰ These types of pre-construction costs can be in the hundreds of thousands of dollars per project. At each step of the development process, project owners must consider the potential financial benefits of their investment decisions against the upfront costs of developing that project. At each decision point, the project owner relies on the information available and known to them at that time, which includes the rules and terms by which a customer rate schedule is determined and the compensation provided to a net-metered project under a specific rate schedule. Altering the rules and terms of a customer rate schedule, and therefore the compensation for net-metered excess generation, without appropriate and gradual rate transition protections, risks undermining prior investment decisions.¹⁰¹

When FE PA witness Young was asked about the substantial pre-construction and construction costs that net metering projects incur, Mr. Young testified that he does not disagree that the construction of customer-generators requires a substantial amount of upfront investment and that the development of the facilities typically takes years to complete.¹⁰² He also did not disagree that the pre-construction costs alone can be in the hundreds of thousands of dollars.¹⁰³ Significantly, that cost is just the pre-construction cost and does not include the actual construction costs.

ii. PA's Legacy Rights Proposal Should Be Rejected As Insufficient

FE PA apparently recognizes that changing the classification rules mid-stream after investments for net metering projects have already been made will adversely impact

⁹⁹ JSA St. 1, pp. 62-63.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Tr., p. 103.

¹⁰³ *Id.* at 104.

customer-generators. FE PA clearly believes that providing legacy status to the net metering projects that have relied upon the current rules is necessary since it offered a grandfathering period (albeit insufficient). However, despite recognizing that the reclassification of customer-generators will impact project economics, FE PA provided little protection for customer-generators' already-made investments—only a two-year legacy rights period for projects online by June 1, 2027.¹⁰⁴ That two-year period fails to take into account the interests of the customer-generators that made investments in reliance upon the current rules and were given no notice that FE PA would change the classification rules mid-stream.

FE PA seems unconcerned about the interests of the customer-generators that are having the new classification imposed on them or the benefits these customer-generators can provide to other default service customers in the form of reduced PJM capacity and transmission costs. FE PA witness Young testified that FE PA's two-year grandfathering proposal "is important because it protects – really it protects all of the small commercial customers with in our [FE PA's] rate districts from subsidizing solar generation."¹⁰⁵ When asked whether FE PA's grandfathering proposal is a mechanism to protect customer-generators' investments in reliance upon the status quo, Mr. Young responded again:

The grandfathering was proposed to ensure that the small commercial – the small customers – the small customers in the rate class would not be – their PTC rating would not go extremely high. That was the purpose of the grandfathering.¹⁰⁶

Mr. Young surprisingly made no mention of the need for an appropriate grandfathering period to protect the customer-generators' investments and to balance the interests of both the Commercial customers and the customer-generators.

¹⁰⁴ FE PA St. 1, p. 19.

¹⁰⁵ Tr., p. 110.

¹⁰⁶ *Id.*

iii. FE PA's Grandfathering Proposal Is Inconsistent With A Commission-Approved Grandfathering Model

FE PA's short two-year grandfathering proposal is inconsistent with the grandfathering model that the Commission recently approved in the PPL rate case.¹⁰⁷ Similar to FE PA's MRPL proposal in this proceeding, PPL proposed using MRPL to classify net-metered customer-generators for default service rate classes. However, unlike FE PA's grandfathering proposal as provided in its initial Petition and Joint Petition, PPL entered into a settlement with a number of parties that included a grandfathering period of 10 years for operational and near operational net-metered projects with a cap of 140 MW. The Commission approved the settlement in its Opinion and Order issued on June 4, 2026. Chairman Stephen M. DeFrank issued the following Statement on June 4, 2026 in support of the Settlement:

Before the Commission is rate filing of PPL Electric Utilities Corporation (PPL or the Company) as well as the non-unanimous Settlement thereto. I would like to take the opportunity to highlight some pivotal issues addressed within the proposed Settlement.

First I note the maximum registered peak load (MRPL) provision designed to address a structural mismatch in how default-service customers, particularly large net-metered solar facilities, are classified for generation supply service. PPL's current design does not appropriately recognize the generation and demand characteristics of the growing segment of "no-load" or "minimal-load" solar facilities, which are batched in with small businesses even though their generation profiles are often sized up to three Megawatts (MWs). To address this inequity, the Settlement includes the MRPL provision designed to categorize net-metering facilities into an appropriate default service rate class. The MRPL is similar to the Supply Peak Load Plan proceeding.¹⁰⁸ In summary, the new definition would categorize net-metering customers based on their net power flow either from, or into, the distribution system.

¹⁰⁷ See *Pa. PUC et al v. PPL Electric Utilities Corporation* in Docket No. R-2025-3057164.

¹⁰⁸ Petition of UGI Utilities, Inc. – Electric Divisions for Approval of a Default Service Plan, Docket No. P-2024-3049343.

As I have stated in recent testimony, the influx of merchant solar generation into the net-metering marketplace is creating a very real affordability concern.¹⁰⁹ The Commission estimates a \$700 million annual cost in in the long-run. *The instant Settlement not only addresses the inequity of default service rate classification but also works to quell this affordability concern in PPL's service territory.* Here, existing customers will be grandfathered at their existing default service categorization for ten years. Further, net-metering applicants who have submitted an interconnection application with PPL before September 30, 2025, will be grandfathered in a tranche up to 140 MWs. *I find such terms to be prudent.* (Emphasis added.)

Therefore, the grandfathering model that the Commission supports and finds to be prudent is a 10-year period with an appropriate MW cap.

iv. JSA's Grandfathering Proposal Is Fair, Reasonable, and More Consistent With The Commission's Grandfathering Model

FE PA's grandfathering proposal not only falls short of the PPL model approved by the Commission, but it fails to protect substantial investments already incurred by customer-generators.¹¹⁰ Due to the deficiencies in FE PA's proposal, JSA proposed a more appropriate grandfathering framework. JSA's framework balances the interests of *both* non-customer generators and customer-generators in the Commercial class. JSA's grandfathering framework bifurcates projects into two tiers based upon their status as operational or near-operational. For each tier, the framework provides for (1) qualification or eligibility criteria and (2) a defined legacy rights duration that is applicable to all net-metered projects in FE PA's service territory, regardless of the specific rate district in which that project is located. The JSA's framework is as follows:

- The first tier of the legacy rights framework applies to projects that are either currently operational or provide a completed copy of their Certificate

¹⁰⁹ Testimony submitted before the Pennsylvania House Energy Committee on April 14, 2026.

¹¹⁰ Tr., p. 111.

of Completion¹¹¹ to FE PA on or before June 1, 2027 (“Operational Projects”). Operational Projects would maintain their classification on the Commercial PTC Rider and be compensated at the full value of the PTC Rider rate for their excess generation for a 25-year period.

- The second tier of the framework applies to pre-construction, non-yet operational projects that demonstrate the achievement of certain project development maturity thresholds by June 1, 2027 (“Transitional Projects”). Transitional Projects would also maintain their classification on the Commercial PTC Rider but would receive a reduced level of compensation equal to 90% of the PTC Rider rate for their excess generation for a 15-year period. In order to qualify as a Transitional Project, the project owner must demonstrate achievement each of the following milestones:
 1. Submitted an interconnection application to FE PA on or before the date in which the instant default service plan was filed (i.e., February 3, 2026).
 2. Executed an interconnection agreement with FE PA by June 1, 2027 (i.e., the date by which FE PA’s Default Service Plan VII is proposed to begin).
 3. Received net metering approval (if applicable) from the Commission as required by 52 Pa. Code §75.13(a)(5).
 4. Signed a Construction Services Agreement (if applicable) by June 1, 2027, which is a document provided by FE PA that generally outlines the responsibilities for designing, constructing, and paying for any electric system upgrades required to interconnect the project.

¹¹¹ A Certificate of Completion, as defined in 52 Pa. Code § 75.22, is a certificate in a form approved by the Commission containing information about the interconnection equipment to be used, its installation and local inspections.

5. Paid an initial deposit equal to 10% of the interconnection payment per the terms of the Construction Services Agreement (if applicable) or requested from FE PA for an invoice to pay the initial 10% interconnection payment, by June 1, 2027. In the event that a project owner requests an interconnection deposit invoice from FE PA, FE PA should be required to provide such an invoice within 60 days of the project owner's request.
- All other net-metered projects that do not meet the eligibility requirements for treatment as an Operational or Transitional Project would be subject to any revised MRPL metric approved by the Commission in this proceeding and, depending on their specific circumstances, placed on the Industrial HP Rider.¹¹²

JSA's proposed treatment for Operational Projects recognizes that these projects have made complete or nearly complete investments, including payments to FE PA for system upgrades that are necessary to safely interconnect the projects to the electric grid. These investment costs are in excess of millions of dollars. Due to the extended timeline associated with these types of assets, project owners incurred these investments well before FE PA proposed using MRPL as a classification criterion, meaning that an owner could not have reasonably known that the terms and compensation associated with the Commercial default service rate was at risk of being upended. These types of projects deserve appropriate grandfathering protection under the basic rate principle of fairness, as commonly recognized in by the Commission and other state jurisdictions.¹¹³

The milestones for determining the eligibility of Transitional Projects are intended to ensure that the most mature net-metering projects, which have made significant investments, albeit lower than those made by Operational Projects, are afforded grandfathering treatment as Commercial default service customers for a reduced number

¹¹² JSA St. 1, pp. 65-66.

¹¹³ JSA St. 1, p. 67.

of years. By ensuring that grandfathering status is provided to those projects that meet the milestones before the start of the DSP VII (on June 1, 2027), the framework mitigates the amount of net metering expenses to be recovered from the Commercial default service class. Additionally, by reducing the compensation to these projects by 10% below the Commercial PTC Rider rate, the framework reduces the net metering expenses for Commercial default service customers. Further, as shown in the below table, the customer-generators' excess generation is providing more value to Commercial customers than the amount of compensation under the PTC Rider rate.

	Penelec	Met-Ed	West Penn Power	Penn Power
Price to Compare, per MWh (eff. 12/1/25)	\$121.56	\$129.34	\$109.94	\$137.30
90% of Price to Compare, per MWh (eff. 12/1/25)	\$109.40	\$116.41	\$98.95	\$123.57
2025-2026 FE Ratepayer Value of Solar, per MWh ¹¹⁴	\$111.68	\$117.96	\$102.73	\$121.24
Difference between 90% PTC and VOS, per MWh	-\$2.28	-\$1.55	-\$3.78	\$2.33

When combined with the JSA's recommendation for FE PA to allow for negative PLCs and negative NSPLs, the Transitional Projects are likely to provide greater benefits (as quantified in lower Commercial PTC Rider rates) to default service customers from just the combination of avoided wholesale energy LMP benefits, reduced share of capacity costs assigned to the default service customer class, and reduced share of transmission

¹¹⁴ JSA St. 1, p. 41-42.

costs assigned to the default service customer class than would have occurred in the absence of any Transitional Projects.¹¹⁵

Unlike FE PA, the JSA recognizes that a reasonable grandfathering period is important to balance the interests of *both* Commercial default service customers and customer-generators. Understanding the importance of balancing interests, the JSA's grandfathering proposal in conjunction with its proposal for FE PA to allow for negative PLCs and negative NSPLs achieves the following objectives: (1) the proposal provides a reasonable level of protection for both Commercial default service customers and net-metered projects and achieves a reasonable and equitable outcome for both groups; (2) it minimize future risk and uncertainties related to default service procurement; and (3) it ensures that the qualification thresholds applicable to Operational and Transitional Projects are transparent and practicable to comply with FE PA's administrative requirements.¹¹⁶

If the Commission disagrees with the JSA's analysis, then, in the alternative, the JSA requests that the Commission approve a grandfather period of 10 years for customer-generators consistent with the Commission's approval of the 10-year grandfather period in the PPL rate case.

Indeed, Walmart witness Chriss testified that "an outcome similar to the settled outcome in the PPL rate case is a reasonable solution to the concerns [Walmart raised] with FE PA's MRPL proposal."¹¹⁷ OCA Witness Ogur testified that it would not be "unreasonable" to find middle ground between FE PA's grandfathering proposal and Walmart's grandfather proposal "in terms of balancing protection of small commercial customers with fairness to existing customer-generators who made an investment based on the status quo that was prevailing at the time of their investment."¹¹⁸ And even though

¹¹⁵ *Id.* at 67-68.

¹¹⁶ *Id.* at 64.

¹¹⁷ Walmart St. 1, p. 9.

¹¹⁸ OCA St. 1R, p, 24.

Dr. Ogur made clear that the grandfathering period should be fair to both Commercial customers and customer-generators that made investments based on the status quo, FE PA's proposal is fair only to Commercial customers. In fact, FE PA's grandfather proposal effectively penalizes the customer-generators that have already made investments in reliance upon the status quo.

Despite the equitable and prudent grandfather framework that the JSA proposed, FE PA repeatedly points to the "catastrophic" rate impact to the Penn Power rate class if grandfathering in excess of two years is allowed.¹¹⁹ FE PA witness Young stated that there are currently 11 operational facilities and 10 transitional facilities in Penn Power.¹²⁰ He maintained that if none of the transitional projects come online in 2027 and keeping all other factors of the current PTC rate the same as they are today, Penn Power's PTC for the commercial class would increase by an "astronomical" 23,600% to \$32.62/kWh in the 25th year as compared to the \$0.1373 kWh it is today. If all 11 of the transitional facilities came online in 2027, even having them only receive 90% of the PTC value, the PTC rate in the 25th year would be \$182.71/kWh.¹²¹

However, FE PA's calculations for the impact to the Penn Power rate district are inaccurate because FE PA used materially different assumptions for commercial sales load growth, the wholesale value of energy produced by customer-generators, the assumed customer-generator capacity factor, and the load growth rate than what FE PA presented in Exhibits DMY-7 and DMY-7 Revised.¹²² This makes an apples-to-apples comparison impossible.¹²³ Further, FE PA's calculation of the rate impact to the Penn Power rate district omitted the benefits that customer-generators provide with the avoided

¹¹⁹ FE PA St. 1-R, p. 23.

¹²⁰ *Id.* at 24.

¹²¹ *Id.*; *see also*, Statement in Support of Joint Petition for Non-Unanimous Settlement of FirstEnergy Pennsylvania Electric Company, pp. 21-22.

¹²² JSA St. 1-S, p. 20.

¹²³ *Id.*

capacity and transmission services. Without the proper recognition of these benefits (*i.e.*, reduced costs) to the PTC Rider rate class, FE PA's rate impact calculation is overestimated.¹²⁴

There is an appropriate solution to mitigate any significant rate impact in the Penn Power rate district. The Commission could approve a grandfather model similar to the model that it supported and found to be prudent in its PPL rate case order for all rate districts except Penn Power. For Penn Power, the Commission could approve a shorter grandfather period with a MW cap that would provide greater protection to the rate impact to Penn Power. Such treatment of the Penn Power rate district would be consistent with the Commission's decision in the PPL rate case in which the Commission provided an exception to "agricultural customer-generators" being subject to the MRPL classification,¹²⁵ *i.e.*, differing treatment to account for differing circumstances. Such treatment here would accomplish the objectives of both FE PA and the customer-generators—greater protection would be provided to the Penn Power rate district, and, at the same time, the customer-generators' investments in the other rate districts would be protected.

IV. RATE DESIGN AND COST RECOVERY

A. Price to Compare Default Service Rate Rider

The JSA take no position on this issue.

B. Hourly Pricing Default Service Rider

The JSA take no position on this issue.

V. CUSTOMER REFERRAL PROGRAM

The JSA take no position on this issue.

VI. SUPPLIER COORDINATION TARIFF CHANGES AND RETAIL SHOPPING ISSUES

A. Return of Customers to Default Service at Contract Expiration

¹²⁴ *Id.* at 21-22.

¹²⁵ *See* PPL Order, pp. 223-24.

The JSA take no position on this issue.

B. Quarterly Affirmation for Variable Rate Contracts

The JSA take no position on this issue.

C. Changes to Purchase of Receivables (POR) Program

The JSA take no position on this issue.

VII. CONCLUSION

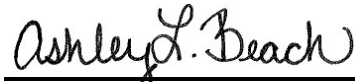
The JSA appreciates the Commission's consideration of its concerns about the significant consequences to net-metered customer-generators if FE PA's MRLP proposal is approved. To mitigate the adverse impacts to customer-generators due to the reclassification of net metering projects and help address affordability issues for the Commercial and Industrial default service classes, the JSA respectfully requests that the Commission:

1. Adopt the JSA's grandfather proposal or, in the alternative, adopt a grandfather period consistent with the model approved by the Commission in the PPL rate case;
2. Direct FE PA to measure negative PLCs and negative NSPLs from the customer-generators' excess generation to ensure that the Commercial and Industrial default service customers that pay for the excess generation receive the full value of the benefits derived from the excess generation, or, in the alternative, initiate a new statewide proceeding to consider measuring negative PLCs and NSPLs by all electric utilities in Pennsylvania, including FE PA; and
3. Strike the following provision from the Joint Petition:

For purposes of determining compensation for net excess generation for customer-generators taking service under the Hourly Pricing ("HP") Rider, the compensation shall include capacity and line loss portions of the HP Rider until May 31, 2041, absent a material change in the capacity markets operated by PJM. In the event of such an occurrence, FE PA will notify and meet with parties to the Settlement, including Walmart, to discuss the proposed changes and their impact on customer-generator compensation at least 30 days in advance of such a PUC filing being made.

Respectfully Submitted,

FOX ROTHSCHILD LLP

Handwritten signature of Ashley L. Beach in black ink, written over a horizontal line.

Ashley L. Beach

PA Attorney I.D. No. 306942

747 Constitution Drive, Suite 100

Exton, PA 19341

Telephone: 610-458-2997

E-Mail: abeach@foxrothschild.com

*Counsel for Solar Energy Industries
Association and Coalition for Community
Solar Access*

Dated: July 10, 2026

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**PARTIAL PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW OF
THE COALITION FOR COMMUNITY SOLAR ACCESS AND
SOLAR ENERGY INDUSTRIES ASSOCIATION
“JOINT SOLAR ADVOCATES” OR “JSA”**

Date Served: July 10, 2026

PARTIAL FINDINGS OF FACT

1. First Energy Electric Company (“FE PA” or the “Company”) filed a Petition for Approval of its Default Service Program for the Period June 1, 2027 to May 31, 2031 (“Petition”) requesting that the Commission approve its seventh default service program (“DSP VII”). The Company currently provides default service pursuant to the current Commission-approved default service program (“DSP VI”) that will expire on May 31, 2027.¹

2. The Joint Solar Advocates (“JSA”), which consist of the Solar Energy Industries Association and the Coalition for Community Solar Access,² intervened in this proceeding to address the Company’s proposals that impact net-metered customer-generators.

3. An In-Person Evidentiary Hearing was conducted before the Administrative Law Judges on June 15, 2026.

I. Joint Petition for Non-Unanimous Settlement

4. On July 2, 2026, the Company filed a Joint Petition For Non-Unanimous Settlement (“Joint Petition”).

5. Section II. F (entitled “Classification of Non-Residential Default Service Customers”) of the Joint Petition introduced for the first time a proposal that would require the Company to keep the capacity and line loss portions of the Industrial Hourly Pricing Rider (“HP Rider”) intact through May 31, 2041, stating:

For purposes of determining compensation for net excess generation for customer-generators taking service under the Hourly Pricing (“HP”) Rider,

¹ See *Joint Petition of Metro. Edison Co., Pa. Elec. Co., Pennsylvania Power Co., and West Penn Power Co. for Approval of their Default Serv. Programs for the Period Beginning June 1, 2023 through May 31, 2027*, Docket No. P-2021-3030012

(Recommended Decision dated June 29, 2022 (“DSP VI RD”). The DSP VI RD was adopted without modification by the Commission in its Order entered August 4, 2022.

² JSA St. 1, p.3.

the compensation shall include capacity and line loss portions of the HP Rider until May 31, 2041, absent a material change in the capacity markets operated by PJM. In the event of such an occurrence, FE PA will notify and meet with parties to the Settlement, including Walmart, to discuss the proposed changes and their impact on customer-generator compensation at least 30 days in advance of such a PUC filing being made.³

6. This provision seeks resolution of an issue which was not before the Commission as part of the Company's Petition. The Company did not propose or explain this proposal at any time during the proceeding, and it was not properly vetted by the parties. This provision implies that generation capacity value will not be provided in the future, which will adversely affect net-metered customer-generators by increasing financing costs.

7. Section II. F of the Joint Petition is opposed by the JSA and CGC.

II. Benefits of Net-Metered Customer Generation

8. Pennsylvania is facing a potential resource adequacy crisis, and the combination of less new generation being constructed and increased load may result in a capacity shortfall.⁴ Electricity demand is increasing at an unprecedented pace and the supply is not able to keep pace with the increase in demand.⁵ Net-metered generation will help meet the resource adequacy crisis facing Pennsylvania.⁶

9. Net-metered generation provides additional benefits, such as reducing health care costs due to less air pollution when solar PV generators displace natural gas and coal generation. Net-metered generation also provides economic benefits to Pennsylvania, including job creation, increased tax revenue, income for landowners, and production of local goods.⁷

III. Proposal to Reclassify Customer-Generators Based Upon MRPL

³See Joint Petition ¶¶ 36-38.

⁴Tr., p. 89.

⁵*Id.*

⁶*Id.*

⁷Tr. pp. 93-94.

10. The Company currently recovers the cost of default service for the Commercial default service customer class through its Commercial Price to Compare (“PTC”) Rider and the cost of default service for the Industrial default service customer class through its HP Rider.⁸

11. Under the current Commission-approved DSP VI, the Company assigns a net-metered customer-generator to a default service class based upon the customer’s peak load consumption. Since June 1, 2019, FE PA has classified default service customers with a demand less than 100 kilowatts (“kW”) as Commercial customers to receive default service under the PTC Rider, and default service customers with a demand of 100 kilowatts (“kW”) or greater as Industrial customers to receive hourly-priced default service under the HP Rider.⁹

12. One of the most controversial provisions of the Company’s DSP VII proposal is the requested reclassification of net-metered customer-generators from a consideration of peak load consumption to consideration of both peak load consumption and the Maximum Registered Peak Load (“MRPL”).

13. The Company proposes to define MRPL as: “A customer’s net demand contribution impact to the Company’s default service procurement activity, as determined upon the net power flow from or into the Company’s distribution or transmission system. As related to customer-generators, this shall also be inclusive of the nameplate capacity of the generation system.”¹⁰

14. By using MRPL to classify net-metered customer-generators, only net-metered customer-generators with a peak load demand or MRPL of less than 100 kW are

⁸ See Petition for Approval of its Default Service Program for the Period June 1, 2027 to May 31, 2031 (“Petition”), pp. 8, 13.

⁹ FE PA St. 1, p. 15.

¹⁰ *Id.* at 16.

eligible to remain in the Commercial default service class and all other customer-generators will be moved to the Industrial default service class.

15. The net-metered customer-generators moved into the Industrial rate class will be compensated for their excess generation with rates that are significantly less and more volatile due to hourly pricing from what they are currently being paid or would be paid absent the reclassification.¹¹

IV. Customer-Generator Growth Predictions

16. The Company alleges that the new MRPL classification criteria is necessary because there has been an increase in one to three-megawatt (“MW”) solar net-metered projects applying for interconnection with the intent to become net-metered customer-generators.¹²

17. The Company calculated the predicted number of net-metered customer-generators that will be online by 2029 based upon the number of projects in the interconnection queue. However, the projects in the interconnection queue are at the earliest stage of the interconnection process and they are nowhere near commencing construction. The use of the projects in the interconnection queue is an inaccurate prediction of projects that will be online by 2029 because the majority of the net-metering projects in the interconnection queue will not be constructed or reach commercial operation.¹³

18. The Company stated that the number of net-metered projects in the interconnection queue that will become operational is just an “educated guess” and is uncertain.¹⁴

¹¹ FE St. 1-R, pp. 16-17.

¹² FE PA St. 4, p. 17.

¹³ CGC St. 1, pp. 7-8.

¹⁴ Tr., p. 81.

19. The Company's estimates of the future growth of net-metered customer-generators are overstated and not supported by data or analysis as to the number of projects in the interconnection queue that might actually be constructed.¹⁵

V. Alleged Costs of Customer-Generators to Commercial Customers

20. The Company stated that it is necessary to use MRPL to move net-metered customer-generators to the HP Rider due to future rate impacts to Commercial default service customers.¹⁶ The Company stated that it is particularly concerned about the rate impact to default service customers in the Penn Power rate district.¹⁷

21. The Company presented hypothetical scenarios about net-metering expense impacts from customer-generators coming online by 2029 in FE PA Exhibit DMY-7 and Exhibit DMY-7 Revised. According to the Company, from June 1, 2024 to May 31, 2025, the true-up amount paid by the Commercial PTC Rider customers for excess generation totaled about \$4.4 million. The Company forecasts a wide range of net metering projects coming online by 2029 with costs from \$82 million to \$750 million by 2029.¹⁸

22. The Company's analysis of the costs to the Commercial class is inaccurate and overstated. Net-metered excess generation lowers the net energy component of the Commercial PTC Rider rate, which the Company initially failed to account for in its rate impact analysis.¹⁹ The Company's analysis also failed to account for the avoided capacity and transmission costs resulting from net-metered excess generation.²⁰

¹⁵ CGC St. 1, pp. 7-8.

¹⁶ FE PA St. 1-R, p. 17.

¹⁷ FE PA St. 1-R, p. 23.

¹⁸ FE PA St. 2, p. 17; *see* FE PA Ex. DMY-7 Revised.

¹⁹ JSA St. 1, pp. 9, and 10-12.

²⁰ JSA St. 1, pp. 7, 9, 10-12.

23. In regard to the Penn Power rate district, the Company claims a “catastrophic” rate impact to Penn Power.²¹ According to the Company, there are currently 11 operational facilities and 10 transitional facilities in Penn Power’s service territory, and if none of the transitional projects come online by 2027 and keeping all other factors of the current PTC rate the same as they are today, Penn Power’s PTC rate for the commercial class would increase by 23,600% to \$32.62/kWh in the 25th year as compared to the current \$0.1373/kWh. The Company also stated that if all 11 transitional facilities come online by 2027, even compensating them at 90% of the PTC rate value, the PTC rate in the 25th year would be \$182.71/kWh.²²

24. The Company’s calculations for the impact to the Penn Power rate district are overstated because the Company’s calculation omitted the benefits of avoided capacity and transmission services from customer-generators.²³

VI. Risk Premiums

25. The Company alleges that the projected increase in excess generation from customer-generators will result in higher “switching risk” for the Fixed Price Full Requirements (“FPFR”) default service suppliers.²⁴

26. The Company’s concern about switching risk is simply unsubstantiated conjecture. The Company presented no evidence that default service bidders have, or will, include a risk premium in their bids due to net-metered customer-generators.²⁵

VII. The Benefits of Negative Peak Load Contribution and Negative Network Service Peak Load Contribution

²¹ FE PA St. 1-R, p. 23.

²² *Id.* at 23-24.

²³ JSA St. 1-S, pp. 21-22.

²⁴ FE PA St. 1, p. 17.

²⁵ CGC St. 1-R, p. 3-4; *see also* CGC St. 1, p. 11.

27. There are three types of avoided costs (energy, capacity, and transmission) associated with net-metered excess generation. Currently, the energy benefit is the only benefit that is being distributed solely to the default service customers that are bearing the costs of compensating customer-generators for their excess generation.²⁶

28. Net-metered excess generation produced during PJM Interconnection L.C.C.'s ("PJM) five coincident peak ("5CP") hours lowers the overall peak load and thus the capacity obligations of the PJM capacity zone in which the customer-generators are located.²⁷ Excess generation therefore provides cost savings to default service customers in the form of reduced capacity obligations.²⁸

29. Unlike the energy savings from the excess generation, the capacity and transmission benefits currently accrue more broadly across customers outside of the customer-generators' default service rate class.²⁹

30. The default service customers that pay for the excess generation do not realize all of the benefits of the excess generation because the Company does not measure net-metered customer-generators' negative Peak Load Contributions ("PLCs") and negative Network Service Peak Load ("NSPL") contributions (together referred to as "PLCs") from the customer-generators' excess generation.³⁰

31. The measurement of negative PLCs is a mechanism that will help keep rates affordable for the Commercial and Industrial default service customers by allowing the customers that pay for the excess generation to realize all of the capacity and transmission savings benefits derived by the net-metered projects.³¹

²⁶ JSA St. 1, pp. 14, 15.

²⁷ *Id.* at 21.

²⁸ *Id.* at 19.

²⁹ *Id.* at 22, 23.

³⁰ *Id.*

³¹ *Id.* at 24, 25.

32. Measuring negative PLCs is an effective and proven cost-allocation methodology used by UGI Utilities, Inc. and Commonwealth Edison Company, two other electric utilities in PJM Interconnection, Inc.³²

33. The Company can use its existing advanced metering infrastructure to measure the negative PLCs of net-metered customer-generators.

34. The measurement of negative PLCs will not shift costs onto the Commercial and Industrial default service customers or provide additional compensation to the net-metered customer generators.³³

VIII. Grandfathering of Customer-Generators

35. Granting grandfathering status for projects is an important regulatory protection. Legacy rights or grandfathering is the provision of certain protections or exemptions in a utility electric tariff or other authority that allows a customer to continue receiving utility service under the pre-existing terms of a tariff following a material change to the rate schedule, such as the addition or modification of rules applicable to a certain rate schedule or the closure of a rate schedule or rate option. Legacy rights are based upon principles of fairness and regulatory gradualism, as well as a recognition of investment-backed expectations made by customers given the information then-available.³⁴

36. A reasonable and fair grandfathering period is critical in this proceeding due to the Company's reclassification of net-metered customer-generators after the customer-generators have made investments based upon the current classification criterion.

37. The Company's reclassification of customer-generators to the HP Rider will harm operational and near-operational customer-generators that have invested

³² See generally, P-2024-3049343, *Opinion and Order* (February 20, 2025); R-2025-3057164 *et al.*, *Opinion and Order* (June 11, 2026).

³³ Tr., p. 141.

³⁴ JSA St. 1, pp. 60-61.

substantial sums in reliance upon the current classification of their projects in the PTC Rider rate class.³⁵

38. Moving the customer-generators to the HP Rider will change the economics of the projects because the customer-generators will be paid less for their excess generation under the HP Rider, and the customer-generators will be subject to greater pricing volatility under the HP Rider rate since that rate is based on a 15-minute pricing interval (rather than every six months under the PTC Rider rate).³⁶

39. Net-metered projects have incurred substantial up-front capital costs in developing their projects in reliance upon the current classification criteria of peak load consumption.³⁷

40. The Company proposed a two-year grandfathering period for projects online by June 1, 2027.³⁸ The Company's grandfathering proposal provides little protection for customer-generators that have already incurred substantial costs in reliance upon the current rules.³⁹

41. The Company's grandfathering proposal is not reasonable because it will not adequately protect the investments made by operational and near-operational net-metered projects in reliance upon the current classification criterion.

42. The JSA has proposed a grandfathering framework that bifurcates net-metered projects based upon their status as either an Operational project or a Transitional project. Operational projects are those projects that are either currently operational or provide a completed Certificate of Completion to the Company on or before June 1, 2027. Operational projects will maintain their classification on the Commercial PTC Rider and be compensated at the full value of the PTC Rider rate for 25 years.

³⁵ Tr., p. 109.

³⁶ *Id.* at 101-03.

³⁷ JSA St. 1, pp. 62-63.

³⁸ FE PA St. 1, p. 19.

³⁹ FE PA St. 1, p. 19.

Transitional projects are those projects that achieve certain development milestones by June 1, 2027. Transitional projects will maintain their classification on the Commercial PTC Rider but would receive compensation equal to 90% of the PTC Rider rate for a 15-year period. All other projects will not receive grandfather status and therefore take service under the HP Rider.⁴⁰

43. The JSA's grandfathering framework is reasonable as it appropriately balances the interests of the Commercial default service customers with the interests of the net-metered customer-generators.

PARTIAL CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding.

2. The Company requests that the Commission approve its proposed DSP VII, including changes to the classification of net-metered customer-generators and the manner in which net-metered customer-generators are compensated under the requirements of the Alternative Energy Portfolio Standards ("AEPS") Act. *See* 73 P.S. §§ 1648.1-1648.8 and related provisions of 66 Pa.C.S §§ 2813-2814.

3. The Company has the burden of proof to establish that it is entitled to the relief it is seeking.⁴¹ The Company must establish its case with both substantial evidence and a preponderance of the evidence in the record. Substantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion.⁴² More

⁴⁰ JSA St. 1, pp. 65-66.

⁴¹ 66 Pa.C.S. § 332(a).

⁴² *Id.*; *see also Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

evidence is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.⁴³

4. Settlements must be in the public interest.⁴⁴

5. The settling parties' agreement in Paragraph 36 of the Joint Petition to introduce the MRPL into FE PA's determination of eligibility for participation in the PTC Rider and HP Rider⁴⁵ is reasonable and is, therefore, approved.

6. The grandfathering provision in Paragraph 37 of the Joint Petition, that states that customer-generators online prior to June 1, 2027 will be exempt from the MRPL proposal until June 1, 2029,⁴⁶ is not reasonable or in the public interest, and is, therefore, not approved.

7. Paragraph 38 of the Joint Petition is not reasonable or in the public interest, and is, therefore, not approved. That provision states:

For purposes of determining compensation for net excess generation for customer-generators taking service under the HP Rider, such compensation shall include capacity and line loss portions of the HP Rider until May 31, 2041, absent a material change in the capacity markets operated by PJM. In the event of such an occurrence, FE PA will notify and meet with parties to this Settlement, including Walmart, to discuss the proposed changes and their impact on customer-generator compensation at least 30 days in advance of any Commission filing.

⁴³ *Norfolk & W. Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); and *Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

⁴⁴ *Pa. PUC v. Windstream Pennsylvania, LLC*, Docket No. M-2012-2227108, 2012 Pa. PUC LEXIS 1535 (Opinion and Order entered Sept. 27, 2012); *Pa. PUC v. C.S. Water and Sewer Assoc.*, Docket No. R-881147, 74 Pa. PUC 767 (Opinion entered Jul. 22, 1991).

⁴⁵ Joint Petition ¶ 36.

⁴⁶ Joint Petition ¶ 37.

8. The JSA's request that the Company begin measuring negative PLCs is reasonable and in the public interest and is, therefore, approved.

9. The JSA's grandfathering framework is reasonable and in the public interest and is, therefore, approved.

PARTIAL ORDER

THEREFORE, IT IS RECOMMENDED:

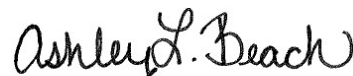
1. That First Energy Electric Company be permitted to file a tariff supplement incorporating the terms of the Joint Petition for Non-Unanimous Settlement to introduce the MRPL into the Company's determination of eligibility for participation in the PTC Rider and HP Rider.

2. That the Company is directed to begin measuring negative PLCs within 90 days of this Order.

3. That the Company is directed to allow a grandfathering period for net-metered customer-generators consistent with the JSA's grandfathering framework.

Respectfully Submitted,

FOX ROTHSCHILD LLP



Ashley L. Beach

PA Attorney I.D. No. 306942

747 Constitution Drive, Suite 100

Exton, PA 19341

Telephone: 610-458-2997

E-Mail: abeach@foxrothschild.com

*Counsel for Solar Energy Industries
Association and Coalition for Community
Solar Access*

Dated: July 10, 2026

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Joint Solar Advocates Main Brief, Proposed Findings of Fact and Conclusions of Law upon the parties listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Via Electronic Mail

Kenneth M. Kulak, Esq. Brooke E. McGlinn, Esq. Maggie E. Curran, Esq. Morgan, Lewis & Bockius LLP 2222 Market Street Philadelphia, PA 19103 ken.kulak@morganlewis.com brooke.mcglinn@morganlewis.com Maggie.curran@morganlewis.com <i>Counsel for FirstEnergy Pennsylvania Electric Company</i>	Tori L. Giesler, Esq. Angelina Umstead, Esq. FirstEnergy Service Company 341 White Pond Drive Akron, OH 44320 tgiesler@firstenergycorp.com aumstead@firstenergycorp.com
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Elizabeth R. Marx, Esq.* Lauren N. Berman, Esq.* Ria M. Pereira, Esq.* John W. Sweet, Esq.* Levi A. Phillips, Esq.* Pennsylvania Utility Law Project 118 Locust Street Harrisburg, PA 17101 pulp@pautilitylawproject.org emarx@pautilitylawproject.org lberman@pautilitylawproject.org rpereira@pautilitylawproject.org; jsweet@pautilitylawproject.org; <i>Counsel for Counsel for the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania - CAUSE-PA</i>	Rebecca Lyttle, Esq.* Assistant Small Business Advocate Office of Small Business Advocate Forum Place 555 Walnut Street, 1st Floor Harrisburg, PA 17101 relyttle@pa.gov <i>Counsel for the Office of Small Business Advocate</i>
Steven C. Gray, Esq. Senior Attorney Assistant Small Business Advocate Office of Small Business Advocate Forum Place 555 Walnut Street, 1st Floor Harrisburg, PA 17101 sgray@pa.gov <i>Counsel for The Office of Small Business Advocate</i>	Harrison W. Breitman, Esq.* Katherine M. Kennedy, Esq.* Olivia M. Spergel, Esq.* Office of Consumer Advocate 555 Walnut Street Harrisburg, PA 17101-1923 HBreitman@paoca.org OSpergel@paoca.org KKennedy@paoca.org <i>Counsel for the Office of Consumer Advocate</i>
Melissa A Chapaska, Esq. * HMS Legal LLP 501 Corporate Circle Suite 302 Harrisburg, PA 17110 machapaska@hmslegal.com <i>Counsel for Penn Renewables LLC</i>	Todd S. Stewart, Esq. * HMS Legal LLP 501 Corporate Circle, Suite 302 Harrisburg, PA 17110 tsstewart@hmslegal.com <i>Counsel for Shipley Choice, LLC d/b/a Shipley Energy and Interstate Gas Supply, LLC d/b/a IGS Energy EGS Parties</i>

Susan E. Bruce, Esq. * Charis Mincavage, Esq.*. Matthew Garber, Esq. * Rebecca Kimmel, Esq. * McNees Wallace & Nurick LLC 100 Pine Street P.O. Box 1166 Harrisburg, PA 17108 sbruce@mcneeslaw.com cmincavage@mcneeslaw.com mgarber@mcneeslaw.com rkimmel@mcneeslaw.com <i>Counsel for Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, and West Penn Power Industrial Intervenors</i>	Aron J. Beatty, Esq. Duquesne Light Company 800 North Third Street Harrisburg, PA 17402 abeatty@duqlight.com <i>Counsel for Duquesne Light Company</i>
Michael Gruin, Esq. Donald Wagner, Esq. Stevens & Lee, P.C. 17 N. 2nd St., 16th Fl. Harrisburg, PA 17101 Michael.gruin@stevenslee.com Donald.wagner@stevenslee.com <i>Counsel for WGL Energy Services, Inc.</i>	Nicholas A. Stobbe, Esq.* Stevens & Lee, P.C. 17 N. 2nd St., 16th Fl. Harrisburg, PA 17101 Tel. nicholas.stobbe@stevenslee.com <i>Counsel for Customer-Generator Coalition</i>
Michael Gruin* Donald Wagner Stevens & Lee, P.C. 17 N. 2nd St., 16th Fl. Harrisburg, PA 17101 Michael.gruin@stevenslee.com Donald.wagner@stevenslee.com <i>Counsel for Town Square Energy East, LLC</i>	Whitney E. Snyder, Esq. Erich W. Struble, Esq. HMS Legal LLP 501 Corporate Circle, Suite 302 Harrisburg, PA 17110 wesnyder@hmslegal.com ewstruble@hmslegal.com <i>Counsel for The Pennsylvania State University</i>

Mark A. Hoyer Deputy Chief Administrative Law Judge mhoyer@pa.gov Erin L. Gannon Administrative Law Judge egannon@pa.gov	Colleen Kartychak, Esq. Marsha D. Makel, Esq.* Constellation Energy Generation, LLC 1310 Point Street Baltimore, MD 21231 colleen.kartychak@constellation.com linda.kizuka@constellation.com; Marsha.Makel@constellation.com <i>Counsel for Constellation Energy Generation, LLC and Constellation NewEnergy, Inc.</i>
Allison C. Kaster, Esq. Director & Chief Prosecutor Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement Commonwealth Keystone Building 400 North Street Harrisburg, PA 17120 akaster@pa.gov <i>Counsel for PAPUC</i>	John M. White, Esq. Constellation Energy Generation, LLC 101 Constitution Avenue, N.W. Suite 400 East Washington, DC 20001 john.white@constellation.com <i>Counsel for Constellation Energy Generation, LLC and Constellation NewEnergy, Inc.</i>
Deanne M. O'Dell, Esq. Eckert Seamans Cherin & Mellott, LLC 213 Market Street, 8th Floor P.O. Box 1248 Harrisburg, PA 17101 dodell@eckertseamans.com <i>Counsel for the Retail Energy Supply Association</i>	Michael Gianantonio, Esq. Robert F. Daley, Esq. Robert Peirce & Associates, P.C. 707 Grant Street Gulf Tower, Suite 125 Pittsburgh, PA 15219 mgianantonio@peircelaw.com <i>Counsel for John Bevec and Sunrise Energy, LLC</i>

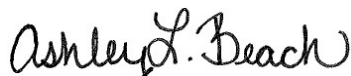
Daniel B. Markind, Esq. Flaster Greenberg, PC 1717 Arch Street, Suite 3300 Philadelphia, PA 19103 Daniel.markind@flastergreenberg.com <i>Counsel for Dimension PA I LLC</i>	Mitchell H. Kizner, Esq. Flaster Greenberg, PC Commerce Center 1810 Chapel Avenue West Cherry Hill, NJ 08002 mitchell.kizner@flastergreenberg.com <i>Counsel for Dimension PA I LLC</i>
Christopher O'Hara, Esq. PJM Interconnection LLC 2750 Monroe Boulevard Audubon, PA 19403 christopher.ohara@pjm.com <i>Counsel for PJM</i>	Lauren M. Burge, Esq.* Eckert Seamans Cherin & Mellott, LLC 600 Grant Street, 44th Floor Harrisburg, PA 17101 lburge@eckertseamans.com <i>Counsel for the Retail Energy Supply Association</i>
Jamie L. Martines, Esq.* Spilman Thomas & Battle, PLLC 301 Grant Street, Suite 3440 Pittsburgh, PA 15219 jmartines@spilmanlaw.com <i>Counsel for Walmart, Inc.</i>	Linda S. Kizuka, Esq.* Constellation 250 Massachusetts Avenue, NW Suite 760 Washington, DC 20001 linda.kizuka@constellation.com <i>Counsel for Constellation Energy Generation, LLC and Constellation NewEnergy, Inc.</i>
Barry A. Naum, Esq. * Steven W. Lee, Esq. Sarah D. Stoner, Esq.* Spilman Thomas & Battle, PLLC 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 bnaum@spilmanlaw.com slee@spilmanlaw.com sstoner@spilmanlaw.com <i>Counsel for Walmart, Inc</i>	

WITNESSES / CONSULTANTS

Mark Ewen* Industrial Economics, Incorporated 2067 Massachusetts Avenue Cambridge, MA 02140 MEwen@indecon.com <i>OSBA Witness</i>	Maksim Malukoff* Industrial Economics, Incorporated 2067 Massachusetts Avenue Cambridge, MA 02140 MMalukoff@indecon.com <i>OSBA Witness</i>
Serhan Ogur* Exeter Associates, Inc. 10480 Little Patuxent Parkway Suite 300 Columbia, Maryland 21044 OCAFEPADSP26@paoca.org <i>OCA Witness</i>	Barbara R. Alexander* Barbara Alexander Consulting, LLC 83 Wedgewood Drive Winthrop, Maine 04364 OCAFEPADSP26@paoca.org <i>OCA Witness</i>
Patrick M. Cicero* 118 Locust Street Harrisburg, PA 17101 pcicero@pautilitylawproject.org <i>CAUSE-PA Witness</i>	James L. Crist, P.E. Lumen Group, Inc. 4226 Yarmouth Drive, Suite 101 Allison Park, PA 15101 JLCrist@aol.com <i>PSU Witness</i>
Frank Lacey Electric Advisors Consulting 3 Traylor Drive West Chester, PA 19382 frank@eacpower.com <i>Retail Energy Supply Association Witness</i>	Thomas S. Michelman* Jim D. Kennerly* 161 Worcester Road, Suite 503 Framingham, MA 01791 tmichelman@seadvantage.com jkennerly@seadvantage.com <i>Solar Energy Industries Association and the Coalition for Community Solar Access Witness</i>

Stephen W. Chriss* 814 Respect Drive Bentonville, AR 72716 Stephen.Chriss@walmart.com <i>Walmart Witness</i>	Leah K. Armitage* Jim Heidell* Andy Reger* Lauren Rothermich* PA Consulting Group, Inc. 2420 17 th St. Unit 220 Denver, CO 80202 leah.kunkel@paconsulting.com jim.heidell@paconsulting.com andy.reger@paconsulting.com lauren.rothermich@paconsulting.com <i>Customer Generator Coalition Witness</i>
Randall Miller* 2200 E. Williams Field Road, Suite 200 Gilbert, AZ 85295 rmiller@townsquareenergy.com <i>Town Square Energy Witness</i>	

FOX ROTHSCHILD LLP



Ashley L. Beach
PA Attorney I.D. No. 306942
747 Constitution Drive, Suite 100
Exton, PA 19341
Telephone: 610-458-2997
E-Mail: abeach@foxrothschild.com

*Counsel for Solar Energy Industries
Association and Coalition for Community
Solar Access*

Dated: July 10, 2026